

**Statement by**  
**DELEGATION OF VIET NAM**  
**at the 74th Session of the Sixth Committee of UNGA**  
**on Agenda Item 79: “Report of the International Law Commission”**  
**Cluster II (Chapters VI, VIII and X)**  
*New York, 5 November 2019*

*Thank you Mr. Chairman/Madame Chair,*

1. With respect to Cluster II, my Delegation would like to first address the topic of **Protection of the environment in relation to armed conflicts**.

2. Viet Nam has been well aware of and made immense efforts to overcome the consequences of armed conflicts, including damages to the environment. It is undeniable that armed conflicts, regardless of the intentions of the belligerents, have tremendous and lasting impacts on not only the civilian populations habituating in the area of its affection, but also for the nature itself, including the fauna, flora, soil, air and waters as well as the ecosystem. Though the war ended many decades ago, the effects of the war are still very visible and clearly felt in Viet Nam. The same is true for all other armed conflicts that have occurred around the world.

3. It is for these reasons that Viet Nam continues to underline the importance of this topic and is very supportive of the continuation of the work of the ILC on this topic in order to establish State responsibility in dealing with remnants of war, particularly those related to damages to the environment. Our delegation notes with appreciation that substantial work has already been done and that remaining issues needs to be worked out building on the work achieved so far. In this context, we commend the Special Rapporteur for her outstanding contribution, which enabled the Commission to complete its first reading successfully of the topic. Of course, the topic could not have reached its first reading without the valuable contribution of the previous Special Rapporteur, Ms. Marie G. Jacobsson. Viet Nam remains committed to following this topic’s further outcomes.

4. The research of the Commission should be in complementarity to existing international law on the protection of the environment and laws governing armed conflicts, particularly the Geneva Conventions and their Additional Protocols. We also support the direction by the Special Rapporteur to integrate the law on occupation, international humanitarian law and international environmental law in this Report. To our attention, the draft conclusions included a provision on corporate liabilities, one of which our delegation warmly welcomes, as it poses a clear indication that not only State but also non-state actors bear the responsibility for environmental damages during armed conflicts. This is even more pertinent in case of corporates such products when deployed in mass quantity and over a mass area shall leave significant and enduring adverse impacts on the environment and the population.

5. On the protection of environment of indigenous people (principle 5), my delegation notes that the concept of “indigenous people” does not enjoy broad consensus in the context of the law of armed conflicts. While we recognize that minority groups inhabiting a zone of conflict are under serious risk to suffer from negative environmental impacts of conflict, in our view, the concept of ‘ethnic minorities’, enjoys a larger consensus. Moreover, paragraph 2 of this principle provides that “States should undertake effective consultations and cooperation with the indigenous peoples concerned, through appropriate procedures and in particular through their own representative institutions, for the purpose of taking remedial measures”. This text seems to suggest that both parties to conflict and minority groups are on an equal footing in taking consultations and cooperation for the purpose of taking remedial measures. We cannot concur with this view. Given that States have the primary responsibility for the promotion and protection of human rights, in our view, States should undertake consultation and cooperation among them on ensuring the protection of environment of ethnic minorities in armed conflict, including remedial measures.

*Mr. Chairman/Madame Chair,*

6. Turning next to the topic of **Immunity of State officials from foreign criminal jurisdiction**, my Delegation extends our gratitude to the Special Rapporteur, Mrs. Concepción Escobar Hernández, for her recent report to the Commission on this issue.

7. Immunity for state officials from foreign criminal jurisdiction originates from customary international law. Thus, the codification of the rules in this matter needs to be carefully undertaken with due regards to the principles of sovereign equality, non-intervention into the domestic affairs of States as well as the need for the maintenance of international peace and security, ensuring the balance between the benefits of granting immunity to State officials, the need to address impunity and the protection of State officials from politically motivated or abusive exercise of criminal jurisdiction. In this regard, our delegation notes with regret that no specific proposals regarding the exceptions of immunity or procedural aspects, including procedural guarantees, were submitted in the recent report, though we concur the view of several members of the Commission mentioned in paragraph 150 to 152 of the report.

8. As the Commission's report of its 71<sup>st</sup> session has rightly recollected, divergent views were expressed not only within the Commission but also among member states regarding procedural safeguards to address concerns regarding the application of draft article 7. In this connection, Viet Nam finds it necessary to restate its standing position delivered in previous sessions of the Sixth Committee that the criminality of an act does not affect or determine whether an act is performed in an official capacity. We draw the Committee's attention again to the joint separate opinion of Judges Higgins, Kooijmans and Buergenthal to the judgment by ICJ in the *Arrest Warrant* case, which only pronounces on the international crime exception with respect to immunity *rationae personae*, leaving open the question of exception with respect to immunity *rationae materiae*. In this vein, my delegation takes the view that all acts performed in the exercise of state authority, state functions and sovereignty should enjoy immunity *rationae materiae*. It is due to the paramount importance of designing specific procedural safeguards to address concerns regarding the application of draft article 7 that the exceptions to criminal jurisdiction warrant further debate.

*Mr. Chairman/Madame Chair,*

9. On the final topic of **“Sea-level rise in relation to international law”**, my delegation commends the Commission's decision to include the topic in its long-term programme of work. Viet Nam warmly supports the formation of an open-ended Study Group that will address the aspects of sea-level rise in

connection with international law, tuning its focus firstly to issues relating to the law of the sea.

10. Viet Nam is one of the world's most vulnerable countries to the adverse impact of climate change. Rising sea level, as a result of climate change, has become a growing global phenomenon and thus generating global problems, substantially impacting on the coastlines and low-lying areas offshore of Viet Nam, thus affecting the livelihoods, health, culture and wellbeing of our people, especially those habituating alongshore. It is for these reasons that my delegation seeks to promote international cooperation in this area for constructive discussions to the challenges sea-level rise brings to small-island developing states and coastal states.

11. Viet Nam is committed to full support and active participation in international efforts in order to tackle threats as well as the impacts of such phenomenon on human life. In this vein, Viet Nam will follow closely on the outcomes of this topic with interest as well as join open discussions on the topic within the Commission and at this Committee of the General Assembly.

*I thank you./.*