



**UNITED NATIONS
OFFICE OF LEGAL AFFAIRS**

**20 Years After the Tsunami: Revisiting the International Law Commission's
Draft Articles on the Protection of Persons in the Event of Disasters**

**Permanent Mission of the Philippines, the United Nations Office for Disaster
Risk Reduction, and the Asian African Legal Consultative Organization**

Opening remarks

by

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Your excellencies and distinguished guests,

I wish to thank the Permanent Mission of the Philippines, as well as the colleagues in the United Nations Office for Disaster Risk Reduction, and the Asian African Legal Consultative Organization, for the kind invitation to make some brief remarks today.

We are here today to discuss the question of the legal regulation of the impact of disasters in its various dimensions. As we all know, we are witnessing regularly the onset of major disasters, which overwhelm the national capacity of affected States. Many such disasters have a transboundary scope, affecting a multitude of States,



both directly or indirectly, with the effects sometimes being felt throughout entire regions. The provision and coordination of humanitarian assistance to persons affected by such disasters has been, and continues to be, a major component of the work of the United Nations.

What is perhaps somewhat less appreciated, or understood, is that the serious disruption of the functioning of society caused by such major disasters also has a legal dimension. Disasters place great strain on national legal systems – sometimes to the breaking point. It is not uncommon to hear of the "legal disaster" that follows the onset of a major disaster. The humanitarian catastrophe is exacerbated by laws and regulations that hinder the prompt and effective provision of assistance. In some cases, the very absence of applicable laws and institutions to address adequately the impact of a disaster is itself a big part of the problem we are all seeking to confront.

Having said so, it is important to understand that law can also be part of the solution. In modern societies the response of the state to a major crisis, including that triggered by the onset of a disaster, is usually undertaken on the basis of existing law and legal authority, as well as through institutions established by national legislation. In many important ways, legal preparedness, in the sense of putting into place the necessary laws, regulations and institutions to provide a robust and adequate response to the onset of a major disaster, is itself an important component of risk reduction. Similarly, law and legal regulation can play a positive





role in international cooperation, including in the prompt and effective provision of international humanitarian assistance.

Indeed, humanitarian assistance is not a field that is foreign to international lawyers. For over a century now, international law has developed an extensive body of specialized rules for the regulation of the humanitarian consequences of armed conflict, which is, in a sense, itself a type of “disaster”. My office is regularly involved, and has developed expertise, in the provision of legal advice on matters of the application of international humanitarian law.

What we are witnessing today is a growing interest among international lawyers in developing a similar body of rules regulating the provision of such assistance following the onset of disasters outside of the context of armed conflict – an IHL for disasters! Here I am referring to the body of rules and norms which collectively constitute “international disaster law”.

While the initiative in this area has been taken by the International Federation of the Red Cross and Red Crescent Societies, the United Nations has also become involved in this work. In 2016, the International Law Commission completed its consideration of a draft treaty on the protection of persons in the event of disasters. The treaty would seek to establish a legal framework for international cooperation in risk reduction and humanitarian response following the onset of a disaster. Among other things, the treaty would confirm the centrality of the respect for the human dignity of persons affected by disasters, particularly vulnerable persons,





and would recognize the right of the international community to offer assistance in the event of a disaster while seeking to regulate the process of the grant of consent to such assistance. Another important feature of the draft treaty is that it would establish the legal requirement for affected States to put into place the necessary measures, within national laws, to facilitate the prompt and effective provision of external assistance. Furthermore, the convention would extend legal protections for relief personnel and equipment and goods engaged in disaster relief activities.

The Sixth Committee of the General Assembly has initiated a two-year deliberative process, which started last October, under the able leadership of H.E. Ambassador Antonio Lagdameo of the Philippines, aimed at the member States of the General Assembly reaching an agreement, by the end of this year, on whether or not to proceed with the conclusion of a treaty. My office has been providing assistance to this process, and you will be hearing shortly from Mr. Pronto, from the Codification Division, in that regard.

It has been said that the law abhors a vacuum. This is precisely the situation we face today: much of the contemporary activity in the provision of humanitarian assistance following the onset of a disaster is either completely unregulated at the international level, or only partially so. The basic idea underlying the draft articles is to close this gap by establishing an international legal framework for the provision of such assistance.





Finally, and this is the point I wish to leave you with, as we consider such matters we need to recognize the link to climate change. The proposed treaty prepared by the International Law Commission is also about climate change. While the primary focus of contemporary efforts at the international level has been on confronting the causes of climate change, it is important for us to also prepare for its likely consequences. I need not go into the details of the role the warming of the Earth's climate is already playing in the increased frequency and severity of disasters. I am sure this audience is well aware of such phenomenon.

Needless to say, we need to prepare for a future in which the international community is increasingly confronted with major disasters. In addition to all the other actions being undertaken in anticipation of that reality, such preparation should include putting into place adequate legal frameworks, both at the national and, importantly, international levels, with a view to strengthening resilience and adaptive capacity to climate-related hazards and natural disasters (in accordance with sustainable development goal 13), and to foster international cooperation in the reduction of disaster risk and the provision of disaster relief assistance.

Before concluding, permit me to again thank the organizers for the kind invitation to speak today on this important question of concern to the international community as a whole.

Thank you.



