



MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS

STATEMENT BY
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DELEGATE OF MALAYSIA

ON AGENDA ITEM 79:
REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE
WORK OF ITS SEVENTY-FIRST SESSION
[CHAPTER IV: CRIMES AGAINST HUMANITY &
CHAPTER V: PEREMPTORY NORMS OF GENERAL INTERNATIONAL
LAW (*JUS COGENS*)]

AT THE SIXTH COMMITTEE OF THE
74TH GENERAL ASSEMBLY

NEW YORK, 31 OCTOBER 2019

Mr. Chair,

1. As this is the first time my delegation is taking the floor in the international law weeks at the seventy-fourth session of the General Assembly, allow me to congratulate Mr. Pavel Šturma, the Chair of the International Law Commission, as well as other officers and members of the Commission for your exceptional work at the seventy-first session. Malaysia notes with appreciation the Report of the Commission of its seventy-first session.

CRIMES AGAINST HUMANITY

2. Malaysia records its gratitude and deep appreciation as well as warm congratulations to Mr. Sean D. Murphy, Special Rapporteur of this topic for his outstanding contribution that has been made towards the preparation of the draft articles through his tireless efforts and devoted works until its excellent completion.

3. Malaysia notes the decision made by the ILC at its 3499th meeting on 5 August 2019 to recommend the draft articles on prevention and punishment of crimes against humanity to the General Assembly.
4. Malaysia further comprehends that matters pertaining to impunity of the perpetrators of international crimes, including crimes against humanity are of prime importance and require crucial attention relating to the investigation and prosecution of such offences, as well as international cooperation.
5. In this regard, considering the current development of the study on this topic and the adoption of the draft articles by the ILC, Malaysia is flexible with the recommendation for the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles.

PEREMPTORY NORMS OF GENERAL INTERNATIONAL LAW (JUS COGENS)

Mr. Chair,

6. Malaysia welcomes the inclusion of the study of “jus cogens”, spearheaded by Special Rapporteur Mr. Tladi as it will bring much needed clarity to this principle which is integral to the progressive development of international law.
7. Malaysia appreciates the work done so far by the Special Rapporteur and observes that the discussions on jus cogens have progressed from considering the criteria of jus cogens to the validity of international instruments being in conflict with jus cogens.
8. Malaysia notes the issue on whether non-State Party to a treaty could invalidate a treaty on the ground that the treaty is in conflict with jus cogens, Malaysia is of the view that in the larger framework of treaty law, only State Parties to a treaty should be able to make the determination of invalidity on the basis of the treaty’s conflict with jus cogens.

9. Without detracting from the quality of the Special Rapporteur's report, Malaysia notes that a large number of the draft conclusions were rooted in doctrine rather than international practice. In this regard, Malaysia would welcome greater analysis on various methodology used in the identification of peremptory norms and specifically welcomes an example where a peremptory norm modifying another as envisaged under article 53 of the VCLT.

Thank you.