



**Check Against Delivery**

Statement by

Mr. Naser Asiabi Pourimani, Representative of the Islamic Republic of Iran

Before the

Sixth Committee of the

76<sup>th</sup> Session of the United Nations General Assembly

On Agenda Item 83:

**“Report of the International Law Commission on the work of its seventy-second session”**

Cluster III

Chaps: VIII (General Principles of Law)

New York, 3 November 2021

**Madam Chairperson,**

My delegation would like to thank Marcelo Vazquez-Bermudez the Special Rapporteur, for preparation of his second report on the “*General Principles of Law*”, and I would like to present the following comments and observations:

**Madam Chairperson,**

The Islamic Republic of Iran commends the studies of the Commission on the sources of international law as set forth in Article 38 of the International Court Justice Statute. We consider that the purpose of such studies is to elaborate on the requirements of identification and recognition of the sources of international law which may contribute to the cohesion and strength of international law. In this regard, the Commission has the opportunity to give more clarity and lucidity to this fundamental issue.



Regarding the general principles of law, we concur with the formulation proposed in draft conclusions 4, 5, and 6. This formulation can help the commission to identify the general principles of law in accordance with the Article 38(1)(c) of the ICJ Statute.

With regard to the element of “legal systems” in the concept of general principles of law, we agree with the Special Rapporteur’s view that Article 38 (1) (c) of the ICJ Statute should be read as general principles of law have been recognized by States. However, we are of the view that an inclusive process for the identification and recognition of general principles of law is crucial to provide the contribution of all legal systems in a balanced manner. Taking into account this consideration, we cannot concur with the reasoning expressed by the Special Rapporteur in paragraph 110 of his report regarding the irrelevance of *opinio juris* in the emergence of a general principle of law that might reduce the universality of the general principles of law.

Against this backdrop, we have already expressed our concern over the draft conclusion 3(b). Therefore, the Commission should be cautious on draft conclusion 7. It is also important to mention that the *travaux preparatoire* of the ICJ Statute signifies that the general principles of law are limited to the principles of law which stem from the legal experiences of different national legal systems.



In this context, we reiterate once again our position concerning the concept of “general principles formed within the international law”. We are not convinced that such principles or rules serve as category of general principles of law as embodied in Article 38 (1)(c) of the ICJ Statute. Moreover, principles formed within the international law generally come to existence through the process of the development of customary international law. In this regard, it should be underlined that the declaration on principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations was adopted by the General Assembly on 24 October 1970, have already provided States with the general principles formed within the international law.

Regarding draft conclusions 8 and 9, we agree with the importance of the decisions of the courts and tribunals and teachings of the most highly qualified publicists as subsidiary means for the determination of rules of international law. Means of such nature reflect the general practice and *opinio juris* of States.

Finally, we hope that the result of this study should not lead in producing a specific list containing the general principles of law since the purpose of the topic is not to increase the quantity of the rules and principles of international law. We expect that this study shows how a general principle of law emerges, its development criteria, and how it can develop.

**Thank you, Madam Chairperson.**