

# Revitalizing the International Law Discourse on the Prohibition of Maritime Piracy: Voices from International Law Commission's Work on Peremptory Norms of General International Law (*Jus Cogens*)

Atul Alexander

The International Law Commission (ILC) is tasked with the codification and progressive development of international law. Recently, the ILC submitted to the United Nations General Assembly (UNGA) in its 73<sup>rd</sup> session "Draft Conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*)". The report holds significance as the concept of the *jus cogens* has been shrouded in mystery since its inception in the Vienna Convention on the Law of Treaties (VCLT) in 1969. The Draft Conclusion 23 (non-exhaustive list) identifies eight norms (annex) fulfilling the requirement of *jus cogens*. The ILC clearly states that "...the inclusion of the list in the annex in no way precludes the existence of other norms that may have a peremptory character or the emergence of other norms in the future having that character."<sup>1</sup> Thus leaving space for the inclusion of fresh norms through subsequent studies. Nonetheless, the ILC provided the techniques to identify peremptory norms under Draft Conclusions 4 to 9. Through this article, the author argues that the prohibition of piracy has matured into a *jus cogens* norm. This is done by applying the techniques formulated by the ILC in its recent report. Although there are several writings on the prohibition of piracy as customary international law, it has received scant attention in the context of the *jus cogens*, and the author intends to fill this lacuna. This study assumes relevance as States increasingly adopt domestic legislation to combat piracy.

## KEY WORDS

- Peremptory Norms,
- International Law Commission,
- Piracy,
- Vienna Convention on the Law of Treaties,
- United Nations General Assembly,
- Customary International Law.

The West Bengal National University of Juridical Sciences, Bidhannagar, Kolkata, West Bengal, India  
e-mail: [atulalexander100@nujs.edu](mailto:atulalexander100@nujs.edu)

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<sup>1</sup> United Nations International Law Commission, Draft Conclusions. Identification and legal consequences of peremptory norms of general international law (*jus cogens*), 2022. Available at: [https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/1\\_14\\_2022.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf), p.85, accessed on: 21 October 2022.

# Revitalizing International Law

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### **Table of Contents Revitalizing International Law**

1. Understanding the eBook Revitalizing International Law
  - The Rise of Digital Reading Revitalizing International Law
  - Advantages of eBooks Over Traditional Books
2. Identifying Revitalizing International Law
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Revitalizing International Law
  - User-Friendly Interface
4. Exploring eBook Recommendations from Revitalizing International Law
  - Personalized Recommendations

- Revitalizing International Law User Reviews and Ratings
- Revitalizing International Law and Bestseller Lists
- 5. Accessing Revitalizing International Law Free and Paid eBooks
  - Revitalizing International Law Public Domain eBooks
  - Revitalizing International Law eBook Subscription Services
  - Revitalizing International Law Budget-Friendly Options
- 6. Navigating Revitalizing International Law eBook Formats
  - ePub, PDF, MOBI, and More
  - Revitalizing International Law Compatibility with Devices
  - Revitalizing International Law Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Revitalizing International Law
  - Highlighting and Note-Taking Revitalizing International Law
  - Interactive Elements Revitalizing International Law
- 8. Staying Engaged with Revitalizing International Law
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Revitalizing International Law
- 9. Balancing eBooks and Physical Books Revitalizing International Law
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Revitalizing International Law
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Revitalizing International Law
  - Setting Reading Goals Revitalizing International Law
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Revitalizing International Law
  - Fact-Checking eBook Content of Revitalizing International Law

- Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
- 14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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