

26 October 2022

UNGA 77 Sixth Committee / Agenda item: 79- Report of the International Law Commission on the work of its seventy-first session: Cluster I

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.

Work on the topic of general international law (cogens) is a useful one. We note that the Commission added it to its main programme in 2015 and that the consideration of the topic is now being proposed to be concluded in light of its far-reaching importance, we see merit in continuing consideration of the topic by the Commission with a view to seeking to make the improvements necessary to provide the draft conclusions with the strongest foundation possible for their subsequent use in practice.

We note that there is precedent for the Commission to

consent for peremptory norms as a historical. Draft Conclusions 6, 7 and 8 and their commentaries provide scant explanation. R Q KRZ VXF K D Q R U P a c t e d a n d S R V H G U H F R J Q L V H G ¶ E \ W K H L Q W H U O n t h e r e s u l t s o f t h e i f f e r e n t p a r t y o f t h e Q R W L R Q W K D W W K H S H U V Q R W H D S S O R E J M W R W S H U H R S W R U G Conclusion 14 paragraph 3, while a peremptory norm is not applicable to a State insofar as it maintains its persistent objection.³

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D T X H V W L R Q D U L V

Whilst Armenia opines that self-determination has both customary and peremptory status, we concur with the view that draft Conclusion 23 would benefit from stronger methodological coherence. As aforementioned, as a matter of empirical reality, the indicative list of peremptory norms would not have been recognised as peremptory through orthodox, positivist methodology at the time of their recognition. However, we would assert that the moral law is the foundation for their historical recognition, not State practice.

Mr Chairman,

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important topic that offers the potential

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UNSC Standard is Not Applied Through the ED Z ¶
Though the due diligence obligation in current law pertains to boundary harm, we suggest
that the adoption of the due diligence standard to environmental protection in armed conflict
would be a useful piece of progressive development.

We recommend that the Commission revisit this issue in order to propose a definition that enhances environmental protection.

Whilst the application of draft Principle 13(2) to both international and ~~international~~ international armed conflicts²⁰ is welcome, the draft Principle will have no practical effect without amendment to the Second Additional Protocol to the Geneva Conventions as well as the Rome Statute to