

Statement by
DELEGATION OF VIET NAM
at the 74rd Session of the Sixth Committee of UNGA
on Agenda Item 79: "Report of the International Law Commission"
Cluster I (Chapters I, II, III, IV, V and XI)

Please check against delivery

Mr. Chairman,

Distinguished delegates,

Our delegation would like to express our sincere thanks to the International Law Commission for the comprehensive report on the work of its seventy-first session. Viet Nam highly appreciates the Commission for its dedication to the progressive development and codification of international law. The Commission's tireless efforts have provided this Committee with valuable information and analysis on many important areas of international law.

In the first cluster, our delegation would like to touch upon some remaining issues concerning the topics "*Crimes against humanity*" and "*Peremptory norms of general international law (jus cogens)*".

Mr. Chairman,

1. With your permission, I would like to first address the topic of **Crimes against humanity**. We have a brief observation on this topic.

At the beginning, we wish to congratulate Special Rapporteur Dr. Murphy for the completion of his fourth report on Crimes against humanity, and specifically the draft articles on prevention and punishment of crimes against humanity. The necessity of a new convention on crimes against humanity as well as its formation, from our perspective, should be carefully examined by the UN General Assembly, and in this case, at the Sixth Committee.

My delegation supports the repression and punishment against crimes against humanity on the basis of respect for national sovereignty and non-intervention in domestic matters of other States, consistent with the principles enshrined in the Charter of the United Nations. However, we are not convinced that the analysis based on the practice of the ICC, which does not enjoy wide spread consensus of the international community in investigating and prosecuting serious international crimes reflects the consensus on an international treaty dealing with crimes against humanity.

Moreover, should there be an international treaty on this matter, we note that there exist differences among the criminal legal systems of States, and in order to address this issue, there needs to be the possibility for State reservation against provisions that the reservation of which are not in contravention to the objects and purposes of the treaty,. For instance, in our view, disputes on the interpretation and implementation of the Convention should not be brought to the International Court of Justice unilaterally, but rather by the Parties' consent. Moreover, my delegation reiterates our position at the previous session that the criminal liability of legal persons has yet to gain wide acceptance in international law, thus that the sanction against acts of legal persons should be dealt with by national laws of States and should be excluded from the Convention, otherwise States should be given an option make reservation against the application of such provision.

Mr. Chairman,

2. Turning next to the topic of *Peremptory norms of general international law (jus cogens)*, at the 71st session of the Commission, we congratulate the Commission on completion of the first reading of the topic with fruitful outcomes and would like to express our appreciation to the Special Rapporteur for his ceaseless contribution to this topic.

Peremptory norms play an important role in international law. They are recognized under the 1969 Vienna Convention on the Law of Treaties as well as domestic legislations and legal doctrine of many States. The Vietnamese Law on Treaties which has been adopted in 2016 also recognizes peremptory norms of international law, or *jus cogens*, as a principle to be adhered to in the course of negotiating and entering into international treaties. However, to date, it remains unclear on the identification of such norms. We therefore commend the efforts of the Commission in addressing this issue and encourages the Commission to continue the research into matters related to *jus cogens*.

With regard to the evidence of acceptance and recognition, we note that States with limited resources may be prevented from fully participating in creating materials serving as evidence of acceptance and recognition. The notion of ‘a very large majority of States’, therefore, should be carefully interpreted, in order to ensure that the Community of States as a whole is represented in the acceptance and recognition of *jus cogens*.

We take note of the Special Rapporteur’s success in coming up with a non-exhaustive list of peremptory norms of general international law (*jus cogens*). However, the list provided in Conclusion 23 has caused some concerns of whether unlisted principles may not be considered as *jus cogens* despite their world-wide recognition as a general principle of law and that such a norm is accepted and recognized as one from which no derogation is permitted. This, in our delegation’s view, includes the 7 re-known principles codified in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations as adopted in Resolution 2526 by the UNGA.

In conclusion, Viet Nam reiterates its commitment to the promotion of the rule of law at the international level based on the fundamental principles of international law, particularly those enshrined in the United Nations Charter and international law, such as respect for sovereignty, political independence and territorial integrity of states, non-interference in internal affairs, non-threat or use of force, and peaceful settlement of disputes. Viet Nam believes that multilateral actions in line with international law can address today’s pressing challenges.

Thank you, Mr. Chairman.