



Permanent Mission of Sweden
to the United Nations, New York



Permanent Mission of Iceland
to the United Nations



PERMANENT MISSION
OF NORWAY
TO THE UNITED NATIONS



Permanent Mission of Finland
to the United Nations



PERMANENT MISSION
OF DENMARK TO THE UN

Statement by Finland on behalf of the Nordic Countries

United Nations General Assembly 77th Resumed Session
of the Sixth Committee on Crimes Against Humanity

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Permanent Mission of Finland
to the United Nations

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Thank you Chair,

I am speaking on behalf of the Nordic countries: Denmark, Iceland, Norway, Sweden and my own country, Finland.

At the outset, let me note that our deliberations this week on the International Law Commission's Draft Articles for a possible convention on the Crimes against Humanity have been very inspiring. We believe this clustered approach is helpful in deepening our understanding of the draft articles.

We also deeply appreciate the efforts undertaken by the bureau of this resumed session.

I would like to share with you some initial reflections from the Nordic countries on Draft Articles 5, 11 and 12.

Regarding draft Article 5 on non-refoulement, it would prohibit States from expelling, returning, surrendering or extraditing a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to a crime against humanity.

The principle of non-refoulement forms a central protection and safeguard under international human rights law, humanitarian law, refugee law, and customary international law. The principle of non-refoulement is not new, nor specific to the draft articles on crimes against humanity.

Under international human rights law, the prohibition of refoulement is explicitly included in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance. In international humanitarian law, the principle has been incorporated in the 1949 Fourth Geneva Convention. Equally, the prohibition of refoulement is a key principle of international refugee law, and has been incorporated in the 1951 Convention relating to the Status of Refugees.

The Nordic countries have previously, in our written comments to the ILC, stressed the importance of the principle of non-refoulement. The current draft article 5 is an important provision for preventing persons from being exposed to crimes against humanity.

Although the said provision focuses on avoiding the exposure of a person specifically to crimes against humanity, this provision is without prejudice to other obligations of non-refoulement arising from other treaties and customary international law.

The Nordic countries believe the principle of non-refoulement is firmly rooted in our existing legal obligations, and look forward to engaging in further discussions on the precise scope of the provision.

Draft Article 11, entitled "Fair treatment of the alleged offender", concerns the fair treatment of any person against whom measures are being taken at all stages of the proceedings. The Nordic countries welcome the broad scope of this article, covering all stages from investigation to imprisonment.

The Nordic countries attach great importance to due process considerations, which are particularly pertinent in the context of criminal law. We agree with the International Law Commission that the alleged offender shall at all stages of the proceedings be guaranteed fair treatment and full protection of his or her rights under applicable national and international law, including international human rights law, as reflected in draft article 11.

One central component of fair treatment is a fair trial, to which many international human rights instruments attach particular importance. As stated by the Human Rights Committee the right to a fair trial is a key element of human rights protection and a procedural means to safeguard the rule of law.

Draft Article 12 addresses the rights of victims, witnesses and other persons affected by the commission of a crime against humanity.

Victims are at the heart of international criminal justice today. Since 1980's, the international community has started to pay closer attention to the central role of victims and witnesses in criminal law and proceedings. Provisions similar to the draft article 12 have been included for example in the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance. The General Assembly, through its resolutions, has also provided guidance on the rights of victims to justice and to reparation.

The Nordic countries welcome that Draft Article 12 covers many essential elements on victim and witness participation and rights. These include the right to report crimes to competent authorities, protection from ill-treatment and intimidation, allowing their voices to be heard at appropriate stages of the criminal proceedings and ultimately to receive reparation for the damage suffered.

Victims of the most serious international crimes, such as crimes against humanity, have a right to reparation for the harm they have suffered. We welcome the comprehensive concept of reparation included in the Draft Article, rightly reflecting the evolution in international human rights law on this matter. Paragraph 3 includes a list of forms of reparation, which include, but are not limited to, restitution, compensation, satisfaction, rehabilitation, cessation and guarantees of non-repetition. We welcome this comprehensive but non-exhaustive listing, while noting that other auxiliary rights of victims, such as right to truth, can be important in reconciliation processes and transitional justice.

This concludes, Chair, our initial reflections on the Draft Articles 5, 11 and 12.

I thank you.