



Republic of Cyprus

73rd Session of the United Nations General Assembly

**Report of the International Law Commission on the work of its seventieth session
(Agenda item 82)**

Cluster II: Chapter VII – Peremptory norms of general international law (*Jus Cogens*)

Mr. Chairman,

Cyprus would like to commend the Special Rapporteur, Dire Tladi for his report on the topic. As an early and active proponent of the notion of *jus cogens* in international law, my delegation attaches great importance to furthering work on this topic.

With respect to the law of treaties, as the Report correctly points out (para. 39 and footnote 127), and I quote, "there were instances, even before the adoption of the Commission's draft articles or the Vienna Convention, when States invoked the potency of *jus cogens*. In 1964, for example, Cyprus contested on the basis of the notion of peremptory norms, the validity of the 1960 Treaty of Guarantee between Cyprus, the United Kingdom, Greece and Turkey", if Article 4 of the Treaty was to be interpreted as granting the right of forcible military intervention in violation of Article 2(4) of the UN Charter. This position was also in line with the opinion submitted in 1959 by the then Legal Counsel of the United Nations. This serves as an example illustrating the need for interpreting treaties and their articles in a manner consistent with peremptory norms.

Given that Articles 53 and 64 of the Vienna Convention on the Law of Treaties address the invalidating effect of *jus cogens*, the current work could perhaps deal further with the question of who determines whether there is a conflict with *jus cogens*, as well as the question of possible legal consequences of such conflict.

As a general remark, we fully agree with the precept that the Commission should avoid any outcome that could result in, or be interpreted as, a deviation from the 1969 Vienna Convention. Having said that, Cyprus also recognizes that the scope of the topic extends beyond the law of treaties, and includes other areas of international law, such as the Responsibility of States for Internationally Wrongful Acts. According to Articles 40 and 41 Articles of State Responsibility, a breach of a peremptory norm, such as the prohibition of the threat or the use of force, is deemed serious and triggers state responsibility. Consequently, States are under an obligation to cooperate in order to bring to an immediate end any serious violation; not to recognize the results stemming from such unlawful conduct; and to refrain from aiding or assisting the State engaged in wrongdoing in maintaining that situation. Furthermore, by virtue of Articles 30-31 of the Articles of State Responsibility, the State

engaged in wrongdoing is under duty to immediately cease the unlawful act, give assurances of non-repetition, and make full reparation for the injury caused by its illicit behavior.

From a practical perspective, contrary to the Commission's work on the topic of "Customary international Law", where the elaboration of a list of customary rules would not have been feasible, the comparably limited number of *jus cogens* norms, makes it possible to envisage such an illustrative or non-exhaustive list. Considering that the existence of peremptory norms depends on acceptance and recognition by the international community of States, as highlighted in Article 53 of the Vienna Convention, then the illustrative list would provide necessary clarity and substantive content of the principle involved.

I thank you for your attention.