



PERMANENT MISSION OF ARMENIA
TO THE UNITED NATIONS

2 April 2024

**UNGA 78 Sixth Committee / Agenda item: 80 – Crimes against humanity:
Thematic Cluster 2: Draft Articles 2, 3, 4**

Statement of the Permanent Mission of Armenia to the United Nations

Madam Chair,

We note that draft Article 2 on the definitions of crimes against humanity, as drafted by the International Law Commission, can serve as a solid basis for future negotiations, mindful of the diverging views amongst Member States regarding the universal acceptance of the Rome Statute and the definitions in customary international law. As a starting-point, we concur with the Special Rapporteur, Mr Sean Murphy, that the International Law Commission had made it clear from the inception of the project that its aim was not to codify customary international law but rather “the drafting of provisions that would be both effective and likely acceptable to States, based on provisions often used in widely-adhered-to treaties addressing crimes”.¹

In view of its fundamental and unitary character, preserving the basic definition of crimes against humanity intact will be crucial. To prioritize wide participation in the potential convention and achieving broad consensus on the text, consideration could be given to exploring adjustments to draft Article 2. In this respect, while it is possible that consensus can be reached to amend certain specific crimes in the definition, an alternative approach in default of consensus to enable their participation could also be to preserve the existing text but permit reservations to those specific crimes. In the absence of a unitary definition, the practical problem that could arise are conflicts between national legal systems with differing definitions.

Article 3: General obligation

The balance and clarity achieved by the International Law Commission in draft Article 3 is grounded in clear and longstanding lines of evolutionary development in the jurisprudence of the

¹ Murphy, ‘Fourth report on crimes against humanity’, UN Doc. A/CN.4/725 (18 February 2019) para. 19 (‘Fourth Murphy Report’).

International Court of Justice, international criminal tribunals and national courts² and can serve as a good basis for further considerations.

Article 4: Obligation of Prevention

As the formulation of the International Law Commission in draft Article 4 on prevention and punishment is also based upon precedents in treaty formulations, our work can continue on that basis. We also regard the relationship between draft Article 4 and other provisions of the draft Articles, notably Articles 3, 9 and 14, to be sufficiently lucid.

² 'Draft articles on Prevention and Punishment of Crimes against Humanity with commentaries', UN Doc. A/74/10 (2019) 47-53 ('Crimes against Humanity Articles').