

**India's Statement concerning Draft Articles on Prevention and Punishment of
Crimes Against Humanity as recommended by the International Law
Commission**

1st-5th April 2024

Tuesday, 2nd April, 2024

Cluster 2. Draft Articles 2, 3 and 4 of ILC

Draft Article 2 (Definition)

The definition of crimes against humanity is a verbatim reproduction of Article 7 of the Rome Statute which does not enjoy universal acceptance and neither does it reflect the existing customary international law.

Besides, my delegation has serious objections to the exclusion of terror related acts and use of nuclear weapons specifically from the definition of crime against humanity. We fail to understand as to how and why such acts do not qualify for being referred to as crimes against humanity. In this context it would be worthwhile to note that over the past four decades, we have seen the devastation caused by terror related activities. It has further been evident that many States have actively connived in such activities and provided support to such groups. In such circumstances should we take that ILC does not recognize that such crimes endanger the important contemporary values "the peace, security and well-being of the world".

Regarding Draft Article 3

My delegation is of the view that the formulation of draft article 3 is not only ambiguous but also lacks clarity. The formulation also runs contrary to the fourth preambular paragraph of the draft articles. The draft article proposes a customary based definition of crimes against humanity while indicating that these are "crimes under international law" whereas the fourth preambular paragraph proposes that these "are a peremptory norm of general international law (jus cogens)".

Besides, we also believe that it would be appropriate to clearly indicate in the provision, respect for the principles of sovereignty and non-interference before addressing general obligations

Regarding Draft Article 4.

My delegation believes that reference to other organizations in paragraph (b) of proposed draft article 4 is not only inappropriate but also ambiguous. Cooperation should be restricted to States and relevant inter-governmental organizations only.