

SIXTY-NINTH SESSION OF THE UN GENERAL ASSEMBLY
SIXTH COMMITTEE
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STATEMENT BY H.E. MR. OCH OD,
AMBASSADOR, PERMANENT REPRESENTATIVE OF MONGOLIA
TO THE UNITED NATIONS

Agenda item 78 (Chapter I-III and Chapter V) Report of the International Law Commission
on the Work of its 66th Session (Part 1)
New York, 27-29 October, 2014

Mr. Chairman,

As this is the first time my delegation is taking the floor at the Sixth Committee of this session of the General Assembly, I wish to congratulate you on your election as chairman. I am confident you will steer this session to a successful conclusion.

My delegation commends the works undertaken by the International Law Commission at its 66th session and the Special Rapporteur Mr. Eduardo Valencia Ospina, as reflected in the Commission's report.

We also appreciate the efforts and dedication of the relevant working groups in preparing draft conclusions and articles as well as exploring the possibilities of concluding conventions on subjects, which have not yet been regulated by international law. My delegation acknowledges that the recommendations of the International Law Commission have had notable impact on the legal affairs of the Member states with successful application of draft articles in practice by national and international courts on numerous important issues.

Mr. Chairman,

In our statement last year, my delegation expressed its support for the inclusion of the new topic "Crimes against humanity" to the Commission's long-term programme of work with the belief that it will focus on the importance a new treaty complementing the Rome Statute of the International Criminal Court (ICC). I believe this belief was also shared by many Member states at the time.

Regarding the Commission's decision on inclusion of the topic in its programme of work and appointed Mr. Sean Murphy as Special Rapporteur for the topic in July this year, I wish to express my delegation's concerns that creation of new definitions that differ from the already existing ones like those contained in the Rome Statute of the ICC could only create problems for the determination of the crime and which in turn may result in impunity of those responsible. This view was also echoed in the statements made earlier by Member states in connection to the Commission's report.

The formulation of article 7 of the Rome Statute has greatly contributed to specifying and defining the crime against humanity. Thus a specific criminalization of crimes against humanity already exists, and is applicable to states parties and non-states parties to the Rome Statute alike.

With regards to Chapter III of the report, particularly on the topic “Crimes against humanity”, on which comments would be of particular interests to the Commission, my delegation wishes to note here that under the Constitution of Mongolia its international treaty has the same legal effect as its domestic legislation. Crimes against humanity is not yet defined in our domestic legislation, but as a State party to the Rome Statute of the ICC, the definition contained in the Statute can be applied in legal procedures in Mongolia.

Mr. Chairman,

My delegation would like to thank the Special Rapporteur, Mr. Ospina, for his 7th report, which enabled the Commission to bring to a successful conclusion after its first reading of the whole set of draft articles as well as commentaries on the “protection of persons in the event of disasters.” We believe that the Special Rapporteur’s work contributes impressively to the overall aim of improved legal protection of persons in the event of disasters.

With regards to the adopted draft articles and commentaries, my delegation would like to note the conflicting understandings provided in relation to the definition of ‘disaster’ in draft article 3 and the commentary on draft article 21, concerning the relationship of these articles to international humanitarian law, in which it described, to quote, “While the draft articles do not seek to regulate the consequences of armed conflict, they can nonetheless apply in situations of armed conflict to the extent that existing rules of international law, particularly the rules of international humanitarian law, do not apply.”

According to the commentary, the draft articles would apply also to disasters connected with armed conflicts to the extent that the rules of international humanitarian law do not address this particular disaster situation. This difference between the draft articles and the commentary does not provide a clear understanding.

My delegation is of the view that the draft articles should not apply to armed conflicts.

In conclusion, Mr. Chairman, my delegation underlines the importance of the active interaction and dialogue between the Sixth Committee and the Commission and we also value the Commission’s contribution to the improvement of the knowledge and capacity of Member states through traditional organization of the Geneva “International Law Seminar” which commemorated its 50th anniversary this year.

I thank you.