



**Statement by Mr. Pham Ba Viet**  
**DELEGATION OF VIET NAM**  
**at the 71st Session of the Sixth Committee of UNGA**  
**on Agenda Item 78: “Report of the International Law Commission”**  
**Cluster II (Chapters VII, VIII and IX)**

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Thank you Mr. Chairman,

We would first like to turn to the topic of **Crimes against humanity**.

On this topic, we note with appreciation the works and efforts of the Special Rapporteur, Mr. Sean D. Murphy that have resulted in the provisional adoption of draft articles 1 through 4, and the second report for the consideration of articles 5 through 10.

My delegation supports the drafting of a convention on crimes against humanity so as to fill in the gap that currently exists in the framework of international criminal, humanitarian, and human rights laws, and thereby address the issue of impunity.

We are of the view that many of the provisions contained in draft articles 5 through 10 are modelled after those of the statutes of the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, the Charter of the Nuremberg Trial, as well as the Convention against Torture, the Convention on the Prevention and Punishment of the Crime of Genocide, and are reflective of customary international law.

There is, however, a particular provision that deviates from such norms and practices, and is of concern to our delegation, which is the obligation to establish the liability of legal persons for offences referred to in the draft articles. The liability of legal persons has yet to gain wide acceptance in international law. With regards to the few legal instruments that the Commission has cited in the commentaries, States have made reservations to provisions on liability of legal persons, citing the lack of national legislation in this regard. Such facts are also indicative that the provision does not quite reflect customary norms.

Therefore, it is our view that the sanction against acts of legal persons should be dealt with by national laws of States and should be excluded from the draft articles.

On the topic of the “**Protection of the atmosphere**”, at the outset we wish to extend our appreciation to Mr. Shinya Murase for his third report, which focuses on the obligations of States to mitigate atmospheric degradation and the requirement of due diligence and environmental impact assessment.

Protection of the atmosphere is a pressing concern of States and the international community as a whole. Therefore, Viet Nam welcomes the works of the Commission to tackle this contemporary issue.

Viet Nam, as a developing country, recognizes the need to pay regards to the consideration of equity, in which special conditions and needs of developing countries should be taken into account when discussing the draft text. Such consideration is consistent with other international instruments that deal with the protection of the environment, such as the 1972 Stockholm Declaration, the 1992 Rio Declaration, and the 2015 Paris Agreement.

My delegation also recognizes the important obligation to protect the atmosphere through the effective prevention, reduction, or control of atmospheric pollution and degradation as stated under Guideline 3. Moreover, we underline the significance of the inclusion of environmental impact assessments in the domestic systems of States which helps ensure that proposed activities under their jurisdiction are in conformity with international standards. For our part, Viet Nam has adopted the Law on Environmental Protection in June 2014 which requires private state-owned as well as private enterprises to undertake environmental impact assessments prior to conducting their projects to ensure that all environmental factors are taken into account within our best available scientific data.

We note that the effective protection of the atmosphere relies heavily upon scientific knowledge. Therefore, we welcome and encourage the collaboration among scientists in this field as well as the development of regional and international mechanisms to support developing countries in terms of enhancing exchange of information and joint monitoring. Thus, we are pleased to see this view reflected in Guideline 8.

Turning to the final topic of this cluster, my delegation would first like to thank Mr. Dire Tladi for his extensive work in delivering the first report on *Jus Cogens*.

Peremptory norms play an important role in international law and is recognized under the 1969 Vienna Convention on the Law of Treaties as well as domestic legislations of many States. The Vietnamese Law on Treaties which has been adopted earlier this year also recognizes *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 definition, constituents, and development of such norms. We therefore commend the efforts of the Commission in addressing these issues.

With regards to the draft conclusions, we take note and are concerned of the inconsistencies presented in paragraph 2 of draft conclusion 2 and paragraph 2 of draft conclusion 3. In particular, the former states that peremptory norms are the exception to rules of international law that may be modified, derogated from or abrogated by agreement of States (*jus dispositivum*), whereas according to the latter, *jus cogens* is considered hierarchically superior to other norms of international law. This in our view causes confusions as to the relationship between the two types of norms in questions. Thus, we suggest that further study be given in order to clarify this matter.

We also encourage further studies by the Commission to clarify the existence of regional *jus cogens* and the effect of persistent objection in regards to *jus cogens*.

Thank you, Mr. Chairman.