



ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಆರೋಗ್ಯ ಮತ್ತು ಕುಟುಂಬ ಕಲ್ಯಾಣ ಇಲಾಖೆ

ಬೆಂಗಳೂರು

ದಿನಾಂಕ: 15/05/2023

ಸಂಖ್ಯೆ: ಸಂ. 1234/2023

ಶ್ರೀಮತಿ. ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

ಕೆ.ಎ.ಎ.ಎ.

Mr. Chairperson,

The state of Israel would like to thank the Special Rapporteur, Mr. Shinya Murase, for his valuable work and for the efforts dedicated to drafting the fifth report on the

"Protection of the Atmosphere", as well as the four previous reports regarding other aspects of this topic.

In his recent report, the Special Rapporteur proposes draft guidelines on the issues of implementation, compliance, and dispute settlement concerning the draft guidelines

adopted on this topic in previous years.

The State of Israel wishes to take this opportunity to express, once again, its principled commitment to the protection of the atmosphere, as also expressed in

Mr. Chairperson,

Israel continues to hold this view. While recognizing the importance of promoting compliance and adherence to international law, including with respect to protection of

The State of Israel attaches importance to the topic '**Peremptory norms of general international law (jus cogens)**', which concerns a distinctive category of international law that has a unique role in safeguarding the most fundamental rules of the international community of States. Israel appreciates and closely follows the efforts of the Special Rapporteur, Mr. Dire Tladi on this complex topic, which, given its inherent sensitivities, must be handled with great care. In this context, we would like to recall that the Commission itself noted in its first session on this topic in 2016, that the Special Rapporteur was encouraged to keep in mind the differences in

understanding expressed by Member States and accordingly approach the issue with

great caution. Israel wishes to voice some concerns regarding several aspects of the project.

Firstly, the State of Israel has a number of concerns regarding the methodology

Mr. Chairperson,

Israel opposes the incorporation of elements in the Commission's draft conclusions

[REDACTED]

Foreign Criminal Jurisdiction, which are still very much open to debate both in the

Second, Israel notes that the threshold and process for the identification of *jus cogens* norms under international law must be particularly demanding and rigorous, and for good reason. We continue to believe that a major matter of concern in the draft conclusions as currently drafted is that they do not accurately capture this distinct threshold required due to the exceptional character of *jus cogens* norms, in particular the distinct threshold that is required for their identification.

Mr. Chairperson,

There are currently three separate draft conclusions that attempt to define a *jus cogens* norm (Draft Conclusions 2, 3, and 4), but these should further be fine-tuned in order to mirror the very stringent requirements involved and to limit the potential for politicization and fragmentation. The language of Article 53 of the Vienna

Convention of the Law of Treaties, which is the basis for the draft conclusions

relating to the criteria of *jus cogens*, sets a very high bar for a norm having a *jus cogens* character. Significantly, its requirement that a norm be “accepted and recognized” is a *cumulative* one.

It requires not only ‘acceptance’ - that may suffice, for example, in the formation and identification of customary international law – but there must be unequivocal affirmative acceptance *and* recognition of a norm as one having a *jus cogens* character. Paradoxically, however, the standard of identification of peremptory norms

conclusion 7, which refers simply to “a very large majority of States”. Instead, Israel believes that this requirement entails virtually universal acceptance and recognition, but this notion regrettably seems to have been lost in the present draft text. In this context, we believe that the draft conclusions and commentary should steer well clear of the sometimes careless way in which the label *jus cogens* is inappropriately attached to norms in some of the academic and popular discussion of this topic – resulting from lack of meticulousness in research and study – so as to ensure that this project properly and accurately reflects the state of the existing law and can attract support.

Finally, Israel reiterates its misgivings regarding the possibility of compiling a list of *jus cogens* norms, be it illustrative or comprehensive. Such an attempt is likely to generate significant disagreement among States and dilute the concept of *jus cogens* norms. One example may be found in the Special Rapporteur’s third report, where he asserts numerous times that the right of self-determination is of a *jus cogens* character. While self-determination is a significant principle of international law, it is highly questionable whether it has met the standards captured in Article 53 of the Vienna Convention on the Law of Treaties. In any event, Israel notes that a similar endeavor was not considered necessary in the context of the topic ‘Identification of customary international law’.

To conclude, Mr. Chairperson, we emphasize that work on the topic of *jus cogens* should be confined to stating and clarifying international law as it currently stands.

This will greatly assist in reaching both helpful and credible