



PHILIPPINES

CHECK AGAINST DELIVERY

STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations
**Working Group on Agenda Item - 86: Protection of persons in the event of disasters
(Cluster I – General Provisions –Preamble, Draft Articles 1, 2, 3 and 18)**

79th Session of the United Nations General Assembly
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UN Headquarters New York

Mr. Chair,

The Philippines appreciates the opportunity to further explore these draft articles, in view of the ILC's recommendation for the Assembly or an international conference of plenipotentiaries to develop a convention, based on the draft articles, or to pursue any other potential course of action.

For Cluster 1, we present these preliminary observations, building on the perspectives expressed by my delegation during the previous session of this Working Group:

ARTICLE 1 – Scope

We welcome the Draft Articles' primary focus on the **protection of persons**, particularly of *natural* persons, whose life, well-being, and property are affected by disasters. We note this is also reflected in the approach used to define "disaster" in Draft Article 3, where, as also explained in the ILC commentary, it is understood that "it is not the environmental or property loss per se" that is intended to be covered by the draft articles, but rather "the impact on persons of such loss."

We also note recommendations to consider the protection of environment, culture and property, aside from the protection of persons, and we **are open to hearing more ideas** from proponents in this regard.

Noting the distinctive vulnerability of persons of various legal status, especially in the face of disasters, we are inclined to support the view that the duty of States to protect persons present in their territory, or territory in their control or jurisdiction, extends to all persons, **regardless of the nationality or status of such persons**. This is also consistent with the principles of humanity, equality and non-discrimination embodied in the Charter, international human rights instruments, customary international law, and general principles of international law.

We are encouraged by the strong expressions of support for a **binding legal instrument** dedicated to the protection of persons in the event of disasters.

The comments received regarding specific articles, along with requests for clarification, reflect an active engagement with the current text of the draft articles. This demonstrates not only a willingness to participate in consultations and exchanges but also a recognition of the importance of developing an instrument that addresses disaster situations holistically.

We also welcome the emphasis given to **disaster risk reduction as an equally important component** of disaster management and protection of persons in the event of disasters. We welcome this transformative approach to disaster management, giving focus not only on disaster response, but also on the prevention, mitigation and reduction of risks of disasters.

ARTICLE 2 - Purpose

We appreciate the thoughtful consideration given to the **essential needs of individuals** affected by disasters, ensuring that such needs are addressed with full respect **for human rights**.

The inclusion of the qualifier "essential" underscores the focus on the fundamental requirements for survival and basic well-being following a disaster. This term effectively conveys the urgency and context in which these needs arise, while also highlighting the necessity of considering the specific vulnerabilities of marginalized groups, as emphasized in draft article 6.

The phrase "with full respect for their rights" aims to ensure that the rights of affected individuals are not only acknowledged but actively protected, as articulated in draft article 5.

We also welcome the comprehensive approach to safeguarding the rights of persons affected by disasters by deliberately leaving the mechanisms for enforcing these rights to the established rules of international law, while also leaving space for "rights" recognized under domestic law.

We note the commentary that while "**persons concerned**" specifically refers to those directly impacted by disasters, including those displaced, the phrase also includes those who may face **future risks**, based on national assessments of exposure and vulnerability, especially taken in the context of disaster risk reduction.

ARTICLE 3 – Use of Terms

Our delegation remains open to exploring suggestions to refine the **definition of terms**, especially the definition of "disasters", all while remaining committed to the instrument's core objectives and purpose.

The draft articles present an opportunity to align our efforts in protecting individuals affected by slow-onset disasters with other initiatives aimed at addressing the impacts of climate change, such as the Commission's ongoing study on sea-level rise, the recent advisory opinion of the International Tribunal on the Law of the Sea on climate change and international law, and the ICJ's ongoing advisory proceedings on the same subject.

ARTICLE 18 – Relationship to other rules of international law

Mr. Chair, we welcome this opportunity to reflect on the interaction between these draft articles and existing rules of international law.

We wish to address the notion of the **applicability of human rights as a framework for the protection of persons in times of disasters**. We note references made to derogations allowed in the current human rights regime for cases of public emergency.

We recall that derogations under international human rights law entail strict limitations, safeguards, notifications and review procedures. In cases of public emergencies that “threaten the life of the nation”, derogations may only be allowed with respect to certain civil and political liberties, and only to the extent strictly required by the exigencies of the situation.

Moreover, there are fundamental rights which are non-derogable because they are indispensable for the protection of the human being, such as the right to life and the right on the basis of non-discrimination, which is also expressly upheld in these draft articles.

It bears emphasizing, based on these well-settled doctrines in international human rights law, that derogations are narrowly construed and do not equate to the suspension of the entirety of human rights law during times of public emergency, including disasters where relevant circumstances obtain. We incorporate this understanding in our reading of the present draft articles.

On the **application of IHL as lex specialis** in instances where disasters occur in situations of armed conflict, we have considered the Commission’s deliberation on excluding situations of armed conflict from the application of these draft articles and ultimately, their decision against such a categorical exclusion, recognizing that such an approach could be counterproductive, particularly in “complex emergencies” where disasters occur alongside armed conflict.

The commentary highlights that excluding the applicability of the draft articles in these situations would undermine the protection of individuals affected by disasters, especially in cases where the disaster predates the onset of conflict.

Instead, we may consider the placement of these rights and protections within an integrated continuum, where, as the Commentary also suggests, IHL shall be applied as *lex specialis*, whereas the rules contained in the draft articles would continue to apply to the extent that the legal issues raised by a disaster are not covered by IHL.

We have also considered Draft Article 18 para 1, in relation to Draft Article 10, para 1 on the duty of the affected State to ensure the protection of persons and provision of disaster relief assistance in its territory, or in territory under its control or jurisdiction; as well as in relation to Draft Article 13 para 2 on the obligation of the affected State not to withhold consent to external assistance arbitrarily. We will share further comments on this in the subsequent cluster discussions.

Mr. Chair, our delegation remains committed to engaging constructively with other delegations in this process. We also welcome the opportunity for further deliberations on these issues during textual negotiations in the context of a diplomatic conference. Thank you. **END**