



**Statement by H.E. Archbishop Gabriele Caccia
Apostolic Nuncio and Permanent Observer of the Holy See
Sixth Committee, Resumed Session
during the 78th Session of the United Nations General Assembly
Agenda item 80: Crimes against humanity
Cluster 3: National measures (Articles 6, 7, 8, 9 and 10)**

New York, 3 April 2024

Mr. Chair,

The obligation of States Parties to ensure that their domestic laws criminalize crimes against humanity, as set forth in Draft Article 6, is key to the success of the new treaty. In particular, the Holy See welcomes the requirement, in Draft Article 6(5), that States ensure that an official position is not a ground for excluding personal criminal responsibility. It should be noted, however, that this is not the place to discuss or amend the legal regime applicable to the procedural immunity of foreign public officials. Such immunity, which derives from State sovereignty and the principle of non-interference, is indispensable for peaceful and friendly relations between States. Therefore, my Delegation suggests that a saving-clause be inserted at the beginning of Draft Article 6(5), stating that measures to be adopted are without prejudice to the immunity of foreign public officials under international public law.

With regard to Draft Article 6(7), my Delegation recalls that, in addition to protecting the common good and preserving public order, penalties should “do everything possible to reform, improve and educate” offenders.¹ Therefore, the death penalty can never be an appropriate response to crime.²

Mr. Chair,

My Delegation also notes that the application of Draft Articles 9 and 10, on preliminary measures and the principle of *aut dedere aut judicare*, requires

¹ Pope Francis, Letter to Participants in the 19th International Congress of the International Association of Penal Law and of the 3rd Congress of the Latin-American Association of Penal Law and Criminology, 30 May 2014.

² Cf. Catechism of the Catholic Church, n. 2267.

the fulfillment of two conjunctive conditions: *first*, that the alleged offender is present within the territory of the State and, *second*, that he or she is effectively subject to the jurisdiction of the territorial State. As the ILC notes in footnote 432 of the Commentaries, this requirement includes “any procedural safeguards concerning the exercise of jurisdiction over an alleged offender”, such as diplomatic or personal immunity.

Thank you, Mr. Chair.