



obligation arising under a peremptory norm of general international law. The commentary to this article gives several illustrations of such norms. The complexity of the concept of countermeasures and synergies between the countermeasures section and provisions on attribution of state conduct, the timing of an international law breach, circumstances precluding wrongfulness, the remedies available for injuries and standing to invoke responsibility, all merit a mention as some of these articles incorporate what has been termed as constructive ambiguities.

Mr. Chairman,

Some speakers have argued in favour of a Convention or at least a Resolution. The argument regarding not taking any steps that could unravel the careful balance in the text should make us cautious on both these ideas. Additionally, it is worth recalling that there are now only six from the original twelve crimes that had been identified and included in the draft Code and the concept of crimes has been replaced by serious breach of obligation. It also needs to be remembered that colonialism and serious harm to the environment were also listed in draft Article 19 on State Responsibility adopted in the first reading by the ILC. It was argued by developed countries that these were only of historical relevance. The current relevance of the latter is becoming more acute by the day as we are seeing in the UN and shall see at Bali. After the warmth of debate on State crimes, it was a little anti-climactic that we ended with *jus cogens* and *erga omnes*. In the case of such peremptory general international law obligations, these are not very different from those applicable to other serious breaches except for the obligation to bring the breach to an end. But this was a natural and reasonable conclusion and hence we can see that the careful balance we have referred to is a delicate balance reached with difficulty and demanding future caution.

Mr. Chairman,

The international structure is still decentralized and we cannot rush ahead of institutional developments and the development of the international legal system without risking counterproductive effects. Jennings had spoken of the "inadequacy of the international legal system" and said that we should not float on "flights of erroneous fancy from the Nuremberg Tribunal" and delude ourselves that we "are developing international law". Therefore, Mr. Chairman, we are of the view that at this stage it will be prudent to maintain the careful balances in the text that the ILC struggled for years to achieve. A subject that took more than forty years to fructify would best serve the needs of international community, to quote from David Caron, only if "it is weighed, interpreted and applied with much care". In this regard, for the present, we are happy to note

the reception of the ILC's articles on State Responsibility into international law through State practice, decisions of courts and tribunals and writings of jurists.

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