

(3 October - 18 November 2022)

CLUSTER I

3Peremptory norms of general international law (ius cogens)

MadameChair,

previous V W D W H P H Q W V : L W K L Q W K H F R Q W H P W I S O R b j e c t e d t o V D L G &  
3 K L H U D V X S K I D O R U L W \ ' E H W Z H H Q W K H Q R U P V Z K L F K L V D F W  
with an authority to determine and enact as such.

Madame Chair,

Before moving forward, we would like to comment on two points in the fifth report of  
the Special Rapporteur Mr. Dire Tladi.

, Q W K H U H S R U W Z K L O H D G G U H V V L Q J D F R P P H Q W R Q  
in draft conclusion 17, it was asserted that W K H & R Q Y H Q W L R Q D V V X F K G R  
binding effect on non S D U W L H V ' : H Z R X O G O L N H W R F O D U L I \ W K D W  
3 9 L H & R Q Y H Q W L R Q R Q W K H / D Z R I 7 U H D W L H V ' D Q G L W G R  
7 • U N L \ H

As for the V H F R Q G S R L Q W W K H U H S R U W U H I H U V W R 7 • U N L V



6L[WK DV UHJDUGV WKH DVVHUWLRQV WKDW <sup>3</sup>>W@KH  
SHUHPSWRU\ QRUPV RI JHQHUDO LQWHUQDWLRQDO ODZ M  
object to contestations of the Commission as they are devoid of any state practice and maintain  
that the persistent objection of certain States to a rule of customary international law,  
particularly the persistent objection of a State which is specially affected by that rule, have to  
be taken into account while determining whether the rule has been accepted and recognised by  
the international community.  
FRPPXQLW\ RI 6WDWHV DV D ZKROH DV <sup>3</sup>SHUHPSWRU  
ODZ´

Seventh, as regards draft conclusion 19, we observe that the Commission relied on  
RWKHU WKLQJV RQ WKH <sup>3</sup>GUDIW DUWLFOHV RQ UHVSRQVLRQ  
to which states have not conferred legal status and customary status of which is debated.  
Moreover, as far as we understand, the resolutions, which were relied on by the Commission in  
support of its arguments in draft conclusion 19, were introduced as references during the  
deliberations of the Committee on the second reading without the scrutiny of states and  
both concerned on the method of the introduction and the inferences made particularly from the  
Security Council resolution 541 (1983) of 18 November 1983, which in fact do not mention  
DQ\WKLQJ DERXW <sup>3</sup>MKXVWKRPH. We are aware of the concerns that the  
Commission has a specific mandate in relation to international law and should be impartial.

/DVW EXW QRW OHDVW ZH DOVR PDLQWEXHUVRU VHUL  
list RI QRUPV´ DWWDFKHG WELGHWKDW <sup>3</sup>SRQIRXU  
commentary that identification of specific norms that have a peremptory character falls beyond  
the scope of the present draft conclusions, the Commission nevertheless has decided to include  
in an annex a non-exhaustive list of norms previously referred to by the Commission as having  
peremptory character.

### <sup>3</sup>Protection of the environment in relation to armed conflicts´

Madame Chair,

We thank Special Rapporteur Ms. Marja Lehto for her reports and appreciate the  
deliberations KHOG E\ WKH & RPPLVLRQ RQ WKH WRS LF RI <sup>3</sup>SURV  
to DUPHG FRQIOLFWV´

We would like to provide our comments as well as understanding on the work of the  
Commission in relation to this topic. Please note that the absence of a comment or expression



<sup>3</sup> Q R Q W D W H D U P H G J U R X S V ' <sup>3</sup> F R U S R U D W L R Q V ' <sup>3</sup> F L Y L O V R F  
distinct fields of law inevitably prevented the compliance of ~~but~~come with any of them.

We underline that our legitimate concerns and legally-founded propositions were not adequately reflected in the work of the Commission, as in the case of some other States.

7 K X V 7 • U N L \ H \ V S U H Y L R X V O \ r e l y a s t o d a y V H G F R Q F H U Q V U

The conflict of international law (by relating this law, in contrast to the law and the practice of a State) in draft principles in and of itself leads to assertions beyond existing law or to modification of already existing rules or other references through interpretation?

Striking examples would be assertions based on subjective inferences made from and founded -5(f 0.000008871 0 595.32 841.92 re W\* n BT /F3 12 Tf 1 0 0 1 524.5 562.27 T101.6

in footnote no. 741WKH<sup>3</sup>/RXLJLGRX F DVH<sup>7</sup> Kas nD raiun e the QWHL R Q H G  
the

, & - MXGJHPHQW RU WKH +DJXH 5HJXODWLRQV 2Q WKH  
or<sup>3</sup>RFFXSDWLRQ<sup>7</sup> DUH QRW FRPSDWL E On the 1960 Treaties  
thenature and contents of the relevant UN documents.

In light of the inclusion of some vague and controversial expressions either in the draft  
principles or the commentaries with its references, such as the D O H S a<sup>3</sup> Q R Q  
JURXS Q R Q W DWH DFWRUUV<sup>3</sup> SDUWLHV WR DQ DUPHG FRQ  
reiterates its /00008871 0 595.354(s /000088.92 r0484>4<0m 0 g An W\* n2w45F /00o003>40w(rm

and we welcome the Commission's determination of rules of international law.  
We are looking forward to following the work of the Commission on these topics.

Thank you, Madame Chair.