

**Permanent Mission of India to the UN  
New York**

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**Resumed Session of the Sixth Committee**

**CRIME AGAINST HUMANITY  
10 to 14 April 2023**

Thank you Mr. Chair.

Let me begin by referring to the context. Today, we are deliberating on all aspects of the draft articles on prevention and punishment of crimes against humanity in accordance with GA resolution adopted last December.

2. The objective of international law is upholding the age-old universal value of humanity. Thus, any serious violations of international law are contrary to the spirit and aims of the United Nations. The Member States have the responsibility and obligation to ensure justice and accountability for gravest violations of human rights and mass atrocities, in line with their national legislations.

3. India conforms to the principle that the State with territorial or active personality jurisdiction is best suited for effective prosecution of crimes against humanity. It is in the interest of justice, the rights of the accused, with due consideration to the interests of victims and other such considerations, that territorial or national jurisdictions should be given primacy.

4. We believe that a clear jurisdictional linkage principle should be established for exercise of jurisdiction by States over crimes committed by their nationals. Our view is based on the fundamental principles of international law that States have the primary sovereign prerogative to exercise jurisdiction through their national courts over crimes including crimes against humanity, that have been committed either in their territory or by their nationals.

5. As to the Draft Articles adopted by the International Law Commission, we would like to reiterate that the existing international instruments elaborately address the issue of crimes against humanity. The draft articles are inspired by the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide.

6. Given the shared concerns among the member States that these Draft Articles have largely been put together by analogy or deduction from the provisions of other international conventions, we are of the view that these draft Articles are neither new nor universal. We fail to see the urgency of an accelerated adoption of the draft without an exhaustive study of its contents through the methods traditionally employed by the International Law Commission.

7. We all are quite aware that several countries in Africa and Asia, including India, are not parties to the Rome Statute. 43 Member States are neither signatories nor parties to Genocide Convention.

8. As such, we believe that any concerns with the content of the draft articles should be addressed through constructive engagement and meaningful dialogue. In this context, we firmly believe that an ad-hoc committee can be established with an appropriate mandate that reflects the importance of this project and the gravity of this subject. Otherwise, this exercise will be futile and politically divisive.

9. India is not in favour of simply transposing already existing regimes into a new convention.

10. The goal of preventing crimes against humanity and other core crimes, would not be necessarily advanced by adoption of an additional treaty instrument. An open, inclusive, and transparent debate on this topic should be conducted so as to prevent any conflict with the already existing legal framework. The legitimate concerns of all Member States must be taken into account, and there should be no attempt to impose legal theories or definitions derived from other international agreements that do not enjoy universal acceptance.

11. There are some glaring anomalies in the draft articles. We will be providing comments on the draft articles as we proceed. Thank you.

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