

Permanent Mission of India to the UN

New York

**6th Committee of the 79th Session of the UNGA
(Agenda item 79)**

**Report of the International Law Commission on the work of its seventy-
fifth session
(Cluster 1)
India Statement**

At the outset, India would like to thank Mr. Mārtiņš Pāparinskis (Colombia) Chairman of the seventieth session of the International Law Commission, for comprehensive introduction of the Report of the Commission and for guiding its work at this session. We also thank all Members of the Commission for their valuable contribution to the work of the Commission.

2. India attaches great importance to the international Law Commission, as an institution that brings together highly qualified international law experts from diverse backgrounds to work towards the progressive development and codification of international law. We deeply appreciate the achievements of the Commission through its work over the past seventy-five years.

3. Following the Clusters' arrangement of topics, our focus today would be on the topics of Cluster I and more particularly on the topics "**Immunity of State Officials from Foreign Criminal Jurisdiction**"; and "**Sea-level rise in relation to international law.**"

4. As to the topic of 'Immunity of State Officials from foreign criminal jurisdiction' we would like to place on record our appreciation to the Special Rapporteur of the topic Mr. Claudio Grossman Guilloff in preparing the first

report that was subject to deliberations at the 75th session of the Commission. We also would like to commend the efforts of previous Rapporteurs on this topic.

5. We have taken note that the Commission's consideration of Draft Articles 1 to 6 of the Special Rapporteur.

6. India attaches high importance to the topic and reiterate the need for balancing respect for the sovereign equality of States and ensuring accountability for the most serious crimes under international law. We wish to underscore the need to preserve friendly relations between nations and maintain international peace and security

7. On draft Article 3 – Persons enjoying immunity *ratione personae*, we note that there is a broad agreement in the Commission regarding immunity *ratione personae*, that it was enjoyed by Heads of State, Heads of Government and Ministers of Foreign Affairs, and favour the identification of criteria to establish those other State officials to whom personal immunity would apply. We agree with SR's suggestion that maintaining the current draft text of Article 3, since there are no sufficient or justifiable grounds.

8. States will be benefitted if explanation is provided on the commentary with regard to special cases where officials who were not formally Heads of State or Heads of Government but de facto occupied a comparable place in national hierarchy. Moreover, further details on the temporal scope of immunity *ratione personae* may also be looked into, as discussed in the Commission.

9. On draft Article 5, we have taken note of the SR's view regarding the phrase 'acting as such' since it may create some confusion and agree to

consider the phrase 'in accordance with draft article 6' linking it with the following article.

10. We would like to reaffirm our earlier views concerning the possible approach of the Commission towards finding a solution to reconcile the divergent views of its members and other stakeholders on draft Article 7 in its next reading on the topic.

11. We are of the firm belief that any system, if not agreed, would likely harm inter-state relations and also undermine the very objective of ending impunity of most serious international crimes. At the same time, we reiterate that the provisions under this area should not be viewed as codifying existing international law in any manner.

12. Turning to the topic "**Sea-Level Rise in relation to International Law**", we would like to thank the Commission and in particular Co-Chairs of the Study Group on sea-level rise in relation to international law, for their work over the past four years.

13. As a country having one of the long coastal lines, India is cognizant of the adverse impacts of sea-level rise, and the immense challenge of understanding complex legal and technical issues associated, in particular, law of the sea and international law, in general.

14. The effective response to sea level rise lies in enhancing protection measures; mitigation of risks and impacts on the coastal communities; land reclamation; managing realignment and eco-system-based adaptation. The approach to tackle sea level rise is therefore very clear. It is through transformative adaptation and mitigation.

15. India notes that some States, in particular small island developing States (SIDS), are currently facing the impact of sea-level rise.

16. India appreciates the well-documented and well-structured additional paper prepared by the Co-Chairs. The two sub-topics in the additional paper are relevant to study further, including the configuration of the State as a subject of international law and the continuity of its existence; scenarios linked to statehood in the context of sea-level rise and the right of the State to provide for its preservation; and eventual alternatives to face the phenomenon in relation to statehood; and the protection of persons affected by sea-level rise.

17. On the issue of continuity of statehood, we are of the view that greater caution needs to be exercised in considering the presumption of continuing statehood in favour of the States directly affected by sea-level rise, in particular from the perspective of criteria stipulated in the Montevideo Convention, 1933.

18. Concerning the issue of protection of persons from sea-level rise, the cooperation between States would be of vital significance in handling the case of cross-border movement of people affected by sea-level rise.

19. The Study Group may finalize its mapping exercise, group the existing legal principles and indicate areas that were in need for further development and based on which the future work of the Study Group may be decided at a later stage, with a broader consultation with the member States.

I thank you.
