



STATEMENT

by

**Permanent Mission of the Republic of
Trinidad and Tobago to the United Nations, New York**

on behalf of the Caribbean Community (CARICOM)

on

**Agenda Item 81: Report of the International Law Commission on the
Work of its Sixty-ninth Session**

Seventy-second Session of the United Nations General Assembly

Trusteeship Council Chambers

**United Nations, New York
31 October 2017**

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Mr. Chairman,

At the outset, CARICOM extends its gratitude to the Chairman of the International Law Commission for his statement introducing the various clusters of the Report of the Commission on the work of its Sixty-ninth session and to commend the ILC on its work in fostering the codification and progressive development of international law.

We also welcome the decision for the ILC to hold its 70th Session in New York from 30 April to 1 June 2018. CARICOM is of the view that this will provide the opportunity to strengthen the relationship between the ILC and the Sixth Committee.

With your permission, Mr. Chairman, CARICOM would like to comment on some topics cutting across several clusters of the Report as we did not have the opportunity to comment earlier on the clusters. We would therefore briefly cover the following topics: Protection of the environment in armed conflict; Crimes against humanity; Succession of States in respect of State responsibility; and Peremptory norms of general international law (*jus cogens*).

Mr. Chairman

CARICOM welcomes the report of the International Law Commission on the protection of the environment in armed conflict, contained in Chapter 10 of this year's report and further welcomes the establishment of a Working Group and the appointment of Ms. Marja Lehto as Special Rapporteur.

CARICOM notes the progress of this topic under elements of international law including international humanitarian law, international criminal law, international environmental law and international human rights law.

However, CARICOM remains mindful that there still exists a legal vacuum where international legal provisions protecting the environment during armed conflict that were designed for international armed conflicts, do not necessarily apply to internal conflicts, particularly given that most of armed conflicts, today, are non-international or civil wars.

Therefore, CARICOM welcomes the work by the Working Group to draft the principles to armed conflicts of a non-international character and CARICOM echoes the call by the Working Group to maintain momentum on the work for the protection of the environment in armed conflict.

Mr. Chairman,

CARICOM reiterates its commitment and support and for the work completed by the ILC thus far on the draft articles on crimes against humanity. We also wish to commend Mr. Sean Murphy, the Special Rapporteur, for his continued hard work on the draft articles and report.

Consistent with the principles of international law, we welcome article 6 which calls for States to take the necessary measures to ensure that crimes against humanity constitute offences under its criminal law. CARICOM underscores the importance of States establishing jurisdiction under national law, which would be instrumental in the fights against impunity as well as ensuring that those accused of committing such grave crimes are brought to justice. We also support the obligation for States to take necessary measures to ensure that the official position of alleged perpetrators does not exempt them from liability for crimes against humanity. Further, we join with others in underscoring the importance of article 12, which treats with the protection of the rights of children, witnesses, and others, which we believe is necessary for justice to prevail.

CARICOM also advances that all three (3) major international crimes, namely crimes against humanity, war crimes and genocide could benefit from examination by the Commission. While we recognise that crimes against humanity has not been the subject of an international treaty like the other two crimes, we believe that interstate cooperation mechanisms for the other crimes could be strengthened. We also consider that examination of all three (3) crimes should not detract from but rather complement what is already provided for under the Rome Statute of the International Criminal Court.

Mr. Chairman,

CARICOM commends the Commission's examination of, and work to date, on the topic of "Succession of States in respect of State responsibility", and agrees that now is the appropriate time for further exploration of the issue. While arguable that this subject is not yet ripe and may only apply to few states, it is far better to begin the learning curve now on understanding and addressing this subject, rather than wait for some undetermined later time. CARICOM supports the Special Rapporteur's proposed future work programme, and encourages the Commission to further explore the legal complexities of state succession in respect of State responsibility, including, inter alia further discussion of whether obligations arising from wrongful acts are "debts" subject to the 1983 Vienna Convention.

CARICOM supports the Commission's undertaking of the task of setting out the criteria for the identification of peremptory norms (jus cogens). CARICOM further supports the changing of topic name from "jus cogens" to "peremptory norms of general international law (jus cogens)", to remain consistent with article 53 of the 1969 Vienna Convention.

We agree with the use of article 53 of the 1969 Vienna Convention as a good starting place for the identification of criteria of jus cogens, and encourage the Commission's continued examination and exploration of other aspects, should the need arise to supplement or grow beyond the Convention.

Further analysis of the meaning of "fundamental values", particularly with regards to the identification of a universal understanding of these values, is encouraged. And while caution must be exercised when determining whether to consider some treaties as part of general international law, CARICOM welcomes further consideration of treaties for this purpose, as no potentially-relevant stone must be left unturned when considering development and identification of criteria in this area.

CARICOM looks forward to the future programmes of work of the Commission, and further engagement and dialogue with the Sixth Committee.

I thank you.