

**Statement by**  
**H.E. Ms. Linggawaty Hakim**  
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**Republic of Indonesia**

**on**

**Agenda item 79:**  
**Report of the International Law Commission**

**New York, 2 November 2012**

Mr. Chairman,

At the outset, let me join the previous speakers in congratulating you and other members of the Bureau on your election. My delegation shall extend the fullest support to you and your team in leading our work in this Session.

We would also like to thank the members of the International Law Commission for their dedicated work and significant contribution that resulted on the first report of their *quinquennium* tour of duty.

We have studied the Report of the 64th Session thoroughly and at this opportunity, allow me to make general comments and observation on several issues under consideration in the Report, particularly the Expulsion of Aliens, and the Protection of Persons in the Event of Disasters.

To follow your direction, I shall be brief in my statement.

[Expulsion of Aliens]

Mr. Chairman,

On the issue of the Expulsion of Aliens, we highly appreciate the Special Rapporteur, Mr. Maurice Kamto, for his outstanding contribution on the first reading of the draft articles. We would like to make preliminary observation on some basic principles contained in the draft articles before submitting our written comments to the Secretary General before 1 January 2014.

I wish to note that the draft articles cover issues that are under the jurisdiction of various national agencies and require close coordination among relevant authorities. We need to further study the draft articles through inter-agency deliberations.

In general, we concur with the view that the draft articles should cover aliens both lawfully and unlawfully present in the territory of a state. It is important that in dealing with the issue of expulsion of aliens, close cooperation on the basis of the existing bilateral and regional agreements be taken into account.

The draft articles should also well reflect the balance between the right of aliens subject to illegal expulsion to return to the expelling state, and the sovereign right of a state to deny return, if the alien's return will impair public order in that state.

The issue of human rights contained in the draft articles relates to different international instruments and conventions that may have not receive universal acceptance. This will create another complexity for future application of the draft articles, since states must not be bound by obligations provided in the treaties or agreements to which they are not party.

[Protection of Persons in the Event of Disasters]

Mr. Chairman,

On the topic of Protection of Persons in the Event of Disasters, My Delegation would like to commend the tireless work of the Special Rapporteur on this matter, Mr. Eduardo Valencia Ospina, for his fifth report in which he submitted the new three draft articles namely:

- Draft Article A on the Elaboration of the duty to cooperate;
- Article 13 on Conditions on the provision of assistance, and
- Article 14 on Termination of assistance

We understand that the Commission has had a thorough consideration on the proposed draft articles and that further deliberation still need be conducted, taking into account views and comments expressed by member states.

Mr. Chairman,

The topic is very much relevant to the current situation we are all experiencing in New York. On this timely occasion, allow me to convey my delegation's deep sympathy to the victims of Hurricane Sandy that had brought devastation and unprecedented turn of events to the people of New York and other affected areas in the United States. We pray that they will be able to restore their lives immediately. This destructive impact of natural-borne disaster is one that the

Indonesian people can truly relate. As our archipelagic country is geographically located in the most active volcanic plateau in the world, thus making Indonesia a disaster prone country.

In response to all the existing threats, Indonesia continues to strengthen its national capacity to manage and mitigate disaster as well as to enhance cooperation with other countries. These efforts include the establishment of the National Agency for Disaster Relief in 2005 with the function to provide guidance for disasters management activities, which includes prevention of disasters, effective response, rehabilitation and reconstruction; provide information on disasters relief activities to the society; and administering national and/or international aid relief. Recognizing the importance of having a system for managing disaster, Indonesia promulgated Law No. 21 of 2007 regarding the management of disaster relief which, among others, also governs international cooperation for the subject.

As to the work of the ILC on this matter, my delegation would like to share general observation as follows:

We share the view that it is the duty of state to act in its utmost capacity to provide the best protection for its people. We appreciate the approach made by the Special Rapporteur on the importance of cooperation in disaster relief assistance, and the elaboration of more specific type of cooperation between affected states and other actors rendering assistance. However, considering the character of a disaster that is mostly unpredictable, it is our view that the elaboration on the forms of assistance should not be made in an exhaustive manner to open the possibility of other types of assistance relevant to the situation.

On the issue of compliance of provisions of assistance to national and international law, we believe that the affected state should be allowed to subject the provision of assistance to conditions deemed necessary. To strike a proper balance between the duty to protect its people in the event of disaster and the right of affected state to uphold its sovereignty, the conditions laid down by the affected states should put forward the needs of the people affected by disasters. In other words, the conditions should be reasonable and not undermine the duty to protect. In order to give a more practical value to this notion, we are of the opinion that there exists a necessity to further elaborate this element of condition.

While the power to set conditions is essential for a country, we also believe that the soul of cooperation is basically consultation and consent. Therefore we are of the view that the two elements be incorporated in the draft articles, not only for the

purpose of termination of assistance but also prior to it for the purpose of laying down agreement on the conferment of assistance.

That concludes our statement for both topics. I thank you, Mr. Chairman.

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