

28 October 2019

UNGA 74 Sixth Committee / Agenda item: 79 - Report of the International Law Commission on the work of its seventy-first session: Cluster I

Statement by Permanent Mission of Armenia to the United Nations

Mr Chairman,

At the outset, we thank the International Law Commission for presenting their annual report for which we would like to offer the following remarks.

Concerning Chapter IV of the Report of the International Law Commission on the ‘crimes against humanity’ topic, Armenia acknowledges that the intention of the draft articles is to fill

For future action, we are

definition of Article II of the Genocide Convention. If so, whether this would displace a procedural rule, such as the rule of intertemporal law for State responsibility and the rule of *nullem crimen sine lege poena* for criminal responsibility.¹²

On draft Conclusions 8 and 9, the phrase ‘subsidiary means of interpretation’ inverts the process by which peremptory norms have been recognised in practice. Courts, not States, have been the leaders on it, as has the International Law Commission; for example, with respect to Articles 53 and 64 of the Vienna Convention on the Law of Treaties 1969¹³ and Articles 26, 40 and 41 of the Articles on the Responsibility of States for Internationally Wrongful Acts 2001.¹⁴ Concerning draft Conclusion 11 and the debate concerning ‘void in whole’ or ‘void in part’,¹⁵ we suggest that the Commission explore examples, whether from practice or hypotheticals, in which the competing policies could operate.

We support the fusion of *ius cogens* and *erga omnes* concepts

recognised as peremptory norms at the time of their historical recognition. However, we would assert that the moral law is the foundation for their historical recognition, not State practice. The task of the Commission to identify a methodological basis for this moral law to underpin its work.

Mr Chairman,

On ‘reparations to individuals for gross violations of international human rights law and serious violation of international humanitarian law’, we consider the idea to be topical and potentially useful in light of difficulties encountered in current practice. The focus in the report is said to be how individuals may obtain reparation for violations of human rights law and IHL. The topic appears

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