

STATEMENT OF THE PHILIPPINES

Item 78 – Report of the International Law Commission on the work of its 68th session (Part 1)

Sixth Committee, 71th session of the United Nations General Assembly
Tuesday, 25 October 2016

Thank you, Mr Chairman.

The Philippines has always underlined and supported the essential work of the International Law Commission in the multilateral treaty process. Pursuant to Article 13 of the Charter of the United Nations, the ILC promotes and advances the rule of law through the progressive development of international law and its codification.

We would like to thank the ILC through its Chairman, Mr Pedro Comissário Afonso, together with the following Special Rapporteurs for the topics clustered in this first part of the debate on the work of the ILC in its 68th session, namely, Mr Eduardo Valencia Ospina on “Protection of persons in the event of disasters”, Sir Michael Wood on “Identification of customary international law”, and Mr Georg Nolte on “Subsequent agreements and subsequent practice in relation to the interpretation of treaties”.

Our intervention will focus on “Protection of persons in the event of disasters”, a subject of immediate importance for the Philippines.

According to the United Nations Office for Disaster Risk Reduction, at least 274 typhoons and other natural disasters struck the Philippines in the last 20 years. This ranks the Philippines fourth worldwide with the biggest number of weather-related calamities, after the US, China and India. This does not count super typhoons Sarika and Haima, which just days ago brought much destruction to the Philippines. Many of you still remember super typhoon Haiyan three years ago, which caused unprecedented catastrophic destruction in central Philippines. The strongest ever storm recorded at landfall, Haiyan claimed more than 6,300 lives. This is not to mention the millions left homeless, and the economic losses in the billions of dollars. And this is also not to mention earthquakes and volcanic eruptions, natural disasters with which Filipinos are familiar.

In this spirit, 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, because 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.

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, thus 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 or Republic Act No. 10121, for both 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.

The Philippines, therefore, welcomes the duty to reduce the risk of disasters under Article 9 as an essential element of the draft articles, subject to differentiated levels of capacity to implement this obligation. It codifies legal developments in the field in the last 20 years, including the Sendai Framework for Disaster Risk Reduction 2015-2030. We agree with the ILC that protecting human rights particularly the right to life, entails a positive obligation on States to take the necessary and appropriate measures to prevent harm from impending disasters.

The conduct of risk assessments, the collection and dissemination of risk and past loss information, and the installation and operation of early warning systems, are just some of the basic measures to reduce risk, and are highlighted in the Philippine Disaster Risk Reduction and Management Act, which I mentioned earlier. This domestic law develops a framework and allocates resources enabling the national government, the local government units, and other stakeholders including civil society organizations and the private sector to build communities that can survive disasters. It created the National Disaster Risk Reduction and Management Council as the overseeing body.

Mr Chairman, the commentaries have copiously referred to relevant documents of the Association of Southeast Asian Nations or ASEAN, including the 2005 ASEAN Agreement on Disaster Management and Emergency Response, the first international treaty concerning disaster risk reduction to have been developed after the adoption of the Hyogo Framework for Action. This indicates the important role that regional organizations also play in disaster relief and reduction cooperation.

ASEAN's resiliency is a thematic priority for the Philippines' chairmanship of ASEAN next year during ASEAN's 50th anniversary. Our specific priorities under this theme include the promotion of disaster risk reduction and management and climate change adaptation as well as an outward-looking ASEAN Coordinating Center for Humanitarian Assistance on disaster management.

We look forward to a productive debate on this topic.

Thank you for your kind attention.