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## Sixth Committee

### Summary record of the 18th meeting

Held at Headquarters, New York, on Friday, 13 November 2020, at 10 a.m.

*Chair:* Mr. Bhandari (Vice-Chair) ..... (Nepal)

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*In the absence of Mr. Skoknic Tapia (Chile), Mr. Bhandari (Nepal), Vice-Chair, took the Chair.*

*The meeting was called to order at 10.05 a.m.*

**Agenda item 89: Protection of persons in the event of disasters** (*continued*) (A/75/214)

1. **Mr. Fernandez De Soto Valderrama** (Colombia) said that his delegation reiterated its support for the recommendation by the International Law Commission that a convention be elaborated on the basis of the draft articles on the protection of persons in the event of disasters. While States already cooperated to implement disaster risk reduction measures and to respond to disasters when they occurred, the increasing number of bilateral, regional and multilateral instruments on the subject had resulted in a disorganized and fragmented body of legal instruments. Consequently, the value of the draft articles lay in the creation of a common legal framework to facilitate the humanitarian action of States and institutions.

2. A delicate balance had been struck in the draft articles between the principles of State sovereignty and non-interference, on the one hand, and the essential needs for protection of persons affected by disasters and respect for their rights, on the other. The articles reflected fundamental principles and concepts that had already begun to influence related international instruments, such as the Sendai Framework for Disaster Risk Reduction 2015–2030 and decisions taken by the Security Council. It had become apparent during the coronavirus disease (COVID-19) pandemic that it would be highly beneficial to have a common framework in cooperation activities. The pandemic was a good example of a disaster as defined in draft article 3 (a), bearing in mind that, as explained by the Commission in its commentary thereto, the draft articles had not been tailored with any specific disaster type or situation in mind, but were intended to be applied flexibly to meet the needs arising from all disasters.

3. In view of the concerns expressed by a number of delegations, it was necessary to continue engaging in dialogue to reach the necessary consensus. Some delegations, for example, had argued that the adoption of a convention would give rise to a range of administrative procedures that would hinder cooperation in the event of disasters and would therefore be counterproductive. However, it was precisely the lack of such a regulatory framework that was currently hindering cooperation. Another issue that merited careful examination, so that the text could be adjusted as necessary, was the question of the relationship between the draft articles and the rules of international

humanitarian law. The draft articles were not intended to take priority over other existing rules applicable in the event of disasters.

4. His delegation, noting the particular relevance of the topic to the current COVID-19 pandemic, urged Member States to take the opportunity to fill a normative gap in international law by giving the Commission's recommendation the weight it deserved.

5. **Ms. Weiss Ma'udi** (Israel) said that her Government was committed to providing disaster relief and supporting internationally coordinated humanitarian efforts. Israeli teams had been at the forefront of countless disaster relief missions around the world. In 2019, Israel had sent a delegation of 130 soldiers to Brazil to assist in locating and rescuing victims of the dam disaster; earlier in 2020, it had sent a firefighting task force to the United States of America to provide assistance in combating the devastating wildfires in California; and, currently, it was providing support in Honduras and Guatemala following the devastation caused by Hurricane Eta.

6. Israel was firmly committed to improving protection for persons affected by all phases of disasters. However, it reiterated its view that the undertaking to engage in protection missions should not be considered in terms of legal rights and duties. Instead, the draft articles should be formulated as guidelines or principles for voluntary international cooperation efforts.

7. **Mr. Nasimfar** (Islamic Republic of Iran) said that the current COVID-19 pandemic was a severe and widespread natural disaster, without borders, that had resulted in extensive loss of life, great human suffering and distress, and steep economic downturns, thereby seriously disrupting the functioning of society. While the importance of the draft articles in enhancing cooperation during a disaster, mitigating its effects and reducing disaster risks had become clear as a result of the pandemic, a number of gaps, challenges and shortcomings in the text had also become apparent. For example, the draft articles should be improved in order to effectively address pandemics or other widespread disasters that extended across national borders.

8. The draft articles should also address the arbitrary imposition of unilateral coercive measures, which eroded cooperation among Member States and hindered countries' ability to respond effectively to natural disasters. While his Government was doing its best to control the COVID-19 pandemic, the coercive measures imposed by the United States were making it virtually impossible for Iranians and other individuals and entities based in Iran to import much-needed medicine and medical equipment, thereby seriously undermining

national efforts to curb the virus. The inhumane coercive measures had also resulted in the closure of all financial channels required for humanitarian assistance in the event of natural disasters, hampering his country's efforts to respond to recent flooding and preventing the Iranian Red Crescent Society from receiving international help for the victims. Furthermore, the United States had warned the Society for Worldwide Interbank Financial Telecommunication (SWIFT) that it could face sanctions if it provided services to Iranian banks. To address such measures, the draft articles should specify that humanitarian aid in kind or in cash in cases of natural and other disasters should not be subjected to any direct or indirect restrictions, and that trade in humanitarian goods and commodities, such as foodstuffs, medicine, and agricultural and animal products, should not under any circumstances be subjected to any form of direct or indirect coercive economic measures or sanctions.

9. His delegation wished to underline the exclusive right of the affected party to request external assistance in the event of a disaster and to announce the termination of the said assistance. The principles governing humanitarian assistance should be observed in parallel with the principles of the sovereign equality and territorial integrity of States and non-interference in their internal affairs. In that regard, the formulation of draft article 13, paragraph 2, which stated that consent to external assistance must not be withheld arbitrarily, was vague and risked being influenced by political factors.

10. **Mr. Xu Chi** (China) said that the global COVID-19 pandemic constituted a major disaster that could be successfully confronted only through international cooperation. Some provisions of the draft articles were based on international practice and could thus offer guidance in terms of the response to natural disasters, including the current pandemic. For example, in line with draft articles 4 to 6, on human rights, human dignity and humanitarian principles, his Government had responded to the COVID-19 pandemic by taking measures to ensure that every patient could be treated and adopting quarantine measures that applied to everyone on an equal footing. Furthermore, in line with draft articles 7 and 8, on cooperation, it had provided the international community with timely information about the outbreak, unreservedly shared its experiences through multilateral and bilateral channels, provided support and assistance for other countries in need and joined the COVID-19 Vaccine Global Access Facility. It had itself also received generous international support.

11. China concurred with some other delegations that such provisions as draft article 11, regarding the duty of

an affected State to seek external assistance, and draft article 13, paragraph 2, which stated that consent should not be withheld arbitrarily, were unsupported by solid and widespread practice. His delegation was therefore in favour of continued multilateral dialogue on the topic, focusing on how to achieve a better balance of rights and obligations between affected States and assisting actors.

12. **Mr. Awassam** (Nigeria) said that his country had faced a series of natural and human-made disasters including floods, droughts, oil spills and, most recently, the COVID-19 pandemic, all of which had increased poverty and insecurity, thereby hampering economic growth. The National Emergency Management Agency, whose mission was to coordinate resources for effective disaster prevention, preparedness, mitigation and response in Nigeria, worked in such areas as disaster risk reduction, search and rescue, and policymaking, as well as advocacy, education and awareness-raising.

13. His delegation supported the elaboration of a convention on the basis of the draft articles on the protection of persons in the event of disasters, which dealt with an increasingly relevant and topical area of international law. Such a convention would provide a framework for cooperation in the event of disaster.

14. **Ms. Nguyen Quyen Thi Hong** (Viet Nam) said that Viet Nam was deeply concerned at the increasing frequency and immense impact of natural and human-made disasters and attached great importance to the protection of persons in the event of disasters. In societies that lacked the capacity to respond effectively to disasters, international cooperation and assistance could play a crucial role. Her delegation stressed the primary responsibility of States to protect their people in the event of disasters and to provide disaster relief assistance. It also acknowledged the fundamental values of international solidarity and the need to strengthen international cooperation in disaster relief, in accordance with the purposes and principles of the Charter of the United Nations.

15. Her delegation would welcome further discussion on the draft articles, which represented an important contribution to international law. They should serve as a guide for States and other actors engaged in disaster relief and should not create additional procedures and protocols that might complicate that process.

16. **Mr. Panier** (Haiti) said that his country, owing to its geographical and geodynamic position, was highly vulnerable to natural disasters, especially earthquakes, landslides, floods and cyclones, as well as to events of anthropogenic origin. The prevention and management of natural disasters was a major challenge. The Haitian authorities had already adopted legislative and

regulatory measures to mitigate such disasters, in line with draft article 9, paragraph 1, and, in 2001, they had established a national disaster and risk management plan. In the aftermath of the powerful earthquake that had hit Haiti on 12 January 2010, the country's civil protection system had been further strengthened. Deeply concerned by the current COVID-19 pandemic, his Government had adopted a community-based approach, with home care for patients, which had yielded good results and had been highlighted in a World Health Organization guidance document as an example of good practice. The Haitian authorities continued to develop new strategies to mitigate the consequences of the pandemic and the impact of potential natural disasters.

17. International solidarity was a fundamental principle, especially in the context of natural disasters. However, humanitarian intervention should not serve as a pretext to violate the principle of State sovereignty. The inherent dignity of the human person must be respected in all circumstances. Although Haiti had received several billion dollars in international assistance over the past decade, those funds had often been spent in a way that did not take into account the country's own needs and priorities, or even its own poverty reduction strategy. His delegation therefore appreciated the fact that the draft articles provided for the affected State to place conditions on the provision of external assistance, especially in relation to the identified needs of the persons affected by disasters and the quality of the assistance. Based on lessons learned from the management of funds intended for the victims of the 2010 earthquake, his delegation recommended that the draft articles also specify that assisting States, and non-governmental organizations receiving funds on behalf of populations affected by a natural disaster, should report on the use of those funds to the affected State. The establishment of mechanisms to ensure the transparency and effectiveness of post-disaster spending should be required and strict measures should be adopted to ensure that the victims of natural disasters were actually the main beneficiaries of the funds raised on their behalf.

18. **Ms. de Souza Schmitz** (Brazil) said that the draft articles on the protection of persons in the event of disasters were generally well balanced. Her delegation welcomed the fact that the International Law Commission had reaffirmed the basic principle of State sovereignty in the preamble and in draft article 13, where it had codified the well-established norm according to which the consent of an affected State was required for the provision of external assistance. It also appreciated the fact that the Commission had included a stand-alone article on the dignity of the human person,

followed by a provision on the need to respect and protect the human rights of persons affected by disasters, since it was important never to lose sight of the human rights perspective, particularly when addressing mass displacement caused by disasters. Every year, thousands of victims of natural disasters moved within their own countries or across borders in search of safety and a secure livelihood. Brazil was involved in a number of international initiatives, such as the Nansen Initiative and its follow-up, the Platform on Disaster Displacement, which were aimed at assisting States in preventing and preparing for displacement before a disaster struck and responding to such displacement when it occurred, and at encouraging regional, subregional and international cooperation in that regard.

19. It was important to preserve a clear distinction between natural and human-made disasters, which were subject to different legal regimes. Although the Commission had attempted to deal with that issue in paragraph (8) of the commentary to draft article 5 and in draft article 18, it would still be difficult to cover vastly different scenarios in a single instrument. Moreover, further discussion might be needed on provisions that did not codify existing international law, such as draft article 11.

20. The draft articles helped to fill a gap in the international legal framework, including by providing more coherence among existing instruments. Given that guidance on the protection of persons in the event of disasters was found mostly in soft law, occasionally complemented by bilateral and regional instruments, or even by Security Council resolutions on situations of armed conflict, her delegation saw merit in discussing the possibility of negotiating a convention based on the draft articles, in order to provide more legal certainty and predictability.

21. **Mr. Tōnē** (Tonga) said that, owing to its geographical, geological and socioeconomic context, Tonga was extremely vulnerable to the adverse impacts of climate change and disasters. In the World Risk Report 2016, it was ranked as the world's second most at-risk country in respect of all disasters, including geological disasters and those induced by climate change. It continued to experience tropical cyclones of unprecedented magnitude and destructive power, as well as droughts, coastal erosion and flash flooding, further compounded by sea level rises three times higher than the global average.

22. According to the Intergovernmental Panel on Climate Change, the intensity and frequency of climate change-induced natural disasters was expected to

continue to grow, increasing the possibility that countries would experience large-scale disasters requiring them to turn to the international community for assistance in meeting the needs of affected populations. It might therefore be appropriate to consider the recommendation of the International Law Commission that a convention be elaborated on the basis of the draft articles on the protection of persons in the event of disasters. Such an instrument would allow States to meet the needs of affected populations through the support of the international community, while maintaining their national sovereignty. Constructive dialogue and the sharing of best practices would help to determine the appropriate way forward with a view to developing effective instruments to build resilience to disaster risks and foster greater agreement among key stakeholders, specifically affected States.

23. **Ms. Grosso** (United States of America) said that the United States was committed to reducing the risk of disasters at home and abroad, and responding to them in a way that took into account the needs of those disproportionately affected, such as persons with disabilities, children, women and older persons.

24. Her delegation continued to believe that the topic was best approached through the provision of practical guidance and cooperation, with a focus on real-world actions. In that regard, it had been pleased to work with Member States and stakeholders in a variety of forums, such as the 2019 Global Platform for Disaster Risk Reduction and the International Recovery Forum held earlier in 2020. The United States had also been a strong supporter of the High-level Panel on Internal Displacement, urging it to develop actionable recommendations to improve assistance and protection for internally displaced persons and to consider disaster risk reduction approaches to prevent and mitigate the impacts of internal displacement. Among other activities, her Government supported the development of inter-agency global guidance on inclusive disaster risk management frameworks that took account of the needs of disproportionately affected groups. In addition, it was supporting non-governmental organizations and partners worldwide in their work with local communities and governments at all levels to improve and disseminate disaster risk management strategies. Her delegation did not see a need for the elaboration of an international agreement or for further consideration of the topic by the Committee.

**Agenda item 77: Criminal accountability of United Nations officials and experts on mission**  
(continued) (A/C.6/75/L.9)

*Draft resolution A/C.6/75/L.9: Criminal accountability of United Nations officials and experts on mission*

25. **Mr. Warraich** (Pakistan), introducing the draft resolution on behalf of the Bureau, said that, after informal consultations, delegations had agreed that a technical rollover of the draft resolution would be the most appropriate way forward in the current circumstances. The text reiterated General Assembly resolution 74/181 and extended the relevant mandates. In the twenty-second preambular paragraph, the Assembly would note the oral report of the Chair of the working group of the Committee on its work during the seventy-fifth session.

**Agenda item 79: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law**  
(continued) (A/C.6/75/L.10)

*Draft resolution A/C.6/75/L.10: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law*

26. **Mr. Korbieh** (Ghana), introducing the draft resolution on behalf of the Bureau, said that the text was based on General Assembly resolution 74/185, with necessary technical updates. In paragraph 14, the General Assembly would note with satisfaction the issuance of the *United Nations Juridical Yearbook, 2015*.

*The meeting rose at 11 a.m.*