

*Permanent Observer Mission
of the State of Palestine
to the United Nations*



البعثة المراقبة الدائمة
لدولة فلسطين
لدى الأمم المتحدة

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Statement by Loureen Sayej, Third Secretary, before the 77th Session of the General Assembly Meeting of the Sixth Committee on the Report of the International Law Commission Cluster I:

Mr. Chair,

My delegation would like to thank the ILC for its Report on the 73rd Session and its continued service of international law.

The ILC is a story of progress, development, and codification of international law; a story of a world based on a common language, rule of law, and peaceful relations; a world guided by the principles and purposes of the United Nations Charter.

Building upon the achievements of the past, the ILC continues to ensure flexibility and efficacy of its deliberations and continues to hold the thin line between stability and advancement. The State of Palestine reiterates that the ILC is uniquely and authoritatively placed as the universal body tasked with analyzing international law; its direct institutional relations with the Sixth Committee must be protected and advanced.

Mr. Chair,

The draft principles of “The protection of the environment in relation to armed conflict” present a concise statement of law in one document. The draft principles famously revisit the Martens Clause and demonstrate that the protection of the environment in armed conflict lay at the intersection of various international law regimes. The draft principles determine that the environment is to be treated as a *prima facie* civilian object.

The State of Palestine welcomes the draft principles on the protection of the environment in relation to armed conflict. We reiterate that their novel structure and innovative approach in ensuring legal analysis prior, during, and post armed conflict is meant to enhance the strongest possible protection of the environment.

The State of Palestine attaches a great importance to the protection of the environment and has long engaged in multilateral efforts to strengthen environmental governance in armed conflict and ensure the rights of peoples therein.

Nearly 115 years since the adoption of the Hague Regulations and 73 years since the adoption of the Fourth Geneva Convention, the ILC's draft principles are the most recent and most significant examination of the law of occupation since 1977 Additional Protocols.

The State of Palestine, while affirming that draft principles build on the existing obligations of occupying Powers set out in international humanitarian law, specifically the Fourth Geneva Convention, recognizes that these principles remain central – and must be followed by all States – but do not always directly address modern challenges, including prolonged occupations and the exploitation of natural resources as a tool of warfare and oppression.

Therefore, the draft principles re-state, modernize the toolbox of international humanitarian law, and consider the urgent realities on the ground.

The State of Palestine reaffirms its long-standing position that the applicability of international human rights law in relation to armed conflict is uncontested. We recall that the wide range of human rights instruments are essential for environmental governance. They are essential in forming the obligations to protect human health, limit environmentally harmful practices, and develop in line with the changing nature of armed conflicts, including belligerent occupations.

By corollary, the State of Palestine welcomes the evolutionary interpretation of the law of occupation as underlined in DP 20 on the sustainable use of natural resources. Indeed, DP 20 consolidates modern interpretations of the “usufruct” principle, accounting for the obligation of the occupying Power to temporarily administer natural resources for the benefit of the protected population of the occupied territory.

As for DP 21 The progressive reference to the obligations of the occupying Power in the occupied State beyond national jurisdiction is particularly applicable for prolonged occupations. It confirms that physical control of an occupied territory, without legitimacy or sovereignty, is indeed the basis for State liability for acts affecting other States.

The State of Palestine affirms that the use of “protected persons” and “protected population” in accordance with IHL should be read in context of general obligation 1, which indicates that significant harm to the environment of an occupied territory will have adverse consequences on the protected population, in particular, with respect to the enjoyment of basic fundamental rights.

Though alluded to, the right to self-determination and permanent sovereignty over natural resources of people under foreign occupations and racist regimes are cardinal principles in international law, including under Principles 23 of the Rio Declaration which states that the environment and natural resources of people under occupation, domination, oppression, shall be protected.

The State of Palestine would like to see more explicit references to self-determination and permanent sovereignty throughout the draft principles. Likewise, we recommend the inclusion of the claim to restitution as a result of any exploitation, damage, loss, or endangerment of natural resources resulting for illegal measures.

Moving to business and human rights, the State of Palestine welcomes the inclusion of Corporate Due Diligence in DP 10 and Corporate Liability in DP 11, as an important step in recognizing that the most egregious environmental harms caused during belligerent occupation, in particular prolonged and illegal occupations, are orchestrated and facilitated by corporations for substantial commercial gains.

The draft principles provide, respectively, for States to legislate and adopt other measures to ensure corporate due diligence when entering areas of armed conflict or post armed- conflict; and most importantly to take measures which ensure those corporations, and subsidiaries acting under de facto control, can be held liable for their impact on the environment.

These principles reflect the growing business and human rights movement and provide strong support for the State of Palestine's consistent calls for States to take responsibility for the actions of corporation and other business entities operating in or for Israel's settlement enterprise and associated regime in the State of Palestine.

There is a clear and significant link between population displacement the degradation of the environment. DP 8 stems from concerns about the environmental stress caused by continued forcible displacements of people, particularly in relation to systematic policies and practices in situations of occupations, where the protected population is forcibly displaced and replaced by the settlers, in violation of the basic principles of international humanitrain law.

We also recognize that DP 8 relates to when groups of people are congregated in small areas, like refugee camps. Read in congruent with DP 9, which places responsibility for damage to the environment squarely with States, we welcome the work towards taking appropriate measures to prevent and mitigate environmental degradation in areas where people are displaced.

Likewise, DP 5 on the protection of the environment of indigenous peoples is a major accomplishment and we applaud its inclusion. The rupturing of the relationship between the native people and their land continues to detrimentally affect the governance of environment and such acknowledgment is necessary for a comprehensive examination .

DP 16 is particularly important for the State of Palestine, as it restates the prohibition of pillage from Additional Protocol I, and existing rules of the law of armed conflict, and indeed reflects its customary nature in an authoritative contemporary analysis.

Given the ongoing intransigence to take responsibility for environmental damage and crimes, DP 25 and 26 provide another layer of obligation on third States, in accordance with Common Article 1, to respect and ensure respect for the Geneva Conventions, including through not recognizing as lawful, breaches of international humanitarian law.

Critically, DP 25, on relief and assistance obligation, draws on ICJ findings on Israel's liability for the construction of the Wall which recognized the need for Israeli compensation for harm caused, including environmental damage, and noted the uneven implementation of calls for reparation for environmental damage more broadly.

Finally on this topic, the State of Palestine is pleased to see the reliance on ICJ Advisory Opinions on the Wall in the Occupied Palestinian Territory, including East Jerusalem, the Legality of the Threat or Use of Nuclear Weapons, and Namibia as authoritative sources of international law throughout the draft principles.

Moving to *jus cogens*, the State of Palestine also welcomes the “Draft Conclusions on the Identification and Legal Consequences of Peremptory Norms of General International Law”. We recognize the importance of the draft conclusions in shaping *jus cogens* norms, preserving their superiority as natural law, ensuring their enforceability, and according predictability and legitimacy to our international-law based order. We welcome the changing of the title as it rightly examines the consequences that flow from the breach of these peremptory norms.

The State of Palestine supports both the non-exhaustive list contained in draft conclusion 23 and the approach. The list reflects foundational *jus cogens* norms, including the right to self-determination and the basic rules of international humanitarian law. Norms that are firmly rooted in the moral and legal conviction of the international community and are historically and absolutely essential to our coexistence as nations.

Jus cogens are legal norms not political ones. Politicization of the process and isolated efforts to undermine the *jus cogens* nature of these fundamental norms of international law in order to justify their violations or underplay the legal consequence of their derogation, if entertained, will have negative and irreversible implications on our unified international legal order. We reiterate that the most important attribute of *jus cogen* norms is that the rule is very clear: a *jus cogen* norm is binding even on their objectors.

In relation to this, we cannot help but note the critical role of the draft articles on advancing and promoting *jus cogens* norms. For example, the peremptory norm of the prohibition of racial-discrimination and apartheid has been the subject of extensive legal studies by United Nations, experts, NGOs, international organizations, lawyers, reflecting its gravity and making it one of the most widely-documented and analyzed peremptory norm of our time.

This is a testament to the increasing vitality of the principle of *jus cogens* and its developing predominance in international law. It is a testament to the nature of these draft conclusions reflecting the interests of the international community as a whole.

Finally, we believe that both the draft principles and conclusions catalyze ambitious action, focus on the needs of those most affected, and increase accountability, in an enhanced outlook for justice, peace, and cooperation among nations.

We urge States to strengthen their cooperation on the protection of the environment in relation to armed conflicts and put in place an international mechanism to monitor the implementation of these draft principles and make recommendations based on good policies and practices. We also urge States to respect and uphold peremptory norms and punish their violators.