

Islamic Republic of I R A N

Permanent Mission to the United Nations

Statement by
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Before
the Sixth Committee of the
74th Session of the United Nations General Assembly
on
“Responsibility of States for internationally wrongful acts”
(Agenda item 75)

New York, 14 October 2019

In the name of God, the most Compassionate, the most Merciful

Thank you, Mr. Chairman,

In our view, State responsibility is the backbone of international law in a sense that without responsibility, it would be difficult to talk about law. We commend the outstanding work done by the International Law Commission (ILC) through the years. Five learned Special Rapporteurs of the ILC worked on the topic and almost all Member States reflected on its content whether in written form or in their statements in the Sixth Committee. The extensive reliance of international courts and tribunals on related matter, is indicative of the high value of the work of the ILC.

Iran attaches high importance to the question of state responsibility and believes that most of the provisions of the Draft Articles are expression of customary international law. To name a few, I would like to refer to, for instance, Article 50 (a) entitled "Obligations not affected by countermeasures". This article elaborates that countermeasures shall not affect the obligation of States to refrain from the threat or use of force as embodied in the Charter of the United Nations.

This provision is not only reflective of existing international law but also consistent with a number of authoritative pronouncements of international case-law, including the ICJ's decisions in the Corfu Channel case, and the case concerning the Military and Paramilitary Activities in and against Nicaragua.

Article 50 (b) further stipulates that countermeasures shall not affect obligations of States for the protection of fundamental human rights. In our view, this provision could bring more assurances regarding respect to the fundamental needs of individuals living in the territory of States such as health, education, etc.

On the other hand, some other provisions like those contained in Article 48 reflects progressive development of international law. We took note of the position of some countries

which challenged the customary nature of this provision during the debates on the topic at the sixth Committee in 2016.

We also recall the Separate opinion of Judge Skotnikov in case concerning Belgium vs. Senegal in ICJ in 2012 which brought to the attention of the Court lack of state practice in this regard. He observed that there is no precedent in which a State has instituted proceedings before ICJ or any other international judicial body in respect of alleged violations of an *erga omnes partes* obligation simply on the basis of it being a party to an instrument similar to the Convention against Torture.

Turning to the future action on proposed articles on state responsibility and to consider the final form of these articles by the General Assembly, we maintain that the rules of state responsibility should be clear enough and known to all subjects of international law. The only way to realize this is to crystallize the draft articles in the form of a binding treaty. A well-elaborated convention on state responsibility could contribute to legal certainty and better application and consequently, promotion of international law. We are of the view that the time is ripe to convene a diplomatic conference to adopt an international convention on state responsibility. It would provide an opportunity for Member States to negotiate a legally binding instrument on the basis of the ILC's Draft Articles. Furthermore, we maintain that it would be imperative to devise a dispute settlement mechanism for the future convention. Such a mechanism could bring certainty and predictability in application of its provisions and preclude any abuse in form of excessive and unjustified invocation of counter measures against other countries.

We stand ready to engage actively in the working group on responsibility of states.

I thank you Mr. Chairman.