Original scientific paper DOI: 10.56461/iup_rlrc.2026.7.ch27

*Ivan ALLEGRANTI**

"COURAGE" AS A LEGAL VALUE: RETHINKING FUNDAMENTAL RIGHTS UNDER THE ECHR AND THE ECTHR

Resilience is commonly defined within scientific literature as the capacity to adapt successfully to stressors while preserving psychological and social continuity in the face of adversity. Yet before resilience can emerge, there must first be a situation of vulnerability and an "act of courage": a deliberate decision to confront danger, uncertainty, or loss rather than withdraw. This paper argues that such "acts of 'courage'" acquire juridical relevance within the framework of the European Convention on Human Rights, particularly under Article 2, Article 8, and Article 1 of Protocol No. 1. Adopting a qualitative methodology, the study examines how natural catastrophic events activate the intrinsic bond between individuals and their environment, placing them before the choice to remain, rebuild, or abandon their homeland. Through an analysis of the jurisprudence of the European Court of Human Rights, the article contends that, although neither the Convention nor the Court explicitly refers to "courage" as an autonomous legal category, "act of courage" are implicitly protected insofar as they express free will and human dignity. By safeguarding life, private and family life, home, and property, the Court secures the material and relational conditions that allow individuals to determine their place of belonging and affirm their identity within a community. Ultimately, the paper demonstrates that courage constitutes the subjective manifestation of dignity, while resilience emerges as the collective outcome of such acts. The protection of fundamental rights in disaster contexts thus preserves not heroism, but the dignified capacity to remain and persist within one's social fabric.

Keywords: resilience, European Court of Human Rights, disaster law, property law, courage.

1. INTRODUCTION

The increasing frequency and intensity of disasters, together with the growing awareness of the social and institutional dimensions of disaster risk, have profoundly reshaped the legal understanding of human exposure to harm. Catastrophic events are no longer perceived

* Lecturer in Disaster Risk Management in the EU, Comenius University Bratislava, Slovakia, ORCID: https://orcid.org/0000-0003-0184-0194, e-mail: *ivan.allegranti@flaw.uniba.sk*

This paper is a realized within project 101177083-DisMEU Jean Monnet Module „Disaster Risk Management in EU Law".

merely as exceptional ruptures produced by uncontrollable natural forces; rather, they are increasingly recognised as situations in which structural vulnerability, collective protection, and individual responses intersect (Ruggeri, 2023, p. 73). In such contexts, the law is called upon not only to provide remedies after damage has occurred, but also to create the conditions under which persons may continue to live, remain, and rebuild within their territories despite instability and uncertainty. It is precisely within this tension between exposure and response that the present study is situated.

The article adopts a twofold conceptual structure, comprising a sociological part and a legal part, each divided into dedicated sections. The first part, from section 2 to 5, develops a conceptual framework by clarifying three crucial notions frequently employed in contemporary sociological scholarship yet rarely distinguished with sufficient precision: vulnerability, resilience, and courage.

The second part of the article (from section 5 to 10) turns to the juridical dimension of this theoretical reconstruction. Adopting a qualitative methodology, the study examines the normative framework of the European Convention on Human Rights (hereinafter ECHR) and the case law of the European Court of Human Rights in Strasbourg (hereinafter ECtHR). Through a close reading of judgments concerning environmental risks and disasters, the analysis investigates how the protection of the right to life (Article 2), right to private and family life and home (Article 8), and right to property (Article 1, Protocol 1) shapes the legal environment in which individuals confront catastrophic events. Although the Court does not explicitly refer to courage as an autonomous legal category, its jurisprudence reveals an implicit recognition of the concrete "acts of 'courage'" performed by those who choose to remain, rebuild, and continue their lives in affected territories.

Methodologically, the purpose of the current analysis is twofold: first, to investigate the discipline of the European Convention on Human Rights in relation to disasters; second to investigate how catastrophic natural events may reactivate the intrinsic bond between individuals and their environment, thereby transforming an initial "act of courage" into the very foundation of resilient conduct. In this sense, the study ultimately explores the legal dimension of "acts of 'courage' ", examining how they intersect with the protection of fundamental rights and, in particular, how they relate to safeguarding the "right to remain in one's homeland" in the aftermath of disaster.

2. VULNERABILITY AS A CONDITION FOR "COURAGE" AND RESILIENCE

When speaking of vulnerability, one does not refer merely to a contingent weakness or an exceptional deviation from normality, but to a constitutive and inescapable dimension of the human condition. Whether approached from an anthropological, social, or legal perspective, vulnerability denotes the fundamental exposure of every person to dependence, risk, and harm. It is not an accidental attribute affecting only certain categories of individuals, but a structural feature of human existence as such (Maragno, 2015, p. 13; Pastore, 2021, p. 2). As vulnerability scholarship has consistently emphasised, to be human is already to be vulnerable, and even autonomy does not eliminate this condition but rather presupposes it (Fineman, 2008, p. 1; Re, 2018, p. 22). In this sense, vulnerability is universal in principle, though it is always experienced in situated and differentiated ways.

At the same time, vulnerability is neither static nor homogeneous. It manifests differently depending on relational, economic, bodily, and environmental contexts. Each individual occupies a specific position within networks of dependence and asymmetry, and such positions continuously shift over time (Ferrarese, 2010, p. 21; Pigliaru, 2014, p. 231). A person may be permanently vulnerable, as in the case of congenital disability, or situationally vulnerable, as occurs in contractual or market relations in which informational or structural imbalances place one party at a disadvantage (Femia, 2021, p. 499). Vulnerability, therefore, does not simply describe personal fragility but rather the relational and contextual conditions within which agency must operate (Stanzione, 2004, p. 391; Perlingieri, 1990, p. 80).

Disaster studies further clarify this structural dimension. Hazards become disasters not solely because of natural forces, but because existing vulnerabilities transform exposure into loss (Chambers, 1989, p. 1; Watts & Bohle, 1993, p. 46). Catastrophic events such as earthquakes, floods, or wildfires simultaneously produce physical displacement, material deprivation, and psychological destabilisation, leaving individuals without shelter, security, or certainty about the future (Chen, 2011, p. 1121). Empirical research shows that losing one's home disrupts not only economic stability but also identity, belonging, and social well-being (Nettleton, 2001, p. 82; Rollero & De Piccoli, 2010, p. 233). Vulnerability thus appears as the starting condition of post-disaster life: a state of exposure in which ordinary guarantees collapse, and individuals must act despite the absence of stability. It is precisely at this juncture that vulnerability reveals its theoretical relevance for the present inquiry. If vulnerability were absent, courage would be unnecessary and resilience would not exist.

3. THE DIFFERENT FACETS OF RESILIENCE

Resilience is commonly portrayed as an implicit defining trait of peoples and communities (Bonanno, 2004, p. 102). In more analytical terms, it is understood as the capacity to adapt to stressors or sudden changes in the surrounding environment to which individuals are involuntarily exposed (Norris *et al.*, 2008, p. 129): an environmental crisis or another critical event that generates a condition of imbalance which, thanks to the resilient predisposition of a given social group, is progressively absorbed and/or reconfigured into a new state of normality (Adger, 2000, pp. 349–350). Resilience, especially in relation to the interaction between human beings and catastrophic events, may therefore be defined as "the capacity of a system, community, or society exposed to hazards to resist, absorb, adapt, transform, and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential structures and functions by means of risk management" (UNDRR, 2017).

Rarely, however, does the literature, particularly legal scholarship, focus on what precedes resilient behaviour, namely the individual decision, sometimes intrinsic to the very condition of human exposure to danger, to confront a crisis rather than withdraw from it (Beck, 1992, p. 36). In fact, before any adaptive process can emerge, the resilient subject must decide whether to assume the risk of uncertainty, remain exposed to vulnerability, and therefore actively engage in the construction of a new equilibrium between the individual and the surrounding territory compromised by a shock or crisis event (Folke, 2016, p. 5). Resilience thus reflects the capacity of individuals, communities, societies, and cultures to live with and develop through change in constantly evolving contexts. It entails cultivating the ability to sustain development in the face of change, whether gradual or sudden, expected or unexpected (Folke, 2006, p. 253). It may therefore be understood as the capacity of a system to absorb disturbances and reorganise while undergoing change in such a way as to retain essentially the same functions, structures and feedback (and thus its identity) or, in other words, the capacity to change in order to preserve continuity. Resilience is consequently a dynamic concept concerned with how systems persist through change and evolve in response to change (Walker *et al.*, 2004, p. 5).

A further methodological premise is required before turning to the legal dimensions of the present analysis. This paper adopts the concept of resilience from the perspective of "ecological resilience", which differs from its common understanding in psychological terms. In the latter case, the traumatic event that triggers resilient behaviour is typically extraordinary and unlikely to recur. By contrast, ecological resilience presupposes an awareness that every ecosystem is constantly evolving and that continuous adaptation to new equilibria is intrinsic to terrestrial habitats. This implies an ongoing transformation of both ecological systems and their adaptive capacities (Davoudi, 2012, pp. 300–301). This approach is also reflected in contemporary understandings of disasters. Indeed, disasters are no longer regarded as extreme events produced solely by natural forces, but rather as manifestations of unresolved problems of development (Yodmani, 2001, p. 1). Consequently, communities must constantly maintain the capacity to anticipate, mitigate, and respond to risks. This calls for an inter-sectoral and preventive risk-management model, often described as a holistic approach, rather than a purely top-down or reactive one (Allegranti, 2026, p. 77).

4. "COURAGE" AS THE NORMATIVE PRECONDITION OF RESILIENCE

From this perspective, resilience cannot be conceived as an autonomous or spontaneous quality; rather, it should be understood as the outcome – arising from a condition of vulnerability (Blaikie *et al.*, 1994, p. 11) – of a prior act, namely an "act of 'courage'".

In efficiency-driven societies, however, such preliminary acts tend to be progressively eroded, with the consequence that resilience itself becomes fragile and increasingly difficult to sustain (Walker & Salt, 2006, p. 7). Resilience may therefore be described as a condition that follows from an antecedent, while an "act of 'courage'" constitutes its causal and generative foundation (Nussbaum, 2011, p. 33).

Rather than being understood as the mere absence of fear, "courage" is increasingly described as a deliberate orientation toward situations perceived as threatening, undertaken in order to pursue goals regarded as meaningful or valuable (Woodard, 2004, p. 28). From this standpoint, "courage(ous)" conduct does not imply emotional invulnerability; instead, it involves sustaining commitment and action despite apprehension, persisting in one's efforts, and resisting withdrawal when confronted with risk (Woodard & Pury, 2007, p. 76; Norton & Weiss, 2009, p. 214). Consistently, "courage" has also been interpreted as a behavioural tendency to approach, rather than avoid, fear-arousing circumstances (Rachman, 2004, p. 165). At the same time, "courage" cannot be reduced to a unitary psychological trait but should instead be conceived as a multidimensional phenomenon. Some accounts distinguish among physical, moral, and psychological forms of "courage" (Putman, 1997, p. 9; Putman, 2010), while others identify recurrent structural features of "courage(ous)" action, such as intentionality, the presence of fear, the pursuit of a worthy aim, and the perception of personal risk (Rate *et al.*, 2007, p. 95). Moreover, the capacity to act "courage(ously)" appears to depend not only on situational pressures but also on personal and relational resources (hope, optimism, social support, and value commitments) that enable individuals to endure uncertainty without relinquishing agency (Hannah, Sweeney & Lester, 2010, p. 560).

Accordingly, at a more foundational level, an "act of 'courage'" may be defined as an action performed by a subject who, in the context of the present analysis, inhabits a territory continuously exposed to natural hazards and to the instability and uncertainty that such exposure inevitably entails. In these circumstances, the individual acts from what may be described as a "state of 'courage'", understood not as a permanent or dispositional trait, but rather as a situated and time-bound condition that emerges contingently in response to concrete circumstances and characterises the individual at a specific moment in life. This state does not imply the absence of vulnerability; rather, it denotes a form of inner strength that enables the individual to acknowledge vulnerability, confront risk consciously, and nonetheless preserve responsibility, accountability, and meaningful agency in the face of potential harm.

In this sense, "courage" functions as a mental power that enables one to overcome anxiety without surrendering one's capacity for imputability, even under conditions of profound instability (Tillich, 1952, p. 35). Such a capacity sustains what Ricoeur characterises as the self as an agent capable of acting, committing, and remaining answerable for one's deeds over time (Ricoeur, 1992, pp. 118–119). At the same time, this understanding resonates with the capabilities approach, according to which genuine freedom consists in the substantive possibility of choosing a course of action (or even deliberate inaction) within situations of vulnerability or crisis (Nussbaum, 2011, p. 25). In this perspective, "courage" emerges as the precondition that renders resilience intelligible: it is the moment in which agency is reaffirmed in the face of fear, allowing the subject not merely to withstand disruption but to continue acting meaningfully within it.

The definition outlined above will be progressively specified in juridical terms in the sections that follow, where "courage" will be analysed as a condition capable of acquiring legal relevance within the framework of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights. From this perspective, "courage" becomes visible as a practical form of agency operating within law, shaping how individuals respond to vulnerability, risk, and institutional constraints.

5. AN ACT OF "COURAGE": *BUDAYEVA AND OTHERS V. RUSSIA*

To better understand the scope of this contribution, it is necessary to analyse a specific case: *Budayeva and Others v. Russia* (ECtHR, no. 15339/02, judgment of 20 March 2008). The judgment in *Budayeva and Others v. Russia* represents a landmark in the jurisprudence of the European Court of Human Rights concerning State responsibility for foreseeable natural hazards. Although formally grounded in Article 2 of the European Convention on Human Rights, the decision has broader normative implications, as it reveals how the protection of life intersects with dignity,[1] attachment to territory, and individual agency in post-catastrophic contexts.

The applicants lived in the town of Tyrnauz, an area exposed to recurrent mudslides. On 19 July 2000, a massive mudflow destroyed residential buildings and infrastructure, causing

1 This aspect will be addressed in paragraph 9 of this paper.

the death of several inhabitants, including the husband of the first applicant, Mrs Budayeva (ECtHR, *Budayeva and Others v. Russia*, 2008, §§ 39–44). Prior to the disaster, the authorities were aware of the environmental risk and of the potential consequences for the population, as demonstrated by technical assessments and previous incidents (ECtHR, *Budayeva and Others v. Russia*, § 14). In the days immediately preceding the fatal event, smaller mudflows had already occurred, signalling an escalation of danger; nevertheless, no evacuation measures were adopted, and the population was not adequately informed (ECtHR, *Budayeva and Others v. Russia*, §§ 116).

The catastrophe therefore unfolded in a context of known vulnerability rather than an unforeseeable natural event. Its impact was not limited to the immediate loss of life and material destruction but profoundly altered the applicants' living conditions and their relationship with the surrounding territory. After the disaster, the applicants faced prolonged uncertainty, lack of institutional support, and the absence of effective accountability mechanisms, circumstances that extended the effects of the catastrophe well beyond the moment of its occurrence.[2]

Concretely, the applicants alleged a violation of Article 2 of the ECHR, arguing that the authorities had failed to comply with their positive obligations to protect life despite the foreseeability of the risk (ECtHR, *Budayeva and Others v. Russia*, §116). The Court upheld this claim, reiterating that Article 2 not only prohibits the intentional and unlawful taking of life by State agents, but also requires States to take reasonable measures to safeguard individuals when authorities know or ought to know of the existence of a real and immediate risk (ECtHR, *Budayeva and Others v. Russia*, §§ 128–129). The Court found a substantive violation of Article 2, holding that the disaster could not be characterised as unavoidable. Rather, it resulted from the failure to ensure effective monitoring systems, warning mechanisms, and evacuation procedures (ECtHR, *Budayeva and Others v. Russia*, §153). In addition, a procedural violation of Article 2 was established, as the domestic investigations were ineffective, excessively lengthy, and incapable of identifying responsibility at the appropriate institutional level (ECtHR, *Budayeva and Others v. Russia*, §§ 158–165).[3]

[2] In fact, as noted by the applicants, they were forced to change their place of residence and, like Mrs Budayeva, to rely on accommodation provided by the State that was unsuitable to ensure dignified living conditions. In particular, the property in which Mrs Budayeva lived had not been renovated since 1952 and, beyond the purely material hardships, the psychological harm suffered significantly affected the applicants' living conditions and health (ECtHR, *Budayeva and Others v. Russia*, § 52; §§ 59–62; §§ 67–70; § 79; § 88).

[3] Although the Court did not explicitly examine Article 8 of the ECHR (the right to respect for private and family life) or Article 1 of Protocol No. 1 (the protection of property), the factual circumstances of the case undeniably affected interests traditionally safeguarded by these provisions. The destruction of homes and the severe disruption of private and family life directly interfered with the applicants' relationship with their living environment. Environmental harm of this nature has long been recognised in legal scholarship and in the Court's case law as capable of engaging Article 8 and property protection, even where the Court elects to resolve a case primarily under Article 2. At the same time, it is important to note that, in the present case, the Court emphasised the wide margin of appreciation enjoyed by the State in addressing the consequences of natural disasters, which by their nature lie beyond direct human control (ECtHR, *Budayeva and Others v. Russia*, § 174). In this context, the Court recalled that the right to the peaceful enjoyment of possessions is not absolute (ECtHR, Budayeva and Others v. Russia, § 175) and that the level and form of protection afforded must remain within reasonable limits. Accordingly, compensation for property loss is not required to correspond to full market value but may instead be determined through alternative measures adopted by the authorities, taking into account the complexity of the situation, the number of affected owners, and the economic, social, and humanitarian considerations inherent in disaster relief policies (ECtHR, *Budayeva and Others v. Russia*, § 182).

6. WHY AN ACT OF "COURAGE"

If resilience is conceived as the capacity of a system or community to absorb disturbance, reorganise, and persist through change, it should not be interpreted as a merely technical or adaptive mechanism. In the event of a disaster, before any recovery or reorganisation becomes possible, a more elementary decision must occur: the person's decision not to leave their homeland. Resilience, in this sense, begins with a form of permanence. It is rooted in the "act of courage" to remain physically and existentially present in a place that has become dangerous thus prolonging the condition of vulnerability.

The events in Tyrnauz reveal precisely this antecedent moment. Even before the mudslide, the territory was no longer a neutral background to life but a compromised and unstable environment, marked by loss, fear, and institutional failure, conditions that were highlighted by the disastrous events of July 2000 and had come to represent the norm rather than the exception. Under such circumstances, departure would have appeared rational. To abandon the area, to seek safety elsewhere, or to sever one's ties with a place associated with trauma: these reactions would have been understandable forms of self-preservation. Yet the applicants chose otherwise and fought both for the right to return home and to address the lack of protection for their lives offered by the State.[4]

This choice should not be trivialised. Remaining in one's homeland (or fighting for this possibility) after a catastrophe is not inertia or passivity; it is an active stance. It implies accepting continued exposure to risk and vulnerability while refusing definitive displacement. "Courage" here consists in resisting the silent pressure to lose one's bond with a sacred place called "home," as "home connotes a sense of being and belonging in the world" (Zeffert, 2024, p. 134).

Such persistence reflects the bond that links a person to a specific territory. A place is never merely geographical. Rather, it is the sedimentation of memories, relationships, habits, and expectations; it constitutes the material condition of identity itself (Allegranti, 2022, p. 349). To be forced away from it is not simply to change residence, but to suffer disproportionately as a result of the loss of the object, namely, the "home" (Radin, 1982, p. 959). Fundamental rights, including the protection afforded by Article 2 of the Convention, encompass the protection of the person and thus implicitly include the safeguarding of this territorial rootedness (*Budayeva and Others v. Russia*, 2008, § 133).

From this perspective, the applicants' decision to fight in court in order to remain in Tyrnauz acquires normative significance. Their presence affirms that the disaster has not dissolved their claim to inhabit that space nor their bond with the surrounding environment. In this regard, they implicitly assert that the land is not expendable and that belonging cannot be treated as a disposable good, because the notion of "home" encompasses "our needs to belong and to have meaningful control over our social environment" (Jenkins & Brownlee, 2022, p. 443). "Courage" thus appears as a form of resistance to displacement (the situation of vulnerability).

Resilience, consequently, emerges only afterwards. Reconstruction, adaptation, and legal protection presuppose that someone has first chosen not to abandon the ground on which these processes must take place. Without this preliminary gesture, there would be nothing to rebuild, and no community left to protect. The true origin of resilience is therefore not recovery but the "act of courage" to resist to the critical and vulnerable condition or, in the present case, to remain in one's own homeland.

---

[4] See footnote 4.

Budayeva ultimately shows that "courage" may take its simplest and most radical form in remaining. To stay where one's life has taken shape, even when that place becomes vulnerable, is already an "act of courage". It is the quiet but decisive affirmation that one's homeland, whether inherited or chosen, is not to be relinquished. In this sense, "courage" is the refusal of uprooting, and resilience is the consequent life that grows from that refusal.

7. THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND ITS DIMENSION ON NATURAL HAZARDS

To understand why *Budayeva and Others v. Russia* is relevant and why the "act of courage" performed by the applicants acquires legal significance, it is first necessary to circumscribe the legal treatment of natural disasters within the framework of the European Convention on Human Rights as it emerges from the case law of the Strasbourg Court. The usefulness of this analysis lies in situating the case within a broader overview of how the Convention protects what may be described as a "right to remain", also from the perspective of environmental protection and of the bond connecting individuals to the territory affected by a natural catastrophe, while simultaneously clarifying the limits within which individual "courage" may be exercised.

Although the Convention does not expressly recognise a substantive right to a clean or healthy environment (ECtHR, *Hatton and Others v. United Kingdom* [GC], 2003, § 96; ECtHR, *Kyrtatos v. Greece*, 2003, § 52), environmental degradation, natural hazards and climate change increasingly fall within its scope insofar as they directly interfere with the applicant and their right to life, the right to respect for private and family life and home, and the peaceful enjoyment of possessions (ECtHR, *Guerra and Others v. Italy*, 1998, § 57; ECtHR, *Ivan Atanasov v. Bulgaria*, 2010, § 66; ECtHR, *Thibaut v. France (dec.)*, 2022, § 38). Consistently with its teleological interpretation, the Court has repeatedly stated that the object and purpose of the Convention is to render its guarantees practical and effective rather than theoretical or illusory (ECtHR, *McCann and Others v. the United Kingdom*, 1995, § 146), and this approach has enabled environmental risks to be addressed through existing Convention provisions.

Under Article 2, which provides that "everyone's right to life shall be protected by law," States are subject not only to the negative obligation to refrain from the intentional and unlawful taking of life but also to positive obligations requiring them to take appropriate steps to safeguard the lives of those within their jurisdiction. These duties translate into the obligation to establish an adequate legislative and administrative framework, to adopt preventive operational measures capable of averting foreseeable risks to life, and to conduct effective investigations into alleged breaches of the substantive limb of Article 2 (ECtHR, *Armani Da Silva v. the United Kingdom*, 2016, §§ 229–231).

The Court has clarified that cases concerning lethal accidents and environmental or industrial disasters may fall within the scope of Article 2 where life-threatening risks are involved (ECtHR, *Kolyadenko and Others v. Russia*, 2012, § 155). A substantial body of case law has developed in relation to natural hazards and environmental catastrophes, confirming that States must act with due diligence in organising prevention and emergency response systems (ECtHR, *Öneryıldız v. Turkey*, 2004, § 89; ECtHR, *Budayeva and Others v. Russia*, 2008, § 132; ECtHR, *Kolyadenko and Others v. Russia*, 2012, § 159; ECtHR, *Brincat and Others v. Malta*, 2014, § 101).

In this context, particular importance is attached to preventive measures aimed at avoiding loss of life and to the right to information, which requires authorities to establish appropriate procedures, take into account the technical aspects of dangerous activities, and identify possible shortcomings attributable to those responsible. At the same time, the Court recognises that States retain a margin of appreciation in selecting the measures to be adopted, provided that these are neither disproportionate nor impossible to implement and that operational burdens are not imposed without regard to available priorities and resources.

In assessing compliance with these positive obligations, the Court examines the domestic legality of the authorities' acts or omissions, the quality of the decision-making process, the existence of adequate investigations and studies, and the overall complexity of the issue. The obligation is therefore one of means rather than of result: States must deploy the capacities at their disposal to mitigate risks and minimise the effects of catastrophic or violent events, rather than guarantee absolute safety (ECtHR, *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, § 128). More recently, climate change has also been analysed through the lens of Article 2, with the Court holding that complaints may arise where State action or inaction exposes individuals to an imminent and real risk to life, understood as a serious, genuine and sufficiently ascertainable threat characterised by material and temporal proximity to the harm alleged (ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 2024, § 513).

Parallel considerations apply under Article 8, which protects the right to respect for private and family life and the home. The Court has consistently stated that Article 8 applies to environmental issues only where there is a direct and immediate link between the environmental interference and the applicant's private life or home, since the Convention does not guarantee a general right to a clean and quiet environment nor is it specifically designed to provide general environmental protection as such (ECtHR, *Hatton and Others v. the United Kingdom*, 2003, § 96). Accordingly, a mere general deterioration of the environment is insufficient to trigger the State responsibility; what is required is a concrete and personal impact on the applicant (ECtHR, *Powell and Rayner v. the United Kingdom*, § 40). Nevertheless, where such a link exists, Article 8 entails positive obligations on the authorities to ensure effective protection against serious environmental nuisances and, in the contemporary context, against the adverse effects of climate change on individuals' life, health, well-being and quality of life. In particular, the Court has clarified that States are under a duty to secure such protection and that, while they retain discretion in the choice of the measures to be adopted, they do not enjoy a margin of appreciation as to whether to act at all to combat climate change; they must take serious and effective measures capable of addressing the risks posed by rising temperatures and their potentially irreversible consequences for Convention rights, including the rights to private and family life and to the home (ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 2024, §§ 518 and 541–548). At the same time, interferences with Article 8 rights may themselves be justified where environmental protection serves the rights and interests of the broader community, since safeguarding the environment may constitute a legitimate aim capable of justifying restrictions on individual interests (ECtHR, *Kaminskas v. Lithuania*, 2020, §§ 56–66).

Environmental concerns may affect the protection of property under Article 1 of Protocol No. 1. The right to the peaceful enjoyment of possessions may be restricted on environmental or safety grounds when justified by the public interest, including in situations involving natural hazards (ECtHR, *Aktürk and Others v. Türkiye*, 2023, §§ 70–73, 76). The Court has also recognised that environmental considerations have gained increasing weight within the law of ownership (ECtHR, *Hamer v. Belgium*, 2007, § 79).

Finally, from a procedural perspective, in the context of individual applications as set forth in Article 34 of the Convention, the mere fact that a resident manages to escape from a harmful situation or lives in an accommodation provided by State does not automatically entail the loss of victim status; to deprive an applicant of such status there must be both adequate compensation and acknowledgment by the authorities of the violation of the applicant's rights (ECtHR, *López Ostra v. Spain*, § 42; ECtHR, *Öneryıldız v. Turkey*, 2004, § 137).[5]

8. FRAMING "COURAGE" IN THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND IN THE JUDGMENTS OF THE EUROPE AN COURT ON HUMAN RIGHTS

Within this framework, the protection afforded by the Convention to individuals exposed to natural hazards reveals the gradual emergence of what may be described as a home–territory bond, situated at the intersection of the right to life under Article 2, the right to respect for private and family life and the home under Article 8, and the protection of property under Article 1 of Protocol No. 1. These guarantees do not merely secure biological survival or abstract proprietary interests but protect the concrete possibility for individuals to remain embedded in the places where their personal, social, and family identities are formed (Allegranti, 2025, p. 10). The Strasbourg Court has consistently clarified that environmental and disaster-related risks become legally relevant where they threaten life (ECtHR, *Öneryıldız v. Turkey*, 2004, § 89; ECtHR, *Budayeva and Others v. Russia*, 2008, § 132), directly interfere with the enjoyment of private and family life and the home (ECtHR, *Hatton and Others v. the United Kingdom*, 2003, § 96; ECtHR, *Fadeyeva v. Russia*, 2005, § 68), or justify limitations on property rights in the general interest (ECtHR, *Hamer v. Belgium*, 2007, § 79). Read together, these strands of jurisprudence demonstrate that, although the Convention does not enshrine an autonomous environmental right, it nonetheless constructs a dense and increasingly articulated network of positive obligations requiring States to regulate risks, prevent foreseeable harm, inform the population, and mitigate the consequences of disasters. In doing so, the Strasbourg Court's jurisprudence progressively departs from a purely reactive model of responsibility centred on ex post compensation and moves toward a preventive and anticipatory logic of governance.

This evolution closely mirrors developments in contemporary disaster law theory, where legal intervention is no longer conceived primarily as a response to damage already sustained, but rather as a framework for risk assessment, preparedness, and vulnerability reduction. As several scholars have observed, disasters are not purely "natural" phenomena (Farber, 2007, p. 297) but are shaped by legal, political and (natural) infrastructural vulnerabilities that transform hazards into human tragedies (Verchick, 2012, p. 26). Responsibility therefore lies not only in post-event remedies but in the design of regulatory systems capable of protecting life and ensuring social continuity in light of the more frequent interaction between humans and nature in the evolution of the evolving climate crisis (Stephens, 2009, p. 23). Insights

[5] Particular attention must be paid to the procedural dimension. Although the State frequently offers provisional shelter in the immediate aftermath of a disaster, what is fundamental is the effective possibility for individuals to return to their homes and remain in their homeland. Emergency housing solutions, given their temporary and exceptional character, cannot in themselves meet this need.

from disaster sociology reinforce this understanding by demonstrating that hazards become disasters only through the interaction between environmental exposure and pre-existing conditions of fragility – such as poverty, marginalisation, weak governance, or inadequate planning – so that law and public policy play a constitutive role long before the catastrophic event occurs (Tierney, 2014, p. 5). From this perspective, institutional choices shape both the likelihood of harm and the capacity of communities to cope with it.

Climate change further accentuates this shift, as slow-onset degradation, cumulative risks, and progressive loss of habitability challenge traditional distinctions between ordinary environmental nuisances and acute emergencies, demanding instead continuous regulatory engagement and long-term governance strategies. Within this broader legal landscape, State's positive obligations under the Convention correspond to what disaster risk-reduction scholarship describes as resilience-oriented governance, namely the systemic effort to minimise exposure, reduce vulnerability, and strengthen collective preparedness (Clark *et al*., 2025, p. 4). Consequently, the Convention's guarantees operate not only as safeguards against isolated violations, but as structural tools aimed at preserving the material and social conditions that enable individuals and communities to maintain their homes, relationships, and territorial ties over time, situating individual experiences of risk within a broader framework of institutional responsibility and preventive protection (Allegranti, 2025, p. 1).

9. RIGHT TO DIGNITY AS A SELF EXPRESSION OF "COURAGE"

Against this background, although neither the Convention nor the Court explicitly refers to "courage" as an autonomous concepts (nor it should), "courage" may nonetheless be understood as implicitly protected insofar as it constitutes an expression of free will and, as such, of human dignity. The individual, in relation to the social fabric of which they form part, enjoys the internationally recognised right to determine the course of their life and place of belonging (Dussias, 2004, p. 92); in doing so, individuals may decide to remain, rebuild, or resist evacuation despite danger, thereby performing acts that can be described as "courage(ous)", because they affirm both individuality and dignity as members of a community[6] (Allegranti, 2025, p. 11). This understanding resonates with broader developments in European Human Rights Law, where dignity, used together with identity, is increasingly treated as the normative foundation of personal autonomy and effective self-determination rather than merely as a rhetorical principle (Barak, 2015, pp. 44–45) and as the essence of the fundamental rights enshrined within the entire framework of the European Union (Lenaerts, 2019, p. 779). Within both the Convention system and European Union Law, the protection of life, home, and property is thus interpreted as safeguarding the material conditions that allow individuals to exercise meaningful agency. In this respect, it seems that the Charter of Fundamental Rights of the European Union (Article 1, Article 7 and Article 17) read in combination with the European Convention on Human Rights (Preamble, Article 2, Article 8 and Article 1 Protocol 1)[7] link

---

[6] One of the few limits to this protection lies in the need to balance it against the rights of others. As recognised in ECtHR, Kaminskas v. Lithuania, 2020, §§ 56–66, interferences may be justified where they pursue environmental protection, since the Convention also acknowledges the environmental interests of other members of the community, particularly in the context of Article 8.

[7] Although the European Convention on Human Rights does not expressly enshrine "dignity" as an autonomous right or principle within its operative provisions, its Preamble explicitly refers to the Universal Declaration of Human Rights of 1948. The latter, both in its Preamble and in Article 1, proclaims human

dignity, private life and property within the general EU legal framework that conceives ownership not as an absolute power but as a right embedded in social responsibility and subject to limitations justified by environmental protection, public safety and solidarity (Treaty of Lisbon, Article 1a).

A similar relational understanding emerges from contemporary private law theory. Property scholarship has progressively moved away from an atomistic conception of ownership towards models that emphasise its social function and its role in structuring relations of stability, expectation and belonging within communities. Ownership, in this sense, allocates not only control but also risks and responsibilities, and the protection of the home therefore preserves identity, continuity and participation in social life (Allegranti, 2023, p. 450). From this perspective, the loss of one's home as a consequence of environmental hazards represents not simply patrimonial damage but the non-patrimonial damage derived from the disruption of the relational and existential foundations of personhood (Ruggeri, 2023, p. 75). The increasing acceptance, in both constitutional and private law, of limitations on property justified by ecological and collective interests confirms that ownership is inherently contextual and socially conditioned, yet it simultaneously reinforces the obligation of public authorities to prevent avoidable displacement and to secure the basic conditions for habitation (Allegranti, 2025, p. 13).

Consequently, resilience cannot be reduced to individual fortitude; it must be structurally supported through regulatory design, preparedness and collective protection. Within this broader governance framework, individual responses acquire meaning precisely because they unfold against a background of institutional duties intended to minimise the need for personal sacrifice.

"Courage" thus becomes the subjective manifestation of dignity, while resilience emerges as the collective outcome of many such acts. Yet, the legal order cannot depend on heroism: rights must be guaranteed through prevention, regulation and risk reduction so that remaining in one's homeland does not require extraordinary bravery. Ultimately, the protection of life, family life and property in situations of disasters serves the deeper purpose of safeguarding the individual's capacity for autonomous and meaningful action within a community. It is within this protected sphere of dignity that "acts of courage" acquire normative and legal significance, transforming what might appear as private moral strength into a conduct that the legal order indirectly recognises and sustains.

10. "COURAGE" IN THE WAKE OF VULNERABILITY AND RESILIENCE: CONCLUSION

It has been argued that resilience, when observed through the lens of law rather than psychology alone, cannot be understood as an autonomous or spontaneous quality of individuals or communities. Instead, resilience emerges as the outcome of prior "acts of courage"

---

dignity as the foundational value of the entire human social order, affirming that all human beings are born free and equal in dignity and rights. In accordance with the principle of systemic integration, as reflected in Article 31 of the Vienna Convention on the Law of Treaties, the Convention must be interpreted in harmony with other relevant rules of international law applicable between the parties. From this perspective, the reference to the Universal Declaration is not merely rhetorical but normative in significance. Consequently, although the Convention does not specifically mention dignity, that value is implicitly incorporated into its interpretative framework and operates as a foundational principle informing the scope and application of the rights it protects, thus also including "dignity" as one of its core values and principles.

performed under conditions of vulnerability. This analysis has shown that disasters are not merely natural events but legally mediated situations in which exposure, risk, and displacement are shaped by institutional design and regulatory choices. Within this framework, the European Convention on Human Rights' positive obligations – requiring prevention, preparedness, risk regulation, and the protection of life, home, and property – function not simply as remedial safeguards but as structural conditions that make collective resilience possible.

Against this background, the article has advanced its central claim: before resilience can materialise at the systemic or community level, there must first be an individual decision to act. Remaining, rebuilding, or resisting withdrawal in the face of danger presupposes an exercise of "courage" that cannot be reduced to adaptation alone. This antecedent moment has been conceptualised here as an "act of courage" and "courage" has been defined not as fearlessness but as the deliberate choice to pursue meaningful action despite vulnerability. Resilience, accordingly, should be understood as the cumulative and social consequence of many such acts.

From a juridical perspective, this reframing clarifies why "courage" acquires legal relevance even without explicit recognition. The protection of life, family life, home, and property under the Convention ultimately safeguards the material and relational conditions that enable individuals to exercise "courage" and remain embedded within their communities. Human rights law does not require individuals to act heroically; rather, it aims to ensure that they are not placed in situations where the protection of their fundamental rights depends on acts of personal sacrifice or exceptional courage. In this sense, vulnerability and the "act of courage" constitute the starting points of legal protection. It is the recognition of exposure and the protection of the "act of courage" that activate the normative framework; resilience emerges in the wake of such protection as its structural and collective outcome.

LIST OF REFERENCES

Adger, W. N. 2000. Social and ecological resilience: Are they related? *Progress in Human Geography*, 24(3), pp. 347–364. https://doi.org/10.1191/030913200701540465

Allegranti, I. 2022. The right to remain and produce in your homeland. *Athens Journal of Law*, 8(3), pp. 349–360. https://doi.org/10.30958/ajl.8-3-7

Allegranti, I. 2023. L'attualità di un caso 20 anni dopo (nota a Durini c. Italia, Corte EDU, 12 gennaio 1994 n. 19217/91). *Rivista Giuridica dell'Edilizia*, 6, pp. 449–469.

Allegranti, I. 2025. Il binomio comunità-territorio nel prisma dello sviluppo sostenibile umano. *Federalismi*, 16, pp. 1–14. Available at: https://www.federalismi.it/nv14/articolo-documento.cfm?artid=52268

Allegranti, I. 2026. *Zur Regelung von Stromabrechnungen in Notfallzeiten: Am Beispiel der deutschen und italienischen Gesetzgebung.* Berlin: Logos.

Barak, A. 2015. *Human dignity: The constitutional value and the constitutional right.* Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9781316106327

Beck, U. 1992. *Risk society: Towards a new modernity.* London: Sage Publications.

Blaikie, P. *et al.* 1994. *At risk: Natural hazards, people's vulnerability and disasters.* London: Routledge.

Bonanno, G. A. 2004. Loss, trauma, and human resilience: Have we underestimated the human capacity to thrive after extremely aversive events? *American Psychologist*, 59(1), pp. 20–28. https://doi.org/10.1037/0003-066X.59.1.20

Chambers, R. 1989. Editorial Introduction: Vulnerability, Coping and Policy. *IDS Bulletin*, 20(4), pp. 1–7. https://doi.org/10.1111/j.1759-5436.1989.mp20002001.x
Chen, J. 2011. Modern disaster theory: Evaluating disaster law as a portfolio of legal rules. *Emory International Law Review*, 25(3), pp. 1121–1168.
Clark, N. *et al*. 2025. Strengthening *all-of-society* approaches for disaster resilient societies through competency building: A European research agenda. *International Journal of Disaster Risk Reduction*, 121, 105345. https://doi.org/10.1016/j.ijdrr.2025.105345
Davoudi, S. 2012. Resilience: A bridging concept or a dead end? *Planning Theory & Practice*, 13(2), pp. 299–307. https://doi.org/10.1080/14649357.2012.677124
Dussias, A.M. 2004. Does the right of self-determination include a right to homeland? *Syracuse Journal of International Law and Commerce*, 31(1), pp. 83–93.
Farber, D. A. 2007. Disaster law and inequality. *Minnesota Journal of Law & Inequality*, 25(2), pp. 297–321.
Femia, P. 2021. Discriminazione (divieto di). In: D'Amico, G. (ed.) *Enciclopedia del diritto.* Milano: Giuffrè Francis Lefebvre, pp. 499–528.
Ferrarese, E. 2010. Vivere alla mercé. *La società degli individui*, 38, pp. 21–35. https://doi.org/10.3280/LAS2010-038003
Fineman, M. A. 2008. The vulnerable subject: Anchoring equality in the human condition. *Yale Journal of Law and Feminism*, 20(1), pp. 1–23.
Folke, C. 2006. Resilience: The emergence of a perspective for social-ecological systems analyses. *Global Environmental Change*, 16(3), pp. 253–267. https://doi.org/10.1016/j.gloenvcha.2006.04.002
Folke, C. 2016. Resilience (republished). *Ecology and Society*, 21(4). https://doi.org/10.5751/ES-09088-210444
Hannah, S. T., Sweeney, P. J. & Lester, P. B. 2010. The courageous mind-set: A dynamic personality system approach to courage. In: Pury, C. L. S. & Lopez, S. J. (eds.), *The psychology of courage: Modern research on an ancient virtue.* Washington, DC: American Psychological Association, pp. 125–148. https://doi.org/10.1037/12168-007
Jenkins, D. & Brownlee, K. 2022. What a home does. *Law and Philosophy*, 41, pp. 441–468. https://doi.org/10.1007/s10982-021-09414-w
Lenaerts, K. 2019. Limits on limitations: The essence of fundamental rights in the EU. *German Law Journal*, 20(6), pp. 779–793. https://doi.org/10.1017/glj.2019.62
Maragno, G. 2015. Alle origini (terminologiche) della vulnerabilità: vulnerabilis, vulnus, vulnerare. In: Giolo, O. & Pastore, B. (eds.), *Vulnerabilità: Analisi multidisciplinare di un concetto.* Roma: Carocci, pp. 13–35.
Nettleton, S. 2001. Losing a home through mortgage repossession: The views of children. *Children & Society*, 15(2), pp. 82–94. https://doi.org/10.1002/chi.608
Norris, F. H. *et al*. 2008. Community resilience as a metaphor, theory, set of capacities, and strategy for disaster readiness. *American Journal of Community Psychology*, 41(1–2), pp. 127–150. https://doi.org/10.1007/s10464-007-9156-6
Norton, P. J. & Weiss, B. J. 2009. The role of courage on behavioral approach in a fear-eliciting situation: A proof-of-concept pilot study. *Journal of Anxiety Disorders*, 23(2), pp. 212–217. https://doi.org/10.1016/j.janxdis.2008.07.002
Nussbaum, M. C. 2011. *Creating capabilities: The human development approach.* Cambridge: Harvard University Press. https://doi.org/10.4159/harvard.9780674061200

Pastore, B. 2021. *Semantica della vulnerabilità*. Torino: Giappichelli.
Perlingieri, P. 1990. Diritti della persona anziana, diritto civile e stato sociale. *Rassegna di diritto civile*, pp. 80–95.
Pigliaru, A. 2014. L'esperienza di vulnerabilità: Prime ricognizioni. *Giornale critico di storia delle idee*, 12(13), pp. 231–233.
Putman, D. A. 1997. Psychological courage. *Philosophy, Psychiatry & Psychology*, 4(1), pp. 1–11. https://doi.org/10.1353/ppp.1997.0008
Putman, D. A. 2010. Philosophical roots of the concept of courage. In: Pury, C. L. S. & Lopez, S. J. (eds.), *The psychology of courage: Modern research on an ancient virtue*. Washington, DC: American Psychological Association, pp. 9–22. https://doi.org/10.1037/12168-001
Rachman, S. J. 2004. Fear and courage: A psychological perspective. *Social Research: An International Quarterly*, 71(1), pp. 149–176. https://doi.org/10.1353/sor.2004.0060
Radin, M. J. 1982. Property and Personhood. *Stanford Law Review*, 34(5), pp. 957–1015. https://doi.org/10.2307/1228541
Rate, C. R. *et al*. 2007. Implicit theories of courage. *Journal of Positive Psychology*, 2, pp. 80–98. https://doi.org/10.1080/17439760701228755
Re, L. 2018. Introduzione. La vulnerabilità fra etica, politica e diritto. In: Bernardini, M. G. *et al*. (eds.), *Vulnerabilità: etica, politica, diritto*. Roma: IF Press, pp. 7–22.
Ricoeur, P. 1992. *Oneself as another*. Chicago: The University of Chicago Press.
Rollero, C. & De Piccoli, N. 2010. Does place attachment affect social wellbeing? *European Review of Applied Psychology*, 60(4), pp. 233–238. https://doi.org/10.1016/j.erap.2010.05.001
Ruggeri, L. 2023. L'interesse ad abitare nei luoghi colpiti dal sisma: tra individuo e comunità. In: Genova, A. *et al*. (eds.), *Salute e Benessere nel post-sisma. One welfare nelle Marche per una programmazione integrata*. Milano: Franco Angeli, pp. 73–88.
Stanzione, P. 2004. Dal soggetto alle persone. In: Scalisi, V. (ed.), *Scienze e insegnamento del diritto civile in Italia*. Milano: Giuffrè, pp. 391–406.
Stephens, T. 2009. *International Courts and Environmental Protection*. New York: Cambridge University Press.
Tierney, K. 2014 *The Social Roots of Risk: Producing Disasters, Promoting Resilience*. Redwood City: Stanford University Press.
Tillich, P. 1952. *The courage to be*. New Haven: Yale University Press.
United Nations Office for Disaster Risk Reduction (UNDRR). 2017. *The Sendai Framework Terminology on Disaster Risk Reduction: Resilience*. Available at: https://www.undrr.org/terminology/resilience (25. 1. 2026).
Verchick, R. R. M. 2012. Disaster Justice: The Geography of Human Capability. *Duke Environmental Law & Policy Forum*, 23(1), pp. 23–71.
Walker, B. & Salt, D. 2006. *Resilience thinking: Sustaining ecosystems and people in a changing world*. Washington, DC: Island Press.
Walker, B. *et al*. 2004. Resilience, adaptability and transformability in social-ecological systems. *Ecology and Society*, 9(2). https://doi.org/10.5751/ES-00650-090205
Watts, M. & Bohle, H. G. 1993. The space of vulnerability: The causal structure of hunger and famine. *Progress in Human Geography*, 17(1), pp. 46–67. https://doi.org/10.1177/030913259301700103
Woodard, C. R. 2004. Hardiness and the concept of courage. *Consulting Psychology Journal: Practice and Research*, 56(3), pp. 173–185. https://doi.org/10.1037/1065-9293.56.3.173

Woodard, C. R. & Pury, C. L. 2007. The construct of courage: Categorization and measurement. *Consulting Psychology Journal: Practice and Research*, 59(2), pp. 135–147. https://doi.org/10.1037/1065-9293.59.2.135

Yodmani, S. 2001. Disaster risk management and vulnerability reduction: Protecting the poor. Paper presented at the Asia and Pacific Forum on Poverty, Asian Development Bank, pp. 1–32. Available at: http://58.137.55.82/infores/adpc-documents/PovertyPaper.pdf

Zeffert, H. 2024. Nowhere home. *London Review of International Law*, 12(2), pp. 131–153. https://doi.org/10.1093/lril/lrae013

Case law

ECtHR, *Aktürk and Others v. Türkiye*, 2023, Application no. 53600/20

ECtHR, *Armani Da Silva v. the United Kingdom*, 2016, Application no. 5878/08

ECtHR, *Brincat and Others v. Malta*, 2014, Application no. 32457/12

ECtHR, *Budayeva and Others v. Russia*, 2008, Application no. 15339/02

ECtHR, *Erdal Muhammet Arslan and Others v. Türkiye*, 2023, Application no. 53600/20

ECtHR, *Fadeyeva v. Russia*, 2005, Application no. 55723/00

ECtHR, *Guerra and Others v. Italy*, 1998, Application no. 14967/89

ECtHR, *Hamer v. Belgium*, 2007, Application no. 21861/03

ECtHR, *Hatton and Others v. the United Kingdom* [GC], 2003, Application no. 36022/97

ECtHR, *Ivan Atanasov v. Bulgaria*, 2010, Application no. 12852/03

ECtHR, *Kaminskas v. Lithuania*, 2020, Application no. 14097/16

ECtHR, *Kolyadenko and Others v. Russia*, 2012, Application no. 17423/10

ECtHR, *Kyrtatos v. Greece*, 2003, Application no. 41666/98

ECtHR, *López Ostra v. Spain*, 1994, Application no. 16798/90

ECtHR, *McCann and Others v. the United Kingdom*, 1995, Application no. 18984/91

ECtHR, *Öneryıldız v. Turkey*, 2004, Application no. 48939/99

ECtHR, *Powell and Rayner v. the United Kingdom*, 1990, Application no. 9310/81

ECtHR, *Thibaut v. France (dec.)*, 2022, Application no. 48125/20

ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 2024, Application no. 53600/20