

The GoJIL

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**Ius Cogens – A Presentation by
Professor Dire Tladi**

Friday, 4th December 2015

5 p.m.

**Seminarraum der
Völkerrechtsbibliothek
(13th floor of Blauer Turm)**

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Institut für Völkerrecht und Europarecht
Georg-August-Universität Göttingen

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**Göttinger Verein zur Förderung
des internationalen Rechts e.V.**



GEORG-AUGUST-UNIVERSITÄT
GÖTTINGEN
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Ius Cogens

A Presentation by

Professor Dire Tladi

Special Rapporteur of the United Nations

International Law Commission for ius cogens

Professor Dire Tladi

Dire Tladi is a professor of international law at the Department of Public Law and the Institute for International and Comparative Law in Africa at the University of Pretoria. He is also extraordinary professor at the Public Law Department of the University of Stellenbosch. He has served as the Principal State Law Adviser for International Law for the South African Department of International Relations and Cooperation and Legal Counsellor to the South Africa Mission to the United Nations. His main academic specializations are in public international law, human rights law, environmental law and international criminal law. On 1 January 2012 he commenced a five-year term as member of the United Nations International Law Commission. In May 2015, the Commission decided to include the topic “Ius cogens” in its programme of work and to appoint Professor Tladi as the Special Rapporteur for the topic.



Ius Cogens

Ius cogens norms are **norms from which no derogation is permitted**. According to Article 53 of the Vienna Convention on the Law of Treaties, “[a] treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is 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.” The precise scope of the concept has sparked a **lively debate** within scholarship and jurisprudence throughout different fields of international law. Apart from its effects, questions regarding the ways in which ius cogens relates to other norms and concepts of international law, how it can be identified and which norms it actually encompasses lie at the heart of this debate.

The ILC

The International Law Commission was established by the United Nations General Assembly in 1948 for the “promotion of the **progressive development of international law and its codification**.” It consists of 34 members who are elected to the position by the General Assembly from a list of candidates nominated by governments of member states in the UN. Since its beginning the Commission has studied various topics. The outcome of the Commission prepared the conclusion of new conventions, as it was the case with respect to the Vienna Convention on the Law of Treaties, or consisted of draft articles attempting to reflect the current state of international law, as it was the case with the Draft Articles on State Responsibility. The work of the ILC is **highly influential** and has been referred to by the International Court of Justice and other courts when applying and interpreting international law.

