

PHILIPPINES
STATEMENT

Item 90: Protection of persons in the event of disasters
73rd Session of the United Nations General Assembly

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UN Headquarters New York

Thank you, Mr. Chairman.

The Philippines expresses its warmest appreciation to the Special Rapporteur and now President of the ILC, Mr. Eduardo Valencia Ospina, for his considerable work on this topic and in the elaboration of draft articles on the protection of persons in the event of disasters.

As we affirmed in the 71st Session, when this was taken up under the Agenda Item on the Report of the International Law Commission, the Philippines welcomes the ILC draft articles, particularly the emphases they place on human dignity, human rights particularly the right to life, and humanitarian principles. We understand that these draft articles apply with flexibility to both natural and human-made disasters outside the realm of international humanitarian law, and that they leave no one behind. They do not discriminate on the basis of nationality or legal status. This is because they focus on both the needs and rights of human beings victimized by disasters.

Article 10 articulates the fundamental principle that the affected State has the primary role in the direction, control, coordination and supervision of disaster relief assistance. We dissect the very heart of the draft articles, when we read Article 10 together with Article 11 on the duty of the affected state to seek external assistance and with Article 13 on its consent to that external assistance.

This duty should not be interpreted to compel a State to seek external assistance, where it determines that a disaster does not manifestly exceed its national response capacity. The right of each State to decide whether or not it needs assistance from another State without being compelled to accept it should be affirmed. It should be left up to the discretion of each State, and each State should make its decision in a manner consistent with its highest interests and territorial sovereignty. We agree that when assistance is requested after a natural disaster has occurred, there must be a guarantee that such assistance, regardless of this States provides it, will not be used as a pretext for intervening in the internal affairs of requesting States. It should be provided that all States that are requested to provide assistance must undertake to guarantee that when providing that assistance, they will honor the domestic law of requesting States and their full sovereignty over their territories.

We speak very much from experience here, given our extensive experience in disasters – highlighted by the example of Super Typhoon Haiyan in 2013.

Mr. Chairman, these draft articles are not only important but necessary, because they recognize – as historical experience has shown time and again – that a disaster can exceed, manifestly or otherwise, the affected State's capacity to respond. An affected state, without adequate resources, can, and will, ask appropriate help from others – other states, the United Nations, international nongovernment organizations, and the private sector. Creating a qualified consent regime for the affected state, to be exercised in good faith, balances the right of sovereignty with the obligation of the sovereign to protect human life and human rights during disasters in a timely manner.

The affected state, on the one hand, and other states, the United Nations, and other potential assisting actors like the Red Cross and the Red Crescent Movement, on the other, this have the duty to cooperate, as enshrined in Article 7. This article codifies a principle of international law found in many instruments, led by the UN Charter. Examples of this cooperation include humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources, as enumerated in Article 8.

We support Article 16 which recognizes the basic duty of the affected state to endeavor to guarantee the protection of relief personnel, equipment and goods and not to cause harm to them. On the other hand, we appreciate the clarification that this duty should not entail the creation of unreasonable and disproportionate stress on the already compromised ability of the affected state to provide security and protection both to its own people as well as to relief personnel and their accompanying equipment and goods. It is a crime, under the Philippine Disaster Risk Reduction and Management Act of Republic Act No. 10121, for both state and non-state and non-state actors to profit from an already fragile disaster zone. In any event, Article 15 underlines that this limitation should not easily prevent relief personnel from helping disaster victims.

Mr. Chairman, it is essential to reduce levels of risk and to avoid creating new risk by ensuring that public and private investments are risk-informed and do not increase the exposure of persons and economic assets to natural hazards. Haiyan has compelled the Philippines to undertake a paradigm shift in disaster risk reduction and management, focusing on early warning systems through more sophisticated methods of gauging the impact of typhoons, better disaster preparedness and more efficient response systems.

It is perhaps ironic or bittersweet that much state practice has developed on this topic, brought about by the numerous and continuing increase in number and intensity of disasters, since this was first considered by the ILC in 2007. The Philippines is one consistently on the list of top countries affected by disasters, brought about by its strategic location in the Ring of Fire and in the path of destructive typhoons, and its

nature as an archipelago completely surrounded by oceans; but also brought about by the adverse effects of climate change. In this light, we support the elaboration of a convention on the basis of the draft articles, since it would be declaratory of existing practices among States and would therefore help to clarify and systematize those practices.

We agree that the harmonization of the measures and protocols is necessary for the effective prevention, reduction and management of disaster risk, without prejudice to bilateral, regional and multilateral instruments on the matter.

Thank you.