



**Sixth Committee “Resumed session on Crimes Against Humanity: Opening
and Cluster I”**

**Statement by Janine Ensing, Legal Officer, Ministry of Foreign Affairs of the
Kingdom of the Netherlands**

NEW YORK, 1 April 2024

Thank you for giving me the floor.

The Kingdom of the Netherlands aligns itself with the statement of the European Union and would like to add the following in our national capacity.

Since this is the first time that my delegation is taking the floor this week, let me start by thanking you, chair, and the other members of the Bureau and the Secretariat for organizing this week's resumed session on crimes against humanity.

I would also like to thank the Co-facilitors' for providing us with a list of possible issues and questions, which can serve as a useful guide for our discussions this week.

Chair, before turning to our comments on the preamble and article 1, allow me to make a few general remarks:

The Kingdom of the Netherlands reiterates its position that crimes against humanity are among the most serious crimes under international law. Their prevention and punishment are of concern to the international community as a whole.

Despite being categorically prohibited under international law, people continue to be victims of such atrocities and perpetrators continue to act with impunity. The current international context once again illustrates the need to fill the gap in the international legal framework for the prevention and punishment of the most serious international crimes.

A specific convention on the prevention and punishment of crimes against humanity would serve to strengthen and facilitate the harmonization of domestic legislation on crimes against humanity, facilitate inter-state cooperation and ultimately serve as another instrument to combat impunity.

It is our position that the ILC's draft articles represent a strong basis for a future convention, and we look forward to engaging in constructive discussions this week.

Let me now turn to our specific comments on Cluster 1:

The Kingdom of the Netherlands considers that the prohibition of crimes against humanity is a peremptory norm of general international law (*jus cogens*). The norm is accepted and recognized as one from which no derogation is permitted and which can only be modified by a subsequent norm of general law. We therefore particularly welcome the reference to the *jus cogens* nature of the prohibition of crimes against humanity in paragraph four of the preamble.

Two other paragraphs that we wish to highlight are paragraphs five and six. The overarching objective of the draft articles [and a possible future convention] on crimes against humanity is their prevention and punishment. Paragraphs five and six highlight these two interconnected objectives by indicating that prevention is advanced by putting an end to impunity for the perpetrators of such crimes.

On paragraph 7, the Kingdom of the Netherlands welcomes the general reference to article 7 of the Rome Statute, which served as a model for the definition of crimes against humanity. This definition has emerged over many years of practice and is supported by a large number of States. It is our view that retaining this definition serves the interest of legal certainty.

Finally, since article 1 addresses the scope of the draft articles, the Kingdom of the Netherlands only wishes to highlight that the reference to its two main objectives, the prevention and the punishment of crimes against humanity, is appropriate and should be retained.

This concludes our comments on cluster 1. Thank you, Chair.