

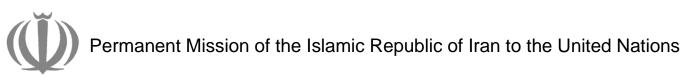
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Statement by Mr. Mohammad SadeghTalebizadeh Sardari, Representative of the Islamic Republic of Iran before the Sixth Committee of the 77th Session of the United Nations General Assembly on Agenda item78: Report of the International Law Commission on the work of its Seventythird session' Cluster I Chaps I, II, III, IV (Peremptory norms of general international law (jus cogen\$), V (Protection of the environment in relation to armed conflicts), and X (Other Decisions) New York, 25 October 2022

Mr. Chairperson, Distinguished members of delegates

We would like to express our appreciation to the Special Rapporteur, Mr. Dire Tladi, for his extensive work on this topic and preparation of his fifth report on the Peremptory norms of general international aw (Jus Cogen)s'. My delegation alsocommends the Commission work on this topic for providing guidance and recommendations on the identification and nature of the peremptory norms of general international aw as well as their consequences and legal effects.



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Before expressing our views on the provisions of the Draft Conclusions on identification and legal consequences **the** peremptory norms of general international lawe, would like to briefly maketwo general comments

Firstly, with regard to the nature of the Draft Conclusionst appears that the ILC has never determined in its three recent works, i.e



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prioritized over other sources; rather, in conformity th ICJ \$ approach all the sources should be considered collectively d generally in identifying the norms **p** feremptory character.

Mr. Chairperson

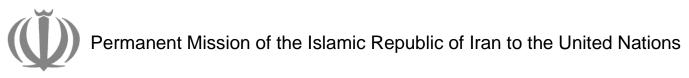
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if they are not bindingmay sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergenceoptiato juris. To establish whethethis is true of a given General Assembly resolution, it is necessary to lookits content and the conditions of its adoption; it is also necessary to some there are pinio juris exists as to its normative character. Or a series resolutions may show the gradual evolution of the pinio juris required for the establishment of a new rule (paragraph70).

Mr. Chairperson

As concerns the draft conclusion 7 regardingnternational community of States as a whole from our point of view, the standard for the identification of Jus Cogens norms is the acceptance and recognition by the international community of States as a whole the same wording of the 1969 VCLT, should be maintained throughout the whole text of the draft conclusions. For the sake of clarification, the Islamic Republic of Iran believes that the phrase erry large majority of States does not indicate a numerical value, rather it should be read as accepted and recognized by majority of almain legal systems in accordance with Draft conclusion 3 bretILC \$ Consolidated text of draft conclusions on General tinciples Law .

As respects the Draft conclusion 12 of Consequences of the invalidity and termination of treaties conflicting with peremptory norm of general international lawsinceaccoding to article 53 of the 1969 VCLT if a treaty at the time of its conclusion on flicts with a peremptory norm of general international Jaw



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be null and voidwe are of the conviction that it will not grant acquired rights to a third party

Mr. Chairperson

Concerning the paragraph 3 of draft conclusion 14 of Rules of customary international law conflicting with a peremptory norm of general international law the commentary steet that the persistent objector rule does not apply to perpetory norms of general international law, contrary to the standard mentioned in draft conclusion 7 i.e., the acceptance and recognition by the international community of States as a wholen this regard, thenternational Court of Justiceasserts in pagraph 74 of the 1969 judgment of North Sea Continental Shelf Cases (Germany vs. Denmark/Netherlands) that State practice is an indispensable requirement for the formation of a rule of customarynternational law which must be oth extensive and virtually uniform . The ILC should have taken into consideration that while the persistent objection of certain States to a rule of customary internationalaw is relevantin the process of formation particularly when custom is regarded as the most common softidentification, it could be as well relevant in the process of identifying peremptory norms of general international law. In other words, the standard for establishingus cogenscan be no less at what is required to establish customary internationadw.

Mr. Chairperson

As respects the draft conclusion 15, it is noteworthy that according to ILC § 2011 Guide to Practice on Reservations to Treaties reservation is considered as a unilateral maade by aStateor an

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Resolution 1267 dated 15 October 1999 Bich the Court of First

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Mr. Chairperson