



INDIA
भारत

STATEMENT BY

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ON
AGENDA ITEM 79

**“REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF
ITS SEVENTY-FIRST SESSION”**

AT THE
SIXTH COMMITTEE OF THE 74th SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

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Mr. Chairman,

India would like to congratulate the Special Rapporteur Ms. Escobar Hernández, on her extensive work and tireless efforts in simplifying the complexities of the topic into Draft Articles on immunity of State officials from foreign criminal jurisdiction . We also would like to commend for her seventh report which elaborates on the procedural aspects of the immunity. We are also grateful to the International Law Commission for its continued efforts on the topic on a priority basis.

Mr. Chairman,

The question as to whether immunity of State Officials should prevail over the duty to prosecute and punish individuals responsible for crimes has resurfaced in the light of the new developments in international law. For instance, international and national courts which have prosecuted state officials have faced challenges in a number of areas including jurisdictional matters, enforcement of warrants of arrest etc.

Mr. Chairman,

We acknowledge the Special Rapporteur's proposal that there should be certain procedural safeguards with respect to immunity of State officials. The procedural safeguards detailed under Draft Articles 8 to 16 may be useful to both the forum State and the State of the official. We take note of the Draft Articles which might help in eliminating the risk of politicization of the prosecution and avoid instability in inter-State relations. Nevertheless, given that the subject matter under discussion is not just a legal issue but also a political issue, it requires in

depth research on relevant State practice.

Mr. Chairman,

As regards Draft Article 14 regarding transfer of criminal proceedings, we are of the view that the Draft Article should expressly provide for request for transfer of proceedings by the State of the official. We would like to reiterate that there is a need to achieve a balance between the interests of the forum State and those of the State of the official, in line with the principle of reciprocity.

We would like to respond to the question posed by the Special Rapporteur whether a mechanism for settlement of disputes between the forum State and the State of the official should also be proposed in the draft articles. We understand that a dispute settlement mechanism is not necessary as the consultations provided in Draft Article 15 should be sufficient. Any differences or disputes between Forum State and State of official can also be settled through diplomatic channels.

We recognize excellent progress made by the Special Rapporteur on this topic.

Mr. Chairman,

We thank the Commission for taking up the issue of “Sea-level rise and its implications” as one of its agenda items. We extend our support to the Commission and assure you to contribute to the discussions on the topic. We endorse the view that Sea-level rise is one of the consequences of global warming.

The consequences of Sea-level rise are manifold and can cause the

submersion of existing land territories, thereby raising complex issues of sovereignty and access to natural resources. Sea-level rise is also expected to change the existing boundaries of maritime zones, with concomitant political, economic, and security implications.

Mr. Chairman,

We believe that the focus of international law should also address the issue of livelihood and displacement which will affect millions of people in the coastal areas. The 2014 ILC Draft Articles on the Protection of Persons in the Event of Disasters are useful beginning in this regard.

This year, India has launched the Global Coalition for Disaster Resilient Infrastructure (CDRI). This builds on the Sendai framework and will support countries - developed and developing - to build climate and disaster resilient infrastructure. The Coalition's secretariat, supported by UNDRR and based in Delhi, will facilitate knowledge exchange, provide technical support and support capacity building.

We extend our support to the work of the Commission on this topic and appreciate the valuable role being played by the Commission in this regard.

Mr. Chairman,

As regards the topic on the 'protection of the environment in non-international armed conflicts' we welcome the efforts of Special Rapporteur Ms. Marja Lehto for submitting her second report. The second report discussed several questions pertaining to this important topic, with a focus on how the international

rules and practices concerning natural resources may enhance the protection of the environment, during and after such conflicts. It also addressed questions related to the responsibility and liability of States and non-State actors. The Special Rapporteur has proposed seven draft principles on this topic.

The Commission has transmitted the 28 draft principles on protection of the environment in relation to armed conflicts to Governments, international organizations, and other stakeholders for their comments and observations. In our view, protection of environment during armed conflict finds mention in several international instruments such as the Hague Regulations of 1907, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949 and Additional Protocol-I to the Geneva Conventions, 1977.

It is, therefore, suggested that the draft principles should not be in conflict with the obligations arising from existing Conventions. Any work on this topic should not duplicate the efforts already undertaken in the existing regimes.

I, thank you Mr. Chairman.