



IRELAND

Statement by

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Report of the International Law Commission on the work of its 61st session

Chapter VII:
Protection of persons in the event of disaster

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Mr Chair

1. I am pleased to take the floor to address Chapter VII of the Commission's Report on the important topic of Protection of Persons in the event of Disaster. Ireland would like to express appreciation to Special Rapporteur Valencia-Ospina on production of his second report (A/CN.4/615).

2. Ireland's comments and observations will address issues including the overall scope and purpose of the topic; the proposed definition of disaster; and synergies with other disaster relief projects and legal initiatives.

Mr Chair

3. Ireland has no difficulty with draft Article 1 on the scope of the topic, as proposed by the Drafting Commission, or with the suggestion that the work of the Commission focus in its initial stages on state actors before considering the applicability of the draft articles to non-state actors. We can also agree that the Commission should at this stage focus on mechanisms for dealing with disasters that have occurred, leaving the important questions of prevention and risk management for a later stage of its work.

4. We can also agree with draft Article 2. We strongly agree with the view of the Special Rapporteur that the concept of Responsibility to Protect is not applicable in this context.

5. More broadly, Ireland considers that the Commission's examination of this topic should be carefully calibrated. We can accept a reference to a rights-based approach to disaster relief, in the sense that any assistance provided should take account of the rights of the affected persons. However we consider that the draft article should be limited to a general assertion of the applicability of human rights without specifying which rights, or seeking to qualify their applicability in the context of disasters. We agree that it would be helpful to complement a reference to rights with a reference to needs.

6. More generally, Ireland takes the view that it would not be helpful to focus on broad conceptual debates at the expense of progress on the technical task of building a legal framework to underpin and facilitate disaster relief.

7. There are a range of complex legal issues in need of examination, including:

- questions of access, entry and freedom of movement of personnel or organisations into affected territories and their legal status and immunities;
- customs clearance for relief or humanitarian supplies, and tax or duty arrangements;
- identification and recognition of professional qualifications for humanitarian or specialised personnel; and so on.

As helpfully set out in the initial Secretariat Memorandum (A/CN.4/590), some of these issues are already addressed by a patchwork of provisions across a number of bodies of law and/or relevant bilateral arrangements. Useful guidance is also to be found in the valuable IFRC Desk Study and Guidelines on legal issues in disaster response.

8. In our view, the Commission should focus on issues such as these and formulate a set of arrangements which - on the basis of a request or the consent of the affected

the “central and unique role” of the UN in providing leadership and coordination in humanitarian response.¹

16. In our view, close and continuing cooperation would be appropriate as the Commission takes its work forward. The practical experience of organisations such as the IFRC is valuable in itself. We also point to the clear relevance of, for instance, the IFRC “International Disaster Response Laws, Rules and Principles Programme”.

17. We would further encourage States, when engaging with the Commission, to include the practical views of their development assistance agencies, in order to allow for development of a clear understanding of needs and gaps in the current legal framework.

Mr Chair

18. To conclude, Ireland looks forward to engaging with the Commission as it attempts to build a legal framework to underpin and facilitate relief or humanitarian assistance in the context of disaster.

Thank you

¹ See e.g. UNGA Resolution 46/182 of 19 December 1991.