



Statement of H.E. Archbishop Gabriele Caccia
Permanent Observer of the Holy See to the United Nations
UNGA 77 – Sixth Committee
Agenda item 78: Crimes against humanity
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Mr. Chair,

Crimes against humanity are among the most serious crimes under international law and their prevention and punishment concerns the entire international community. Despite being clearly prohibited under customary international law, civilian populations continue to be victims of widespread and systematic attacks, and the perpetrators of these heinous crimes continue to enjoy impunity.

Sadly, widespread and systemic attacks on civilians are a reality of our times. Although crimes against humanity are conceptually distinct from war crimes, we must acknowledge that civilians are particularly at risk wherever war rages. Massacres, torture, rape and the deliberate, indiscriminate targeting of civilian areas and humanitarian corridors may constitute not only war crimes, but also crimes against humanity. Furthermore, slavery in its many forms is here with us today. Enslavement and the subsequent human trafficking are one of the darkest and most revolting realities in the world today. Millions of men, women and children are enslaved, sold and trafficked as part of a systemic attack on civilians.

Mr. Chair,

Where there is credible evidence of a widespread or systematic attack against a civilian population, there must be accountability. Of course, primary responsibility for protecting civilian populations from such crimes lies with Member States. However, some domestic legal systems lack either laws to prosecute such crimes or the capacity to investigate them. In addition, crimes against humanity frequently have effects beyond the borders in which they occur since they may destabilize peace and security. As such, crimes against humanity affect us all and necessitate strengthened international cooperation to prevent their occurrence.

In that context, a global convention on crimes against humanity would indeed further strengthen the current framework of international humanitarian law, international criminal law and human rights law. Therefore, my delegation supports further discussions on the Draft Articles adopted by the International Law Commission at its 71st session in 2019.

On the other hand, we strongly believe that the elaboration of any convention on this subject must focus squarely on codifying existing customary law and promoting international cooperation. Adding or modifying the already agreed definition of the crimes, before State practice and *opinio iuris* have fully developed, would not be conducive to a broad consensus. In that context, my Delegation regrets the ILC's decision not to include in the draft articles the definition of "gender" contained in paragraph 3 of article 7 of the Statute of the International Criminal Court, which forms an integral part of the definition of the crimes agreed during the 1998 Rome Conference. As we have noted before, the sources mentioned in paragraphs 41 and 42 of the ILC's commentary on the definition of the crimes do not constitute State practice nor provide any evidence of States' *opinio iuris*.

Mr. Chair,

The proposed convention should also ensure that efforts to prevent and punish crimes against humanity respect State sovereignty and avoid interference in States' domestic affairs. Any new convention should therefore follow the well-honed precedents of other crime-prevention treaties, building upon the principle of *aut dedere aut judicare* and setting out the duty of States Parties to prosecute crimes against humanity within their borders and to cooperate with each other in this task, which may require, when appropriate, the extradition of wrongdoers, as well as to provide assistance to victims. The convention should include safeguards against the abuse of the law to ensure it is not abused for political goals.

The United Nations was born with and from the idea that the primary responsibility of States is to protect their populations, but when they fail or are incapable, it is the international community's responsibility to protect populations exposed to atrocity crimes such as crimes against humanity. Member States have the common responsibility to protect populations from these atrocities, and a convention, adopted by consensus, would advance that worthy goal.

Thank you, Mr. Chair.