

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



The Permanent Mission of the Hashemite Kingdom of Jordan
to the United Nations
New York

THE HASHEMITE KINGDOM OF JORDAN

STATEMENT

BEFORE THE RESUMED SESSION OF

THE SIXTH COMMITTEE ON

CRIMES AGAINST HUMANITY

DELIVERED BY

COUNSELLOR MR. ALAA AL-EDWAN

- Jordan welcomes the convening of the sixth committee to exchange views on the draft articles on Prevention and Punishment of crimes against humanity, and thanks the ILC for all its efforts in producing the draft articles.
- The draft articles cover *lacunae* in the legal regime to combat and prevent the most serious international crimes, and ensure that the perpetrators of crimes against humanity are brought to justice. As such, we reaffirm our support for the draft articles to be adopted in the

form of a convention or other legally binding instrument.

- This meeting is an important opportunity to close the gap on the different points of view and prove and pave the way to reach consensus on the substantive issues involved.
- Before going into specific comments on the draft articles, we wish to reaffirm our view that the convention if adopted, will neither infringe on States sovereignty nor their immunities under international law. On the other hand, it strengthens State's ability to exercise judicial jurisdiction over

the crimes against humanity, and facilitate inter-State cooperation in preventing the crime and punishing its perpetrators.

- Furthermore, nothing in the draft articles infringes on the jurisdiction of the International Criminal Court, and in fact, assists the court in exercising its mandate.
- Jordan does not have any comments on Cluster One, except to reaffirm that the preamble embodies the objects and purposes of the draft articles and would play an important role in their interpretation and implementation. We also

consider that the dual aspect of this scope - Prevention and Punishment - to be appropriate as they go hand in hand in ensuring effective combating of the crimes.

- On cluster two, we welcome the fact that the definition contained in article two follows, in large part, the definition contained in the Rome Statute with minor changes. The definition in the Rome Statute reflects the definition and elements of the crimes under customary international law.
- The jurisprudence and developments in international criminal law, since Nuremberg and

Tokyo tribunals on crimes against humanity are embodied in such a definition. It is also worthwhile to mention that the case law of the ICC as well as that of other international and national courts, and tribunals should be taken into account when interpreting the context of this definition.

- We welcome the important safeguard contained in paragraph three that ensures the definition in draft article two does not limit the development of the definition of crimes against humanity in general international law. This is intended to further the

protection against such crimes. Nonetheless, for the purposes of the draft articles, States obligations are measured against the definition contained in Article Two.

- On draft article three, Jordan is of the view that paragraph one is not necessary, and in fact may be counterintuitive. It is individuals - not states- which commit crimes against humanity. And while the paragraph seeks to avoid giving the impression of States committing international crimes, the language used provides the same outcome.

- Therefore, we suggest deleting this paragraph which is inconsistent with the core of the draft articles as a law enforcement instrument against the individual perpetrators of the crimes. We do not want to be in a situation where judges in a national court or a prosecutor bring charges against a foreign State on the basis of the draft articles.
- On the other hand, we are of the view that paragraph two encapsulates the general obligations on each state i.e. to prevent and punish crimes against humanity in all aspects. The assertion in

the paragraph that crimes against humanity are crimes against international law reflects the customary international law characterization of the crimes, which produces legal consequences arising from their prohibition being a preemptory norm of general international law.

- On article four: the obligation of prevention is a core component of the draft articles. We stress that a state may only adopt such measures that are lawful under international law. We believe that effective preventative measures should be implemented including through appropriate

legislations that incriminate the acts and provide deterring punishments. During armed conflicts and situations of occupation, the parties to the conflict and the occupying power must ensure that their armed forces are subject to such preventative measures as necessary, and ensure compliance. Military codes should contain specific prohibitions, obligations and punishments towards the commission of crimes against humanity. While the duty of cooperation contained in paragraph B of the article is important, there is a need to specify what this duty entails towards

intergovernmental organization, and other organizations. The draft articles should be more clear on this aspect, otherwise it will be a source of contention between States and such organizations.

Thank you.