



11 April 2023

Statement by Loureen Sayej, Third Secretary, before 77th General Assembly Meeting of the Sixth Committee on Agenda Item 78: Crime Against Humanity (Cluster II):

Madam Chair,

The State of Palestine sees a value in the consideration of the Article 7 of the Rome Statute for these draft articles, without prejudice to any State's position. Maintaining substantive consistency with existing international instruments is necessary for the maintenance of the international regime of the prevention and punishment of crimes against humanity.

On the proposed definition of crimes against humanity in the draft article, and without prejudice to ongoing deliberations and discussions:

1. The State of Palestine supports a broader definition of "any civilian population". We are glad to see that the commentary relies on IHL, including AP I to the Geneva Convention, and on extensive jurisprudence, affirming that "any civilian population" should be interpreted broadly, most famously in relation to characterization of a population as a civilian in armed conflicts and the collective nature of the crime;
2. As for the "with knowledge of the attack" we also agree with the jurisprudence and commentaries that the motive of the perpetrator for taking part in the attack is irrelevant. There are no justifications for widespread or systematic attacks against any civilian population;
3. On "pursuant to or in furtherance of a State or organizational policy", we are of the view that such policy need not necessarily be formalized and can be deduced from the way in which the acts occur. It is important that we are able to infer a policy from the way acts are committed, rather than insist upon a formalized policy;
4. As for States, we also stress that a policy adopted by regional or local organs of the State could satisfy the required elements.

Moving to the acts themselves:

1. On deportation or forcible transfer of the population, we believe that the legality requirement to the presence of people has to be in conformity with international law;
2. Since the draft articles do not confer jurisdiction to an international tribunal, restricting the scope of preventing and punishing persecution is not necessarily applicable here. Indeed, the intentional and severe deprivation of human rights by reason of the identity of a group by itself a crime against humanity;
3. We take this opportunity to recall and support the important submission made United Nations Working Group of Experts on People of African Descent and the Special Rapporteur on

contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the ILC titled "The inclusion of Additional Relevant Authority to the Draft Articles on Crimes Against Humanity". In their submission, they recommend that the definition of persecution include concepts of racial profiling, racial violence, acts of racial hatred, racial segregation, racial subordination;

4. The State of Palestine is following closely the ongoing discussions on Article 2(3) and is still examining it.

On Articles 3 and 4, the State of Palestine will further engage in the informal but would like to briefly affirm that the central idea in the draft articles is to build up national laws and national jurisdiction with respect to crimes against humanity and to place States Parties in a cooperative relationship to prevent and punish crimes against humanity. It is critical that the obligation to take domestic measures must not themselves violate international law norms, including rules related to the use of force and human rights law.