

74th Session of the General Assembly, Sixth Committee
Agenda Item 79, Report of the International Law Commission (Cluster I)
Statement by Mr. Ki-Jun You, Director General for International Legal
Affairs, Ministry of Foreign Affairs of the Republic of Korea
29 October 2019, New York

<Check against Delivery>

Mr. Chairman,

On behalf of the Republic of Korea, I would like to begin by joining the other delegates in thanking the Chair of the International Law Commission, Mr. Pavel Šturma, for his report to the Sixth Committee, as well as all the members of the Commission for their hard work.

The Republic of Korea also commends and thanks the Codification Division for their excellent work.

Mr. Chairman,

Turning to Chapter IV of the Commission's annual report, I would like to express my sincere gratitude to the Commission for adopting the draft articles on the Prevention and Punishment of Crimes against Humanity. I would also like to convey my deep appreciation to the Special Rapporteur, Professor Sean D. Murphy, for his contribution to the Commission's work in this area.

The Republic of Korea generally supports the overall content of these draft articles. We believe that, if adopted, they could provide a suitable legal

basis for strengthening law enforcement cooperation among States, particularly in the absence of bilateral treaties on extradition or mutual legal assistance.

We would like to stress that the draft articles should be in line with the Rome Statute of the ICC as much as possible, so as to maintain coherence and stability in international criminal justice system. The Republic of Korea recognizes that the Commission has strived to take into account the evolving nature of national enforcement and international cooperation among States. However, we should bear in mind that changing contexts and their attendant interpretation should be approached in a way that will not erode the current system under the Rome Statute, but rather strengthens it.

The Republic of Korea is also of the view that careful consideration should be given to the relationship between the draft articles on crimes against humanity and other relevant international instruments, including the initiative to adopt a new Convention on Mutual Legal Assistance for Crimes against Humanity, Genocide, and War Crimes.

The remaining draft articles—including those on jurisdiction, investigations, extradition, *aut dedere aut judicare*, the principle of *non-refoulement*, victims and witnesses, and mutual legal assistance—should align as much as possible with standards already established by existing international treaties. The draft article on *aut dedere aut judicare* should also follow the Hague formula, upon which many treaties have already been based.

In addition, my government, in principle, shares the view that further efforts for the elaboration of a convention building on the draft articles adopted by the Commission should be made either at the UN General Assembly or a

diplomatic conference. Whatever the future plan may be, the Republic of Korea believes that further discussions among States about consultation methods and procedures are needed, and that the opinions of States should be fully heard throughout these discussions.

Mr. Chairman,

Turning to the topic “Peremptory norms of general international law (*jus cogens*)”, I would like to express my deep appreciation to the Special Rapporteur, Mr. Dire Tladi, and the Commission for contributing to the successful conclusion of the first reading of the draft conclusions on peremptory norms of general international law (*jus cogens*).

We understand that many discussions took place on whether the Commission should provide an illustrative list of *jus cogens* norms, and if so, how this could be realized. Ultimately, as a compromise, the Commission decided to set out the *jus cogens* norms already recognized by the Commission in the annex. However, we believe that further reflection is needed upon whether to include an illustrative list in the Conclusion.

In this vein, we would like to urge the Commission to approach this topic with caution, and to revisit this matter on a second reading.

Turning now to Chapter XI, concerning “other decisions and conclusions of the Commission”, the Republic of Korea is of the view that the topic, “Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law”, could be useful in identifying existing State practices on such reparations.

Finally, regarding the topic “Prevention and repression of piracy and armed robbery at sea”, the Republic of Korea notes that this has important implications for seafaring nations. The Korean government hopes that a long term program on this topic could provide clarification about how to deal with piracy and armed robbery at sea under UNCLOS, as well as practical information on its implementation by States.

In conclusion, we would like to stress that the main purpose of the Commission is the “progressive development of international law” and “its codification”. In this context, when it considers topics, the Commission should endeavor to more fully reflect the opinions of States.

Thank you, Mr. Chairman.