



SIXTH COMMITTEE

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CHECK AGAINST DELIVERY

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Statement by

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Report of the International Law Commission – Cluster I

Agenda Item 79

23 October 2023  
United Nations, New York

Mr. Chairperson,

Israel welcomes the opportunity to speak once again on the occasion of International Law Week, about the most recent report of the International Law Commission in its 74th session.

While addressing the important legal issues of this forum remains a priority for us, due to the harrowing events that people of the State of Israel have endured in the past two weeks we feel obliged to address this honorable forum and to add some opening remarks concerning the events that have occurred since October 7<sup>th</sup>, prior to our substantive statement on cluster I.

In our previous statements in this Committee, we shared with the delegates in this room the horrific evidence and testimonies from the barbarous terrorist attack against the State of Israel, which cost the lives of more than 1400 Israelis who were brutally murdered by Hamas, with more than 200 currently being held hostage in Gaza – including men, women, children, babies and the elderly.

Since October 7th, time has stood still for many Israelis and Jews – not just in Israel, but around the world. Israel is still under attack, not just by the genocidal jihadist Hamas terror organization, but also from enemies in the Northern front.

Israel has the right and obligation to defend its citizens and its territory. While we stand firmly against terror organizations who employ the most terrible tactics, and acting from within densely populated areas, Israel is committed to the rule of law, including the international humanitarian law – as emphasized by the Israeli President, the Prime Minister of Israel and the Chief of Staff of the Israel Defense Forces.

Let there be no doubt – the State of Israel will continue to carry out all necessary actions to protect our population, while keeping our international obligations, including under IHL. We will do this to protect our citizens, and we will do this to bring peace and security back to our region.

We reiterate once again in this room, in the presence of the esteemed Senior Legal Advisors from the world's capitals and international legal experts present in this room - our demand for the immediate release of the 200 Israeli abductees by Hamas, who are being held in blatant violation of International Law. This is a critical humanitarian imperative, one that should be urgently promoted by all Member States as well as humanitarian agencies. The abductees' freedom and safety must be prioritized to ensure their well-being and uphold international principles of human rights, as well as international peace and security.

Mr. Chairperson,

This Committee is the venue where the international legal community convenes, and times like these constitute the greatest test of the effectiveness and relevance of international law. It is imperative that international lawyers remain aware of these grievous violations of international law which committed by Hamas and call out these atrocious acts.

Therefore, we call upon all legal advisors in this room - and all states that consider themselves passionate about upholding international law and basic human rights principles - to condemn the barbaric actions carried out by Hamas against our people and support Israel as we fulfill our obligations to defend our people and eliminate this threat from the region.

**We may now turn to the item at hand.**

Mr. Chairperson,

Israel would like to begin by thanking the Chairs of the International Law Commission, Ms. Nilüfer Oral and Ms. Patrícia Galvão Teles, and all members of the Commission, for their hard work in the 74<sup>th</sup> session. We are also grateful for the work of the Chair of the Drafting Committee, Mr. Mārtiņš Pāparinskis, for his best efforts. We also sincerely thank the Codification Division of the Secretariat and its Director, Mr. Huw Llewellyn, for providing the Commission with essential assistance.

The 74<sup>th</sup> session was the inaugural session for some newly elected members of the Commission. Israel wishes to reiterate its greetings to the newly elected members and wish them, and the Commission as a whole, a successful quinquennium. In this context, Israel would like to reiterate several general points it believes would contribute to the success of the Commission.

First, as a main point, Israel wishes to thank the members of the Commission for their ongoing dialogue with Member States, and believes that productive dialogue between the Commission and Member States was, and still remains, a critical component for fulfilling the mandate of the General Assembly in the UN Charter, and I quote - *“to encourage the progressive development of international law and its codification”*.

In our view, the success of the Commission is ultimately reflected by whether Member States view its products as both authoritative and practical. In this regard, we believe that the Commission should pay due regard to the views and comments of Governments on their drafts, and make best efforts to incorporate them in the main text or commentaries of the Commissions' outcomes. This is of particular importance during the second reading stage, before the Commission finalizes its work.

Second, we reiterate that it is incumbent on the Commission, in working on any topic on its agenda, to survey the practice of States as comprehensively and accurately as possible, as clearly specified in the Commission's Statute, as has been repeatedly stressed by Member States in the sixth committee.

Third, we emphasize that the Commission should continually bear in mind the critical distinction between codification and progressive development of international law, which in effect creates *lex ferenda* and to make such distinctions clear where appropriate.

It should ensure that texts put forward by it as codification of existing law accurately reflect, and are sufficiently underpinned by, State practice and *opinio juris*; and it should indicate the extent of agreement on each point in the practice of States, as well as any divergences and disagreements that may exist.



Mr. Chairperson,

Regarding the topic of "General principles of law," Israel would like to express its gratitude to the International Law Commission and Special Rapporteur, Mr. Marcelo Vázquez-Bermúdez, for their commendable work thus far.

Israel acknowledges the adoption by the Commission of a set of draft conclusions with commentaries on the first reading and its decision to transmit the draft conclusions to governments for comments and observations through the Secretary-General. Israel intends to submit these comments and observations by the deadline and is willing to engage in in-depth discussions with the Commission on these matters.

Israel also takes note of the report from the Chair of the Drafting Committee, which indicated that the current English text remains identical to last year's draft, previously adopted by the Committee. Therefore, Israel's comments this year should be considered in conjunction with its prior statements on this topic.

Mr. Chair, Israel considers the ILC's work on general principles of law as a valuable addition to the Commission's long-term project on the identification of sources of international law. This work has the potential to enhance the streamlined implementation of international law in the years to come.

Israel wishes to emphasize the significance of Draft Conclusion 5, particularly its call for a comparative and representative analysis of legal systems worldwide to determine the existence of general principles. This analysis should include smaller states and systems with mixed legal traditions.

We also concur with the idea expressed in Draft Conclusion 10 that contributes to the coherence of the international legal system.

However, Israel holds reservations regarding some provisions in the current draft of the Draft Conclusions on general principles of law.

First, Israel would like to reiterate its reservations concerning the proposed second category of general principles of law, as outlined in Draft Conclusion 3(b). Israel, along with several other Member States and members of the Commission, maintains that the existence of this second category lacks sufficient support from State practice and other sources of international law. We are also concerned that this category may create confusion with other sources of international law, especially customary international law, due to differences in scope and application. General principles of law, in our view, remain primarily domestic, even if they can influence the work of international tribunals and are applied in international adjudication processes.

Israel believes that the absence of general consensus regarding the very existence of general principles as a source of international law among States and even within the Commission necessitates careful consideration. This may be a compelling reason in itself not to consider principles of this category as a source of international law.

Nevertheless, we appreciate the Commission for acknowledging, in the commentary sections of Draft Conclusion 3 and Draft Conclusion 7, the divergent opinions within the Commission regarding the existence and methods for identifying principles belonging to the second category. Israel suggests that the commentaries should also reflect the divergent views on this issue among Member States during the debate in the Sixth Committee.

In relation to Draft Conclusion 7(1), Israel reiterates its concern that the proposed criteria for identifying general principles belonging to the second category, while a good starting point, are overly vague and lack objective elements for systematic application.

Regarding Draft Conclusion 7(2), Israel reaffirms its position that this paragraph creates a broad exception to Draft Conclusion 7(1), potentially allowing for the de facto development of "other" general principles without clear criteria or definitions, which could lead to confusion and incoherence in the Draft Conclusions.

Mr. Chair,

In conclusion, Israel hopes that the Commission will engage in meaningful deliberations during the second reading to ensure that the final outcome is as authoritative and practical as possible.

I thank you, Mr. Chair.