



IRELAND

Statement by

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at the

Sixth Committee
United Nations General Assembly 74th Session

Agenda Item 79:
The Report of the International Law Commission on the Work of its 71st
Session

Cluster 1 – Chps I, II, III, IV (Crimes against Humanity), Ch V
(Peremptory norms of general international law (*jus cogens*) and Ch XI
(Other decisions and conclusions of the Commission)

New York, 28 October 2019

Mr. Chair,

1. Thank you for the opportunity to comment on the first cluster of issues contained in the ILC's report. As this is my first time taking the floor I would like to congratulate the Chair and the Bureau on your election and assure you of my delegation's support during this session. I would also like to thank the Chair of the International Law Commission for his presentation and extend our appreciation to the Members of the Commission for their work in this session.
2. I will speak today on the topics of "Crimes against Humanity", "Peremptory Norms of General International Law" and on "the Provisional Application of Treaties".

Crimes against Humanity

3. In relation to **Crimes against Humanity**, Ireland aligns itself with the statement delivered by the European Union and would like to offer the following additional observations. Ireland wishes to congratulate the Commission, and in particular the Special Rapporteur, Mr. Sean D. Murphy, on concluding their work on the draft Articles and Commentaries.
4. Ireland believes that it is crucial to ensure that the important momentum achieved by the Commission's work on this important topic is not lost. In that regard, Ireland strongly supports the calls for the elaboration of a Convention based on the draft Articles, preferably by an international conference of plenipotentiaries.
5. My delegation welcomes the consideration given by the Special Rapporteur and the Commission to the relationship between their work and the Joint initiative for a Multilateral Treaty for Mutual Legal Assistance and Extradition for Domestic Prosecution of the Most Serious International Crimes. Ireland remains supportive of these two complementary initiatives. My delegation believes that both are important and both have the potential to contribute in a practical and significant way to the fight against impunity.

Mr Chair

Peremptory Norms of General International Law (jus cogens)

6. Turning to the topic of “*Jus Cogens*”, Ireland would like to thank the Special Rapporteur, Mr. Dire Tladi, and the Commission, for their work in this area, including for the Commission’s adoption on first reading of the full set of draft Conclusions and detailed commentaries. Due to the extensive nature of the draft conclusions, my delegation has not had time to prepare detailed observations on them.
7. However, we welcome the fact that Articles 53 and 64 of the Vienna Convention on the Law of the Treaties have been central to the Commission’s examination of this topic. Ireland also supports the focus of the draft conclusions, which are concerned primarily with the method for establishing whether a norm of general international law has the added quality of having a peremptory character. As previously highlighted by my delegation, Ireland favours an approach which focuses on the way in which *jus cogens* rules are to be identified and the legal consequences flowing from them.
8. On the possibility of *jus cogens* being applied on a regional basis, Ireland welcomes the confirmation contained in draft Conclusion 3 that peremptory norms are universally applicable and, therefore, do not apply on a regional or a bilateral basis.
9. Regarding the annex of the illustrative and non-exhaustive list of *jus cogens* norms, we continue to have the same concerns, as initially expressed by my delegation in 2016. While we appreciate the list is not intended to be exhaustive, the fact that it does not represent a comprehensive list of those norms considered by the Commission itself in its previous work could give rise to confusion or the perception that those included in the list are somehow being given precedence. Accordingly, although consideration of this topic naturally requires discussion of examples of *jus cogens* norms in order to fully understand their nature, the list of norms provided in Annex 1, in our view, provides little added value and may indeed be counter-productive.

Mr Chair

Provisional Application of Treaties

10. Turning to other decisions of the Commission, on the topic “**Provisional Application of Treaties**”, my delegation would like to express our gratitude to Special Rapporteur, Mr. Juan Manuel Gomez-Robledo, and the Commission, for all of the work undertaken in this area thus far.

11. Ireland welcomes the inclusion of the five draft model clauses, as set out in Annex 1, of the ILC’s Report. Ireland agrees that these model clauses may constitute a useful tool for treaty negotiators in terms of having a guide for parties seeking to avail of provisional application. It is helpful that these model clauses have been refined to focus more precisely on the most common issues facing states. Ireland also welcomes the “understandings” in respect of the model clauses, set out in Chapter XI of the ILC’s report, which give helpful context and guidance.

12. Ireland looks forward to the second reading of the draft Articles which is due to take place next year.

Thank you Mr. Chair