
The Inviolability of Human Rights: An Analysis of *Jus Cogens* Norms in International Law

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ABSTRACT

This article examines the inviolability of human rights through an analysis of *jus cogens* norms in international law. It explores the legal, philosophical, and theoretical foundations of peremptory norms and their role in safeguarding fundamental human rights. Adopting Natural Law Theory as its theoretical framework and employing a doctrinal research methodology, the study analyzes relevant international treaties, customary international law, judicial decisions, and scholarly literature. The findings reveal that *jus cogens* norms occupy the highest position in the hierarchy of international law and constitute the strongest legal basis for protecting non-derogable rights by invalidating conflicting treaties, generating obligations *erga omnes*, permitting universal jurisdiction, and imposing responsibility on states and individuals for serious violations of international law. The study further observes that, despite challenges such as inconsistent state practice, selective enforcement, and the absence of an exhaustive catalogue of *jus cogens* norms, these peremptory norms remain indispensable to the protection of human dignity, the promotion of accountability, and the progressive development of international law. It concludes that the inviolability of fundamental human rights is firmly rooted in *jus cogens* norms, making their effective recognition and enforcement essential for achieving justice, preserving the rule of law, and strengthening the international human rights regime.

Keyword: Analysis, Inviolability, International Law, Human Rights, and *Jus Cogens* Norms

INTRODUCTION

The protection of human rights represents one of the most significant developments in the evolution of modern international law. Historically, international law was primarily concerned with regulating relations between sovereign states, with limited recognition of the individual as a subject of international legal protection. The doctrine of state sovereignty often served as a shield against external scrutiny, allowing states considerable freedom in the treatment of persons within their territories.

However, the devastating consequences of large-scale human rights violations, particularly during periods of conflict and political oppression, transformed the character of international law and led to the emergence of a global commitment towards the protection of human dignity.

The adoption of international human rights instruments after the Second World War marked a fundamental shift from a purely state-centered legal order towards a system that recognizes certain rights as belonging to humanity as a whole. The Universal Declaration of Human Rights of 1948, together with subsequent international and regional human rights treaties, established the principle that the treatment of individuals is no longer exclusively a matter of domestic jurisdiction but a legitimate concern of the international community. Nevertheless, the existence of written human rights obligations alone has raised an important question: whether there are certain rights so fundamental that they cannot be restricted, removed, or violated under any circumstances. It is within this context that the doctrine of *jus cogens* norms has developed. *Jus cogens*, commonly referred to as peremptory norms of international law, represents the recognition that certain rules possess a superior status within the international legal system.

Article 53 of the Vienna Convention on the Law of Treaties (1969) defines a peremptory norm as a rule of international law accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted. Consequently, any treaty or agreement that conflicts with such a norm is considered legally invalid.

The doctrine of *jus cogens* has profound implications for the protection of human rights because it establishes that certain fundamental values transcend state consent and political interests. Prohibitions against genocide, slavery, torture, and other forms of serious human rights violations are widely recognized as principles that bind all states regardless of their individual acceptance or treaty commitments. These norms reflect the idea that human dignity possesses an inherent value that cannot be sacrificed in the exercise of sovereignty.

However, despite its importance, the application of *jus cogens* norms remains subject to debate. Questions continue to arise concerning the identification of peremptory norms, the criteria for determining their legal status, and the effectiveness of enforcement mechanisms when violations occur. While the doctrine represents a powerful limitation on arbitrary state action, its practical implementation depends on the willingness of international institutions and states to uphold these fundamental obligations.

This article therefore examines the inviolability of human rights through an analysis of *jus cogens* norms in international law. It explores the conceptual foundation of peremptory norms, their relationship with fundamental human rights, their legal consequences, and the challenges surrounding their enforcement. The article argues that the doctrine of *jus cogens* reflects the international community's gradual recognition that certain human rights principles are not merely matters of political commitment but constitute binding legal obligations essential to the protection of humanity.

LEXICAL AND CONCEPTUAL CLARIFICATION

A clear understanding of the key concepts employed in this study is indispensable to appreciating the

legal and philosophical issues surrounding the inviolability of human rights under international law. Since the title of this article is "The Inviolability of Human Rights: An Analysis of *Jus Cogens* Norms in International Law," it is imperative to clarify the principal concepts underpinning the study. This section provides both lexical and conceptual clarifications of the terms analysis, inviolability, international law, human rights, and jus cogens norms by drawing on authoritative dictionaries, renowned scholars, and relevant international legal instruments. Each concept is further contextualized to demonstrate its relevance to the present study.

Analysis

The term analysis generally refers to the systematic examination of a subject in order to understand its constituent parts, relationships, and implications. The Oxford English Dictionary defines analysis as the detailed examination of the elements or structure of something for purposes of explanation and interpretation. Similarly, the Cambridge Dictionary defines analysis as the careful study of something by examining its parts in order to understand or explain it.

Although Black's Law Dictionary (12th ed.) does not specifically define "analysis" as an independent legal term, it recognizes legal analysis as the intellectual process through which legal principles, statutes, judicial precedents, and doctrines are examined and applied in resolving legal questions.

According to C. R. Kothari (2004), analysis in research involves organizing, evaluating, interpreting, and drawing logical conclusions from data and evidence in order to answer research questions. Likewise, Bryan A. Garner (2024) considers legal analysis to involve the careful interpretation and application of legal authorities to factual and legal issues.

Within the context of this study, analysis refers to the critical examination of the doctrine of jus cogens and its role in protecting the inviolability of fundamental human rights under international law. It involves evaluating treaties, judicial decisions, customary international law, and scholarly opinions to determine how jus cogens norms reinforce the protection of non-derogable human rights.

Inviolability

Lexically, the Oxford English Dictionary defines inviolability as the quality of being incapable of being violated, infringed, or profaned. Likewise, the Cambridge Dictionary defines it as the condition of being protected from violation or interference. According to Black's Law Dictionary (12th ed.), the adjective inviolable means secure from violation, infringement, desecration, or unlawful interference.⁸ In legal usage, it denotes protection that cannot lawfully be breached.

From a philosophical perspective, Immanuel Kant (1785/1996) argued that every human being possesses intrinsic dignity and should always be treated as an end in himself or herself rather than

merely as a means to an end. This philosophical conception has profoundly influenced modern international human rights law by emphasizing that certain rights are inherent and incapable of lawful violation. Similarly, Ronald Dworkin (1977) argues that fundamental rights function as "trumps" against governmental policies and utilitarian considerations, meaning that they cannot ordinarily be overridden merely because doing so would serve the public interest.

Within the framework of this study, inviolability refers to the absolute and non-derogable character of certain fundamental human rights protected by jus cogens norms. It signifies that such rights cannot lawfully be suspended, restricted, waived, or violated even during war, public emergencies, or political crises.

International Law

The Oxford Dictionary of Law defines international law as the body of legal rules regulating relations among sovereign states and other international actors. According to Black's Law Dictionary (12th ed.), international law consists of the legal system governing relations among states, international organizations, and other subjects of international law through treaties, customary international law, general principles of law, judicial decisions, and scholarly writings.

One of the most authoritative scholarly definitions is offered by Malcolm N. Shaw (2021), who defines international law as the body of legal principles and rules regulating relations among states, international organizations, and increasingly individuals. Similarly, Ian Brownlie (2008) describes international law as the system of legal rules accepted by states as binding in governing their international relations.

The principal legal sources of international law are set out in Article 38(1) of the Statute of the International Court of Justice, namely international conventions, international custom, general principles of law recognized by civilized nations, judicial decisions, and the teachings of highly qualified publicists. Within the context of this study, international law constitutes the legal framework through which jus cogens norms are recognized, interpreted, and enforced for the protection of fundamental human rights.

Human Rights

The Oxford English Dictionary defines human rights as the basic rights and freedoms to which every human being is entitled. The Cambridge Dictionary similarly defines human rights as the fundamental freedoms and protections that every individual possesses simply because he or she is human. According to Black's Law Dictionary (12th ed.), human rights are the freedoms, immunities, and benefits recognized as belonging to every individual under international law and internationally accepted standards.

According to Jack Donnelly (2013), human rights are universal moral and legal rights held equally by all persons by virtue of their humanity. Likewise, Louis Henkin (1999) describes human rights as those fundamental claims every person possesses against the state and society because of the inherent dignity of the human person.

The legal foundation of contemporary human rights law is found in the Universal Declaration of Human Rights (1948). In particular, Articles 1 and 2 proclaim that all human beings are born free and equal in dignity and rights and are entitled to these rights without discrimination.

Within the context of this research, human rights refer to those inherent rights that have attained universal recognition under international law, particularly those regarded as *jus cogens* norms, including the prohibitions against genocide, slavery, torture, apartheid, and crimes against humanity.

Jus Cogens Norms

The expression *jus cogens* is derived from Latin, meaning "compelling law" or "peremptory law." It refers to norms of international law that are binding upon all states and from which no derogation is permitted. The *locus classicus* most authoritative legal definition is contained in Article 53 of the Vienna Convention on the Law of Treaties (1969), which defines a peremptory norm of general international law as:

«"A norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."»

According to Black's Law Dictionary (12th ed.), *jus cogens* refers to a mandatory norm of international law recognized by the international community from which states cannot derogate.

Malcolm N. Shaw (2021) describes *jus cogens* norms as fundamental principles possessing superior legal authority over ordinary treaty and customary rules. Likewise, Antonio Cassese (2005) defines *jus cogens* as overriding principles of international law that invalidate any conflicting treaty or rule of customary international law. Alexander Orakhelashvili (2006) further argues that *jus cogens* norms constitute the constitutional foundation of the international legal order because they protect the fundamental values upon which the international community is built.

Within the context of this study, *jus cogens* norms refer to those superior and non-derogable rules of international law that guarantee the protection of the most fundamental human rights. They constitute the principal legal foundation upon which the inviolability of human rights rests, making it unlawful for states or any other international actor to authorize, justify, or tolerate violations of such rights.

THEORETICAL FRAMEWORK

The analysis of the inviolability of human rights through the doctrine of *jus cogens* norms requires a theoretical foundation capable of explaining the relationship between human dignity, state sovereignty, and binding international obligations. This article is anchored on three major theoretical perspectives: Natural Law Theory, Legal Positivist Theory, and International Human Rights Theory. These theories provide explanations on the origin, legitimacy, and enforcement of fundamental human rights norms in international law.

Natural Law Theory

Natural Law Theory provides the philosophical foundation for the argument that certain rights exist inherently and are not created solely by the authority of the state. The theory maintains that law is connected to universal principles of morality, reason, and justice, which exist above human-made rules. One of the earliest proponents of Natural Law Theory was Aristotle (384–322 BC), who distinguished between natural justice and human-made laws. Later, Thomas Aquinas (1225–1274) developed the theory further by arguing that natural law is derived from reason and reflects universal moral principles. In the modern period, John Locke (1632–1704) advanced the idea that individuals possess natural rights, including the rights to life, liberty, and property, which governments are obligated to protect.

The relevance of Natural Law Theory to *jus cogens* norms lies in the recognition that certain human rights cannot be lawfully removed by state authority. The prohibition of genocide, slavery, and torture reflects the belief that some principles are so fundamental that they bind all members of the international community regardless of political interests or state consent.

Legal Positivist Theory

Legal Positivism is based on the idea that law derives its authority from formal recognition, state practice, and established legal processes rather than moral principles alone. The theory focuses on the sources and validity of law within a structured legal system.

A major proponent of Legal Positivism was John Austin (1790–1859), who defined law as commands issued by a sovereign authority. Later, Hans Kelsen (1881–1973) developed the Pure Theory of Law, emphasizing that the validity of legal rules depends on their position within a hierarchy of norms. Another influential positivist scholar, H. L. A. Hart (1907–1992), argued in *The Concept of Law* (1961) that legal systems are based on primary and secondary rules recognized by society.

The connection between Legal Positivism and *jus cogens* lies in the fact that peremptory norms derive legal force from their recognition by the international community. Article 53 of the Vienna Convention on the Law of Treaties (1969) reflects this positivist foundation by requiring acceptance and recognition of such norms by states.

International Human Rights Theory

International Human Rights Theory emerged from the development of international law after the Second World War and emphasizes that individuals are holders of rights protected under international standards. The theory challenges the traditional idea that states have unlimited authority over persons within their territories.

The foundations of modern human rights theory can be traced to John Locke (1632–1704), whose natural rights ideas influenced later human rights developments. However, its contemporary form was strengthened by Eleanor Roosevelt (1884–1962) and other drafters of the Universal Declaration of Human Rights (1948), which established universal principles of human dignity and equality. The work of René Cassin (1887–1976) also contributed significantly to the development of international human rights law.

This theory supports the concept of *jus cogens* by affirming that certain human rights obligations are owed to the international community as a whole. It explains why prohibitions against genocide, slavery, torture, and crimes against humanity are regarded as non-derogable standards of human protection.

This study adopts an integrated theoretical approach. Natural Law Theory explains the moral and universal basis of fundamental human rights; Legal Positivist Theory explains the legal recognition and binding nature of *jus cogens* norms; while International Human Rights Theory demonstrates the role of these norms in protecting individuals from serious violations. Together, these theories establish that the inviolability of human rights is not merely a moral aspiration but a principle reinforced by international law. The doctrine of *jus cogens* therefore represents the international community's effort to place certain fundamental human values beyond political compromise and state discretion.

NATURAL LAW, LEGAL POSITIVISM AND OTHER APPROACHES TO LEGAL OBLIGATION

The theoretical foundation of *jus cogens* reflects a continuing debate concerning the source and legitimacy of international legal obligations. Natural law theory argues that certain legal principles derive from universal morality, justice, and human dignity rather than state consent. Under this approach, prohibitions against genocide, slavery, and torture are binding because they protect fundamental values inherent in humanity. The natural law perspective provides a moral justification for the existence of peremptory norms.¹

Legal positivism, however, maintains that international law is based upon state practice, consent, and recognition. From this perspective, *jus cogens* norms obtain legal authority because states

¹ Hersch Lauterpacht, *The Function of Law in the International Community* (Oxford University Press 2011).

collectively accept certain principles as superior and non-derogable rules. Scholars such as Hans Kelsen emphasise the importance of a structured legal order in explaining legal validity.²

Other contemporary approaches view *jus cogens* as evidence of the constitutionalisation of international law. These approaches argue that modern international law is no longer concerned solely with regulating relations between sovereign states but also with protecting common interests of humanity.³

METHODOLOGY

This article adopts a doctrinal research methodology to examine the inviolability of human rights through an analysis of *jus cogens* norms in international law. The doctrinal approach is appropriate for this study because it focuses on the interpretation, examination, and evaluation of existing legal principles, rules, treaties, judicial decisions, and scholarly writings relating to peremptory norms and fundamental human rights obligations.

The study relies primarily on qualitative research methods involving the analysis of primary and secondary sources of international law. The primary sources include international treaties, conventions, judicial decisions, customary international law, and resolutions of international institutions. Particular attention is given to the Vienna Convention on the Law of Treaties (1969), especially Article 53 which provides the legal basis for *jus cogens* norms, as well as major human rights instruments such as the Universal Declaration of Human Rights (1948) and other relevant international human rights conventions.

The research also examines decisions and opinions of international courts and tribunals, including the jurisprudence of the International Court of Justice (ICJ) and international criminal tribunals, to determine how *jus cogens* norms have been recognized and applied in practice. These legal materials assist in understanding the extent to which certain human rights principles have attained peremptory status.

Secondary sources such as textbooks, journal articles, commentaries, and scholarly publications are equally examined to provide theoretical and academic perspectives on the relationship between human rights and *jus cogens*. These sources help to evaluate debates surrounding the identification, scope, and enforcement of peremptory norms.

² Hans Kelsen, *Pure Theory of Law* (University of California Press 1967).

³ Alexander Orakhelashvili, *Peremptory Norms in International Law* (Oxford University Press 2006).

The method of analysis used is primarily descriptive, analytical, and evaluative. The descriptive approach explains the nature and development of *jus cogens* norms; the analytical approach examines their legal implications for human rights protection; while the evaluative approach assesses the effectiveness and challenges of these norms in limiting violations of fundamental rights.

The study is limited to the examination of universally recognized human rights principles that have acquired or are argued to have acquired the status of *jus cogens*. It does not attempt to address all human rights obligations under international law but focuses on those norms considered fundamental to the protection of human dignity.

Through this methodology, the article seeks to demonstrate that *jus cogens* norms represent a significant mechanism through which international law protects certain human rights from derogation and places them beyond ordinary political or sovereign control.

LEGAL FRAMEWORK

The legal framework of this study is based on the international legal principles and instruments that recognize the existence, protection, and enforcement of fundamental human rights as obligations binding upon states. The concept of *jus cogens* norms provides the foundation for understanding why certain human rights principles are considered inviolable and incapable of derogation. This framework examines the relevant treaties, customary international law, and judicial developments that establish the legal status of peremptory norms.

The Vienna Convention on the Law of Treaties (1969)

The primary legal foundation for *jus cogens* norms is found in the Vienna Convention on the Law of Treaties (VCLT), 1969. Article 53 of the Convention defines a peremptory norm of general international law as a rule accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted.

The provision further establishes that any treaty conflicting with a peremptory norm is void. This principle confirms that certain fundamental values of the international community possess a superior legal status over ordinary treaty obligations.

Article 64 of the Convention also provides that if a new peremptory norm of general international law emerges, any existing treaty that conflicts with such a norm becomes invalid and terminates. This demonstrates the dynamic nature of *jus cogens* and its ability to evolve with the development of international values.

The Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights (UDHR), 1948 serves as a foundational instrument for

international human rights protection. Although originally adopted as a declaration rather than a treaty, it has significantly influenced the development of customary international law and the recognition of universal human rights principles.

The Declaration affirms fundamental rights including the right to life, liberty, security, equality, and protection from torture and slavery. These principles have contributed to the understanding that certain human rights are essential to human dignity and may form part of the foundation of jus cogens norms.

The International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights (ICCPR), 1966 strengthens the legal protection of fundamental rights by creating binding obligations upon states parties.

Article 4 of the ICCPR recognizes that, even during public emergencies threatening the life of a nation, certain rights cannot be suspended. These include the prohibition of torture, slavery, and recognition of the individual as a person before the law.

The non-derogable rights under the ICCPR reflect the principle that certain protections are so fundamental that they remain applicable regardless of exceptional circumstances.

The Convention on the Prevention and Punishment of the Crime of Genocide (1948)

The Genocide Convention, 1948 establishes the prohibition of genocide as one of the most important principles of international law. The prohibition of genocide is widely recognized as a jus cogens norm because it protects the basic existence and dignity of human groups.

The Convention imposes obligations on states not only to refrain from genocide but also to prevent and punish it, reinforcing the idea that certain human rights obligations are owed to the international community as a whole.

The Convention Against Torture (1984)

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 provides a comprehensive legal prohibition against torture. The prohibition of torture is regarded as a clear example of a jus cogens norm because it admits no justification, whether based on national security, emergency, or public order. States are therefore prohibited from authorizing or practicing torture under any circumstances.

Customary International Law and State Practice

Beyond treaties, jus cogens norms also derive from customary international law. Consistent state practice accompanied by a belief in legal obligation (*opinio juris*) contributes to the recognition of certain principles as binding upon all states. The widespread condemnation of slavery, genocide, torture, and

crimes against humanity demonstrates the existence of international consensus that such practices violate fundamental legal standards.

Judicial Recognition of Cogen Norms

International courts and tribunals have contributed to the development and clarification of jus cogens principles. The International Court of Justice has recognized the existence of obligations owed to the international community as a whole (erga omnes obligations), particularly in matters involving fundamental human rights. Similarly, international criminal tribunals have affirmed that individuals cannot escape responsibility for serious violations of international law that offend universally accepted principles.

The legal framework demonstrates that the inviolability of human rights is supported by a combination of treaty law, customary international law, and judicial interpretation. Through the doctrine of jus cogens, international law recognizes that certain rights and values are superior obligations binding on all states. This framework therefore provides the legal basis for examining the extent to which fundamental human rights are protected from violation and political compromise.

INVIOABILITY OF HUMAN RIGHTS: AN OVERVIEW

The concept of the inviolability of human rights is founded on the principle that certain rights belong inherently to every human being by virtue of their humanity and must be respected, protected, and fulfilled under all circumstances.⁴ Inviolability denotes that these rights cannot be arbitrarily violated, suspended, or withdrawn by states or other actors. The concept is rooted in the principles of human dignity, equality, liberty, justice, universality, and the sanctity of human life, which collectively form the foundation of contemporary human rights law.

The philosophical origins of the inviolability of human rights can be traced to the Natural Law School, whose proponents argued that certain rights are inherent in human nature and exist independently of state recognition. Aristotle (384–322 BC) distinguished between natural justice and conventional justice, maintaining that certain moral principles are universally applicable. This idea was later developed by Thomas Aquinas (1225–1274), who argued that natural law derives from reason and reflects universal moral standards that bind all human beings.⁵ According to Aquinas, laws that contradict fundamental moral principles lack legitimacy.

The modern conception of inviolable rights was significantly influenced by John Locke (1632–1700), whose theory of natural rights emphasized that every individual possesses inherent rights to life, liberty,

⁴ Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd ed.). Cornell University Press.

⁵ Aquinas, T. (1947). *Summa Theologica* (Fathers of the English Dominican Province, Trans.). Benziger Brothers. (Original work written c. 1265–1274).

and property.⁶ Locke maintained that governments are established through a social contract to protect these rights and lose legitimacy when they fail to do so. His ideas profoundly influenced subsequent constitutional developments and the emergence of modern human rights law.

The inviolability of human rights gained greater prominence following the atrocities of the Second World War. The systematic violations of human dignity during the war exposed the inadequacy of relying solely on state sovereignty to protect individuals. In response, the international community adopted the Universal Declaration of Human Rights (UDHR) in 1948, which proclaimed that all human beings are born free and equal in dignity and rights.⁷ The Declaration established the principles of universality, indivisibility, interdependence, and non-discrimination, which remain central to contemporary human rights protection.

The principle of universality holds that human rights belong to all individuals regardless of nationality, race, religion, gender, ethnicity, political affiliation, or social status.⁸ Closely related is the principle of equality, which affirms that all persons are entitled to equal protection and benefit of the law without discrimination.

Another fundamental principle underpinning the inviolability of human rights is inalienability. This principle asserts that fundamental rights cannot be surrendered, transferred, or arbitrarily taken away.⁹ Human rights are therefore inseparable from the individual and continue to exist irrespective of political circumstances or governmental actions.

The philosophical contributions of Immanuel Kant (1724–1804) further strengthened the notion of inviolability through his theory of human dignity. Kant argued that human beings possess intrinsic worth because they are rational and autonomous moral agents capable of making ethical decisions.¹⁰ Consequently, every person must be treated as an end in themselves and never merely as a means to an end. Kant's philosophy remains one of the most influential intellectual foundations of modern human rights discourse.

In international law, the inviolability of human rights is reflected in the distinction between derogable and non-derogable rights. While certain rights may be restricted during public emergencies, other

⁶ Locke, J. (1988). *Two treatises of government* (P. Laslett, Ed.). Cambridge University Press. (Original work published 1689).

⁷ United Nations. (1948). *Universal Declaration of Human Rights*.

⁸ *Ibid.*

⁹ Smith, R. K. M. (2024). *International human rights law* (8th ed.). Oxford University Press.

¹⁰ Kant, I. (1993). *Grounding for the metaphysics of morals* (J. W. Ellington, Trans.). Hackett Publishing. (Original work published 1785).

rights remain absolute and incapable of suspension under any circumstances.¹¹ These include the prohibitions against genocide, slavery, torture, and crimes against humanity. Such rights are regarded as indispensable to the preservation of human dignity and international public order.

The doctrine of *jus cogens* further reinforces the inviolability of human rights by recognizing that certain norms occupy a superior position within the international legal system.¹² Key principles underlying *jus cogens* include non-derogation, universality, supremacy of peremptory norms, and protection of fundamental values of the international community. Under this doctrine, no treaty, domestic legislation, or governmental policy may lawfully authorize genocide, slavery, torture, or other serious violations of fundamental human rights.¹³

The principle of human dignity serves as the common thread linking natural law philosophy, modern human rights instruments, and *jus cogens* norms. Human dignity recognizes the intrinsic worth of every individual and imposes obligations upon states and the international community to respect and protect that worth.

Despite significant progress, challenges remain. Armed conflicts, authoritarian governance, discrimination, and systemic abuse continue to threaten the effective realization of human rights.¹⁴ Nevertheless, international legal development continues to strengthen accountability mechanisms and reinforce the protection of fundamental rights.

In conclusion, the inviolability of human rights is grounded in both philosophical reasoning and legal evolution. Through principles such as human dignity, universality, equality, and inalienability, international law increasingly recognizes that certain rights are fundamental, non-derogable, and beyond political compromise.

THE PROCESS THROUGH WHICH PARTICULAR NORMS ACQUIRE PEREMPTORY STATUS

The emergence of a *jus cogens* norm requires a higher level of recognition than ordinary customary international law. The process involves three essential elements.

First, state practice requires widespread and consistent conduct by states demonstrating acceptance of a particular rule. Such practice may be reflected in treaties, domestic legislation, diplomatic statements, and international cooperation.

¹¹ United Nations. (1966). *International Covenant on Civil and Political Rights*.

¹² United Nations. (1969). *Vienna Convention on the Law of Treaties*.

¹³ Shaw, M. N. (2021). *International law* (9th ed.). Cambridge University Press.

¹⁴ Steiner, H. J., Alston, P., & Goodman, R. (2008). *International human rights in context*. Oxford University Press.

Second, *opinio juris* requires states to recognise that compliance with the rule is legally obligatory rather than merely politically desirable. The prohibition of genocide, torture, and slavery demonstrates strong evidence of such legal conviction.

Third, international recognition requires acceptance by the international community that the norm possesses superior legal status. The International Law Commission has confirmed that evidence of *jus cogens* status may arise from treaties, judicial decisions, resolutions of international organizations, and statements by states.¹⁵

Through this process, certain fundamental prohibitions, including genocide, torture, slavery, and aggression, have acquired peremptory status and now operate as binding principles of international law.

The doctrine of *jus cogens* represents a significant transformation in international law by establishing that certain values transcend ordinary state consent. Through the jurisprudence of the ICJ, international criminal tribunals, and regional human rights courts, peremptory norms have evolved from theoretical principles into practical legal mechanisms for protecting human dignity and ensuring accountability for the gravest international crimes.

The legitimacy of *jus cogens* derives from the interaction between moral principles, state practice, *opinio juris*, and international recognition. Consequently, these norms serve as foundational rules of the international legal order and reinforce the idea that sovereignty cannot be used as a shield for violations of fundamental human rights.

JUS COGENS NORMS: AN OVERVIEW

The concept of *jus cogens* occupies a central position in contemporary international law and represents one of the most significant limitations on the traditional doctrine of state sovereignty. Derived from the Latin phrase meaning "compelling law" or "peremptory law," *jus cogens* refers to norms of international law that are accepted and recognized by the international community of states as a whole as rules from which no derogation is permitted.¹⁶ These norms possess a superior legal status and invalidate any treaty, agreement, or state practice that conflicts with them.

Historically, international law was largely based on the principle of state consent. States were regarded as the primary creators of international obligations and were generally free to determine the extent of their commitments. However, the development of international human rights law and the collective condemnation of atrocities such as genocide, slavery, and torture led to the recognition that certain

¹⁵ International Law Commission, *Draft Conclusions on Identification and Legal Consequences of Peremptory Norms of General International Law (Jus Cogens)*, with *Commentaries* (2022) UN Doc A/77/10.

¹⁶ United Nations. (1969). *Vienna Convention on the Law of Treaties*. 1155 U.N.T.S. 331.

fundamental values must be protected irrespective of state consent. This realization contributed to the emergence and gradual acceptance of the doctrine of *jus cogens*.¹⁷

The philosophical foundations of *jus cogens* can be traced to the Natural Law tradition. Thinkers such as Aristotle (384–322 BC) and Thomas Aquinas (1225–1274) argued that certain principles of justice and morality are universal and binding upon all human beings. According to Natural Law Theory, some norms derive their authority not merely from state consent but from their intrinsic moral significance (Aquinas, 1947). The doctrine of *jus cogens* reflects this perspective by recognizing that certain values are so fundamental to humanity that they cannot be lawfully violated.

The modern legal foundation of *jus cogens* is found in the Vienna Convention on the Law of Treaties (VCLT), 1969. Article 53 of the Convention defines a peremptory norm of general international law as a norm accepted and recognized by the international community of states as a whole as one from which no derogation is permitted and which can be modified only by a subsequent norm of the same character.¹⁸ Furthermore, Article 64 provides that if a new *jus cogens* norm emerges, any existing treaty that conflicts with it becomes void and terminates.

Although the doctrine has now become firmly established in international law, its modern formulation is largely attributed to Alfred Verdross (1890–1980), an Austrian jurist who, in 1937, advanced the argument that certain treaties should be considered invalid because they conflict with fundamental principles of international morality and public policy.¹⁹

Verdross's scholarship laid the intellectual foundation for the later codification of *jus cogens* in the Vienna Convention on the Law of Treaties. The work of the International Law Commission between 1949 and 1966, particularly under the guidance of Sir Humphrey Waldock, further contributed to the development and codification of the doctrine.

Principles Characterizing Jus Cogens Norms

The unique status of *jus cogens* norms in international law is reflected in a number of fundamental principles recognized in treaties, international jurisprudence, and state practice. These principles explain the superior legal character of peremptory norms and their role in safeguarding the fundamental values of the international community.

Principle of Non-Derogation

The principle of non-derogation signifies that no state may lawfully derogate from, suspend, or contract out of a *jus cogens* norm. This principle is expressly codified in Article 53 of the Vienna Convention on

¹⁷ Shaw, M. N. (2021). *International law* (9th ed.). Cambridge University Press.

¹⁸ *Ibid.*

¹⁹ Verdross, A. (1937). Forbidden treaties in international law. *American Journal of International Law*, 31(4), 571–577.

the Law of Treaties (1969), which defines a peremptory norm as one from which “no derogation is permitted.”²⁰

The principle has also received judicial recognition. In *Prosecutor v. Furundžija* (1998), the International Criminal Tribunal for the Former Yugoslavia held that the prohibition of torture possesses *jus cogens* status and therefore cannot be derogated from under any circumstances. The Tribunal emphasized that no state may authorize or tolerate torture through domestic legislation or governmental policy.²¹

Principle of Universality

The principle of universality means that *jus cogens* norms are binding upon all states regardless of whether they have expressly accepted them through treaties or other forms of consent. Their authority stems from recognition by the international community as a whole.

This principle is reflected in Article 53 of the Vienna Convention on the Law of Treaties, which requires acceptance and recognition by the international community of states as a whole. Judicial support for universality may also be found in the *Barcelona Traction Case* (1970), where the International Court of Justice recognized the existence of obligations owed to the international community as a whole, including obligations concerning basic human rights.²²

Principle of Supremacy

The principle of supremacy establishes that *jus cogens* norms occupy a higher position than ordinary rules of international law. Any treaty or legal arrangement that conflicts with a peremptory norm is void and without legal effect.

This principle is expressly provided for in Articles 53 and 64 of the Vienna Convention on the Law of Treaties (1969). Article 53 invalidates treaties conflicting with existing *jus cogens* norms, while Article 64 renders invalid any treaty that subsequently conflicts with an emerging peremptory norm. The principle was reinforced by the ICTY in *Prosecutor v. Furundžija* (1998),²³ where the Tribunal emphasized that the prohibition against torture overrides conflicting domestic laws and international agreements.

²⁰ United Nations. (1969). Vienna Convention on the Law of Treaties. 1155 U.N.T.S. 331.

²¹ International Criminal Tribunal for the Former Yugoslavia. (1998). *Prosecutor v. Anto Furundžija*, Case No. IT-95-17/1-T, Judgment of 10 December 1998.

²² International Court of Justice. (1970). *Barcelona Traction, Light and Power Company Ltd. (Belgium v. Spain)*, Second Phase, Judgment.

²³ *Ibid.*

Principle of Protection of Fundamental Values of the International Community

A defining characteristic of *jus cogens* norms is their role in protecting values regarded as fundamental to humanity. Such values include human dignity, freedom, equality, justice, peace, and the protection of life.

This principle is reflected in numerous international instruments, including the Universal Declaration of Human Rights (1948), the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the Geneva Conventions (1949), and the Convention Against Torture (1984).²⁴ These instruments embody the international community's commitment to safeguarding essential human values.

Judicial support may be found in the ICJ's decision in *Armed Activities on the Territory of the Congo* (2006),²⁵ where the Court emphasized the importance of fundamental humanitarian principles in maintaining international order.

Principle of *Erga Omnes* Obligations

Most *jus cogens* norms give rise to obligations *erga omnes*, meaning obligations owed to the international community as a whole. Consequently, all states have a legal interest in ensuring compliance with such norms and may invoke responsibility for their breach.

This principle was authoritatively recognized by the International Court of Justice in the *Barcelona Traction Case* (1970). The Court identified obligations concerning the outlawing of acts of aggression, genocide, slavery, and racial discrimination as obligations owed to the international community as a whole.²⁶ The principle was reaffirmed in the *East Timor Case* (1995),²⁷ where the ICJ recognized the right of peoples to self-determination as an obligation *erga omnes*.

Principle of Nullity of Conflicting Treaties

An important consequence of *jus cogens* norms is that any treaty conflicting with them is automatically void. States cannot create legal obligations through treaties that permit conduct prohibited by peremptory norms.

This principle is expressly codified in Article 53 of the Vienna Convention on the Law of Treaties (1969). It reflects the idea that state consent cannot legitimize conduct that violates fundamental values of the international community.

²⁴ United Nations. (1948). *Convention on the Prevention and Punishment of the Crime of Genocide*.

²⁵ International Court of Justice. (2006). *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment. I.C.J. Reports 2006, p. 168.

²⁶ *Ibid.*

²⁷ International Court of Justice. (1995). *East Timor (Portugal v. Australia)*, Judgment. I.C.J. Reports 1995, p. 90.

The doctrine was heavily influenced by Alfred Verdross's 1937 theory that treaties contrary to international public policy and morality should be regarded as legally invalid.²⁸

JUDICIAL DECISIONS ON GENOCIDE, TORTURE, AND CRIMES AGAINST HUMANITY

International courts and tribunals have played a pivotal role in affirming the peremptory (*jus cogens*) status of fundamental human rights norms by holding individuals and States accountable for grave international crimes. The jurisprudence of these bodies demonstrates that prohibitions against genocide, torture, and crimes against humanity are universally binding obligations from which no derogation is permitted.²⁹

In Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v Serbia and Montenegro*), the International Court of Justice reaffirmed that the prohibition of genocide constitutes a fundamental principle of international law and held that States have a legal duty to prevent and punish genocide.³⁰ Likewise, the International Criminal Tribunal for Rwanda, in *Prosecutor v Akayesu*, established the first international conviction for genocide and recognized sexual violence as an act capable of constituting genocide, thereby broadening the scope of international criminal responsibility.³¹

The prohibition of torture has similarly been recognized as a *jus cogens* norm. In *Prosecutor v Furundžija*, the International Criminal Tribunal for the Former Yugoslavia declared that torture is universally prohibited and that perpetrators may be prosecuted under the principle of universal jurisdiction.³² The European Court of Human Rights reaffirmed this position in *Al-Adsani v United Kingdom*, acknowledging the peremptory nature of the prohibition against torture despite upholding State immunity in the particular circumstances.³³

With respect to crimes against humanity, *Prosecutor v Tadić* confirmed that widespread or systematic attacks against civilian populations attract individual criminal responsibility customary international law.³⁴ Similarly, the International Criminal Court reinforced this principle in

²⁸ *Ibid.*

²⁹ Barcelona Traction, Light and Power Company Ltd (Belgium v Spain) (Second Phase) [1970] ICJ Rep 3.

³⁰ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v Serbia and Montenegro*) [2007] ICJ Rep 43.

³¹ *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T (2 September 1998).

³² *Prosecutor v Furundžija* (Judgment) IT-95-17/1-T (10 December 1998).

³³ *Al-Adsani v United Kingdom* (2001) 34 EHRR 273.

³⁴ *Prosecutor v Tadić* (Decision on Jurisdiction) IT-94-1-AR72 (2 October 1995).

Prosecutor v Germain Katanga and *Prosecutor v Bosco Ntaganda*, affirming that such crimes violate universally binding norms and require international accountability.³⁵

These judicial decisions collectively illustrate that *jus cogens* norms operate as supreme principles of international law, limiting State sovereignty, promoting accountability, and safeguarding the fundamental values of humanity.

DETAILED EXAMINATION OF LANDMARK INTERNATIONAL CASES DEMONSTRATING THE PRACTICAL APPLICATION OF *JUS COGENS* NORMS

The practical application of *jus cogens* norms is demonstrated through the decisions of international courts and tribunals addressing genocide, torture, crimes against humanity, and other serious violations of international law. Article 53 of the Vienna Convention on the Law of Treaties defines *jus cogens* as norms accepted and recognized by the international community of states as a whole as rules from which no derogation is permitted.³⁶

The International Court of Justice (ICJ) has contributed significantly to the recognition of fundamental international obligations. In *Barcelona Traction*, the Court recognized obligations *erga omnes*, including the prohibition of genocide and racial discrimination, as obligations owed to the international community as a whole.³⁷ In *Bosnia and Herzegovina v Serbia and Montenegro*, the ICJ reaffirmed the exceptional character of the prohibition of genocide and confirmed the obligation of states to prevent and punish genocide.³⁸

International criminal tribunals have further developed the practical meaning of *jus cogens*. In *Prosecutor v Furundžija*, the International Criminal Tribunal for the former Yugoslavia (ICTY) recognised the prohibition of torture as a peremptory norm of international law.³⁹ Similarly, *Prosecutor v Akayesu* before the International Criminal Tribunal for Rwanda demonstrated that genocide and related acts constitute violations of fundamental international norms requiring individual criminal responsibility.⁴⁰

³⁵ *Prosecutor v Germain Katanga* (Judgment) ICC-01/04-01/07 (7 March 2014); *Prosecutor v Bosco Ntaganda* (Judgment) ICC-01/04-

³⁶ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 53.

³⁷ *Barcelona Traction, Light and Power Company Limited (Belgium v Spain) (Second Phase)* [1970] ICJ Rep 3

³⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* [2007] ICJ Rep 43.

³⁹ *Prosecutor v Anto Furundžija* (Judgment) IT-95-17/1-T (International Criminal Tribunal for the former Yugoslavia, 10 December 1998).

⁴⁰ *Prosecutor v Jean-Paul Akayesu* (Judgment) ICTR-96-4-T (International Criminal Tribunal for Rwanda, 2 September 1998)..

Regional human rights courts have also strengthened the application of *jus cogens*. The European Court of Human Rights has consistently affirmed that the prohibition of torture under Article 3 of the European Convention on Human Rights is absolute and non-derogable.⁴¹ The Inter-American Court of Human Rights has equally recognised that certain human rights obligations possess a fundamental character binding upon states.⁴²

These judicial decisions demonstrate that *jus cogens* functions as a limitation on state sovereignty, preventing states from justifying serious international crimes through domestic law or political authority.

HISTORICAL DEVELOPMENT AND ORIGINS OF *JUS COGENS*

The origins of the doctrine of *jus cogens* can be traced to the philosophical foundations of Natural Law Theory. Aristotle (384–322 BC) argued that certain principles of justice exist independently of human legislation and are universally applicable. This notion was further developed by Thomas Aquinas (1225–1274), who maintained that natural law emanates from reason and reflects universal moral standards binding upon all persons and authorities.⁴³

The modern concept of *jus cogens* began to take shape following the atrocities of the Second World War (1939–1945). The horrors of genocide, crimes against humanity, aggressive war, and widespread human rights abuses led scholars and states to question whether certain acts should be prohibited irrespective of state consent.

The principal architect of the modern doctrine is generally considered to be Alfred Verdross, whose 1937 article, *Forbidden Treaties in International Law*, provided the first systematic scholarly articulation of the concept. Verdross argued that international law contains fundamental principles from which states cannot derogate, even by mutual agreement.⁴⁴

The doctrine subsequently gained momentum through the work of the International Law Commission between 1949 and 1966 and achieved formal legal recognition with the adoption of the Vienna Convention on the Law of Treaties in 1969. Article 53 formally codified the doctrine, while Article 64 addressed the emergence of new peremptory norms. The Convention entered into force on 27 January 1980 and remains the principal legal authority governing *jus cogens* norms.

⁴¹ *Soering v United Kingdom* (1989) 11 EHRR 439; *Ireland v United Kingdom* (1978) 2 EHRR 25..

⁴² *Velásquez Rodríguez v Honduras* (Judgment) Inter-American Court of Human Rights, Series C No 4 (29 July 1988).

⁴³ Aquinas, T. (1947). *Summa Theologica* (Fathers of the English Dominican Province, Trans.). Benziger Brothers. (Original work written c. 1265–1274).

⁴⁴ *Ibid.*

Accordingly, while the philosophical roots of *jus cogens* may be traced to Aristotle and Aquinas, its modern legal formulation is largely attributed to Alfred Verdross in 1937, and its formal recognition as a binding principle of international law occurred through the Vienna Convention on the Law of Treaties in 1969.

LEGAL CONSEQUENCES OF JUS COGENS NORMS

The recognition of *jus cogens* norms as peremptory rules of international law carries significant legal consequences for states, international organizations, courts, and other actors within the international legal system. Unlike ordinary rules of international law, *jus cogens* norms occupy a superior hierarchical position and impose obligations that cannot be derogated from by agreement, custom, or unilateral state action. Their peremptory nature generates far-reaching legal effects that reinforce the protection of fundamental values and human rights within the international community.

Invalidity of Conflicting Treaties

One of the most important legal consequences of *jus cogens* norms is the invalidity of treaties that conflict with them. This principle is expressly codified in Article 53 of the Vienna Convention on the Law of Treaties (1969), which provides that a treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. Consequently, states cannot lawfully conclude treaties that authorize genocide, slavery, torture, apartheid, aggression, or other conduct prohibited by *jus cogens* norms.

Furthermore, Article 64 of the Vienna Convention provides that where a new peremptory norm of general international law emerges, any existing treaty that conflicts with that norm becomes void and terminates. In addition, Article 71 sets out the legal consequences of treaties found to be inconsistent with *jus cogens*, requiring states to eliminate the effects of acts performed pursuant to such treaties. These provisions collectively demonstrate the superior legal status of peremptory norms over treaty obligations.⁴⁵

Supremacy over Other Rules of International Law

Jus cogens norms prevail over conflicting treaty provisions, customary international law, unilateral acts of states, and other rules of international law. Their superior status establishes a hierarchy of norms within the international legal system and reflects the international community's commitment to protecting fundamental values.

The International Criminal Tribunal for the Former Yugoslavia affirmed this principle in *Prosecutor v. Furundžija* (1998), where it held that the prohibition of torture possesses *jus cogens* status and occupies

⁴⁵ United Nations. (1969). *Vienna Convention on the Law of Treaties*. 1155 U.N.T.S. 331.

a higher position than ordinary rules of international law. The Tribunal emphasized that no domestic legislation, treaty obligation, or governmental policy may justify torture. Consequently, states cannot invoke internal law, national security concerns, or political necessity as grounds for violating a peremptory norm.⁴⁶

The International Law Commission's Draft Conclusions on Peremptory Norms of General International Law (2022) similarly affirm that no rule of international law can prevail over a norm of *jus cogens*.

Creation of Obligations *Erga Omnes*

Violations of *jus cogens* norms generally give rise to obligations *erga omnes*, meaning obligations owed to the international community as a whole. As a result, every state possesses a legal interest in ensuring compliance with these norms, regardless of whether it has suffered direct injury.

The International Court of Justice recognized this principle in the *Barcelona Traction Case* (1970), where it distinguished ordinary international obligations from obligations owed to the international community as a whole. The Court identified the prohibitions of aggression, genocide, slavery, and racial discrimination as examples of obligations *erga omnes*.

The principle has subsequently been reinforced by Article 48 of the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) (2001), which permits a state other than an injured state to invoke responsibility where an obligation is owed to the international community as a whole. This provision underscores the collective interest of states in protecting peremptory norms.⁴⁷

Universal Jurisdiction

Certain violations of *jus cogens* norms give rise to universal jurisdiction, allowing states to prosecute offenders irrespective of where the crime occurred or the nationality of the perpetrators or victims.

This principle is particularly relevant to crimes such as genocide, torture, crimes against humanity, war crimes, and piracy. Universal jurisdiction reflects the view that such offences threaten the interests of the entire international community and therefore justify prosecution by any competent state. The legal basis for this principle can be found in Articles 5, 6, 7, and 8 of the Convention Against Torture (1984), which establish the principle of *aut dedere aut judicare* (extradite or prosecute). States are required

⁴⁶ International Criminal Tribunal for the Former Yugoslavia. (1998). *Prosecutor v. Anto Furundžija*, Case No. IT-95-17/1-T, Judgment of 10 December 1998.

⁴⁷ International Court of Justice. (1970). *Barcelona Traction, Light and Power Company Ltd. (Belgium v. Spain)*, Second Phase, Judgment. I.C.J. Reports 1970, p. 3.

either to prosecute alleged torturers found within their jurisdiction or extradite them to a state willing to do so.

Similarly, Article VI of the Genocide Convention (1948) provides for the prosecution of persons accused of genocide, while Articles 13, 25, and 27 of the Rome Statute of the International Criminal Court (1998) reinforce individual accountability for international crimes and deny immunity based on official capacity.

Non-Recognition of Illegal Situations

Another important consequence of *jus cogens* norms is the obligation of states not to recognize situations created through serious violations of peremptory norms. This principle was reflected in the International Court of Justice's Advisory Opinion on Namibia (1971), where states were required not to recognize South Africa's continued presence in Namibia as lawful. Similar reasoning has been applied to situations involving unlawful territorial acquisition, apartheid, and systematic violations of self-determination.⁴⁸

The obligation is expressly codified in Article 41(2) of ARSIWA (2001), which provides that no state shall recognize as lawful a situation created by a serious breach of an obligation arising under a peremptory norm of general international law. This obligation is closely linked to Article 2(4) of the United Nations Charter, which prohibits the threat or use of force against the territorial integrity or political independence of any state.

Duty to Cooperate in Ending Serious Violations

States have a collective obligation to cooperate in bringing serious breaches of *jus cogens* norms to an end. This duty reflects the communal nature of peremptory norms and underscores the responsibility of all states to protect fundamental values of the international community.

The legal basis for this obligation is found in Article 41(1) of ARSIWA (2001), which requires states to cooperate through lawful means to bring serious breaches of obligations arising under peremptory norms to an end. Additional support may be found in Articles 1, 55, and 56 of the United Nations Charter, which emphasize international cooperation in maintaining international peace and security and promoting universal respect for human rights and fundamental freedoms. This obligation has particular relevance in situations involving genocide, aggression, crimes against humanity, apartheid, and systematic violations of human rights.

⁴⁸ International Court of Justice. (1971). *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion. I.C.J. Reports 1971, p. 16.

State Responsibility for Breaches of Jus Cogens Norms

A state that violates a *jus cogens* norm incurs international responsibility and is obliged to cease the wrongful conduct, provide assurances of non-repetition, and make full reparation for the injury caused.

The legal framework governing such responsibility is found in Articles 30 and 31 of ARSIWA (2001), which require cessation of the wrongful act and full reparation for injury. Forms of reparation are elaborated in Articles 34–37, which recognize restitution, compensation, and satisfaction as appropriate remedies.

In relation to genocide, Article I of the Genocide Convention (1948) imposes an obligation upon states to prevent and punish genocide. The International Court of Justice affirmed the seriousness of this obligation in *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (2007).⁴⁹

Individual Criminal Responsibility

The violation of many *jus cogens* norms may result in individual criminal responsibility under international law. Unlike traditional international law, which focused primarily on state responsibility, modern international law recognizes that individuals can be held personally accountable for serious violations of peremptory norms.

This principle was firmly established through the Nuremberg Trials and subsequently codified in Principle I of the Nuremberg Principles (1950), which provides that any person who commits an act constituting a crime under international law is responsible and liable to punishment.

Further support is found in Article IV of the Genocide Convention (1948) and Articles 25, 27, 28, and 33 of the Rome Statute (1998). These provisions establish individual criminal responsibility and affirm that official position, including that of a Head of State, does not exempt a person from criminal liability.

Accordingly, individuals who commit genocide, torture, crimes against humanity, war crimes, or other serious international crimes may be prosecuted irrespective of official status or governmental authorization.

Limitation on State Sovereignty

Perhaps the most profound consequence of *jus cogens* norms is the limitation they impose on state sovereignty. Traditionally, states enjoyed broad discretion in managing their internal affairs. However, the emergence of peremptory norms signifies that sovereignty is no longer absolute. States cannot rely on

⁴⁹ International Court of Justice. (2007). *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment. I.C.J. Reports 2007, p. 43.

sovereignty, domestic jurisdiction, or national security considerations to justify genocide, torture, slavery, racial discrimination, or other violations of *jus cogens* norms.

This limitation is reflected in Articles 2(2), 55, and 56 of the United Nations Charter, which require states to fulfil international obligations in good faith and cooperate in promoting human rights. Likewise, Article 27 of the Vienna Convention on the Law of Treaties (1969) prohibits states from invoking domestic law as justification for failure to perform international obligations. The doctrine therefore reflects the evolution of international law from a system centered exclusively on state consent to one increasingly concerned with the protection of humanity and fundamental values.

Strengthening the Protection of Human Rights

The ultimate legal consequence of *jus cogens* norms is the strengthening of international human rights protection. By elevating certain rights and prohibitions to peremptory status, international law places them beyond political negotiation and state discretion.

The human-rights-protective function of *jus cogens* norms is reflected in several international instruments, including Articles 1–5 of the Universal Declaration of Human Rights (1948), Articles 6, 7, and 8 of the International Covenant on Civil and Political Rights (1966), the Convention Against Torture (1984), the Genocide Convention (1948), and the Rome Statute of the International Criminal Court (1998).

The prohibitions of genocide, slavery, torture, apartheid, racial discrimination, crimes against humanity, and aggression have become universally binding standards whose protection is regarded as essential to the maintenance of international peace, justice, and human dignity. Through these norms, international law affirms that certain values are so fundamental that they must be protected under all circumstances.

The legal consequences of *jus cogens* norms demonstrate their central role in the contemporary international legal order. Their effects include the invalidation of conflicting treaties, the supremacy of peremptory norms over ordinary rules of international law, the creation of obligations *erga omnes*, the exercise of universal jurisdiction, the duty of non-recognition, the obligation of international cooperation, state responsibility, individual criminal accountability, and limitations on state sovereignty. Collectively, these consequences reinforce the protection of fundamental human rights and underscore the commitment of the international community to preserving the values of justice, dignity, equality, and humanity.

SUMMARY OF FINDINGS

This study examined the inviolability of human rights through the lens of *jus cogens* norms in international law. The analysis reveals that *jus cogens* norms occupy the highest hierarchical position within the international legal order and constitute non-derogable rules from which no state may depart, irrespective of consent, domestic legislation, treaty obligations, or exceptional circumstances. The

doctrine has evolved from the philosophical foundations of natural law to become a firmly established principle of positive international law through Article 53 and Article 64 of the Vienna Convention on the Law of Treaties (1969).

The study further found that the inviolability of fundamental human rights is anchored in the peremptory character of certain international legal norms. Rights protecting individuals against genocide, slavery, torture, crimes against humanity, racial discrimination, apartheid, and aggressive war have attained *jus cogens* status because they safeguard values considered indispensable to the international community as a whole. Consequently, these rights are not subject to derogation, suspension, or limitation by states, even during armed conflict, public emergencies, or national security crises.

Another important finding is that *jus cogens* norms significantly limit the traditional doctrine of state sovereignty. While sovereignty remains a fundamental principle of international law, it is no longer absolute. States cannot invoke sovereignty, domestic jurisdiction, political necessity, or national legislation as justification for violating peremptory norms. The emergence of *jus cogens* therefore reflects the evolution of international law from a system primarily based on state consent to one increasingly centered on the protection of human dignity and the collective interests of the international community.

The study also established that *jus cogens* norms produce profound legal consequences. These include the invalidity of treaties that conflict with peremptory norms, the supremacy of *jus cogens* over other rules of international law, the creation of obligations *erga omnes*, the exercise of universal jurisdiction over certain international crimes, the duty of states not to recognize situations created through serious breaches of peremptory norms, the obligation of international cooperation in ending such breaches, state responsibility, and individual criminal responsibility. These consequences strengthen accountability mechanisms and reinforce the effectiveness of international human rights protection.

Furthermore, the study found that international judicial bodies have played a pivotal role in affirming the authority of *jus cogens* norms. Decisions of the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, and other international tribunals have consistently recognized the superior status of peremptory norms, particularly in relation to the prohibitions of genocide, torture, slavery, and crimes against humanity. These judicial pronouncements have enhanced the practical application and progressive development of the doctrine.

The research also observed that, despite the growing recognition of *jus cogens* norms, significant challenges remain. There is no universally agreed or exhaustive list of *jus cogens* norms, resulting in scholarly debate and occasional inconsistency in their identification and application. In addition, political considerations, selective enforcement, unequal access to international justice, and the absence of effective enforcement mechanisms continue to impede the realization of the full protective potential of *jus cogens*.

norms. Powerful states may also resist accountability, thereby undermining the universal application of these peremptory rules.

Finally, the study found that the doctrine of *jus cogens* has become an indispensable pillar of contemporary international law and the international human rights regime. It establishes a legal and moral foundation for protecting the most fundamental rights of every individual, reinforces the supremacy of human dignity over state interests, and promotes accountability for the gravest violations of international law. Consequently, the inviolability of human rights is not merely an ethical aspiration but a binding legal obligation imposed upon all states and other subjects of international law through the operation of *jus cogens* norms.

CONCLUSION

This study has demonstrated that the inviolability of human rights is firmly anchored in the doctrine of *jus cogens*, which occupies the highest position within the hierarchy of international law. Through an examination of international treaties, customary international law, judicial decisions, and scholarly opinions, the study established that peremptory norms impose non-derogable obligations on all states and invalidate any treaty, law, or practice that conflicts with fundamental human rights. The research further revealed that *jus cogens* norms have significantly transformed the international legal order by limiting the traditional doctrine of absolute state sovereignty and strengthening international accountability through obligations *erga omnes*, universal jurisdiction, state responsibility, and individual criminal responsibility.

Despite these developments, the effective implementation of *jus cogens* norms continues to face challenges, including inconsistent state practice, political considerations, selective enforcement, and the absence of a universally accepted catalogue of peremptory norms. Addressing these challenges remains essential to ensuring the effective protection of fundamental human rights and the promotion of international justice.

The study contributes to existing legal scholarship by demonstrating the intrinsic relationship between *jus cogens* norms and the inviolability of human rights, while providing a comprehensive synthesis of their philosophical, theoretical, legal, and practical foundations. It therefore concludes that the doctrine of *jus cogens* is not merely a theoretical construct but a binding legal mechanism that reinforces the supremacy of fundamental human rights, promotes accountability for serious international crimes, and remains indispensable to the progressive development of international law and the realization of universal justice.

RECOMMENDATIONS

Based on the findings of this study, the following recommendations are made to strengthen the protection and enforcement of *jus cogens* norms and the inviolability of human rights under international law:

Strengthen the Codification and Clarification of *Jus Cogens* Norms

The United Nations and the International Law Commission should continue efforts to clarify and progressively codify the scope and content of *jus cogens* norms. A more authoritative and widely accepted framework would promote consistency in their identification and application by international and domestic courts.

Enhance International and Domestic Enforcement

Mechanisms: States should domesticate *jus cogens* norms through constitutional and legislative reforms, while international judicial bodies, particularly the International Criminal Court and the International Court of Justice, should be further supported to ensure effective accountability for serious violations of peremptory norms.

Promote International Cooperation and Universal

Jurisdiction: States should strengthen cooperation in the prevention, investigation, prosecution, and punishment of crimes prohibited by *jus cogens* norms, including genocide, torture, slavery, crimes against humanity, and aggression. Greater reliance on the principle of universal jurisdiction will help prevent impunity for perpetrators of such crimes.

Strengthen Human Rights Education and Judicial Capacity

Governments, universities, judicial training institutions, and professional legal bodies should intensify education and training on international human rights law, international humanitarian law, and *jus cogens* norms to enhance their consistent interpretation and application by judges, lawyers, prosecutors, and law enforcement officials.

Promote Equal and Consistent Application of International Law

The international community should ensure that *jus cogens* norms are applied impartially and consistently without political selectivity or discrimination. Respect for these peremptory norms should remain a universal obligation binding on all states, irrespective of their political, economic, or military influence, thereby reinforcing the rule of law, human dignity, and the effective protection of fundamental human rights.

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