



**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 4: International measures
(Articles 13, 14 and 15 (and annex))**

New York, 4 April 2024

Mr. Chair,

Draft Articles 13, 14 and 15, as well as the annex, provide a valid framework for promoting international legal cooperation in the prosecution of crimes against humanity, without being overly prescriptive. However, given that such a framework would be closely intertwined with national legal systems, it is essential that, if a Convention is adopted, it contains appropriate safeguards to avoid any potential conflict with the duty of States to uphold the right to life, to prevent torture and to respect other fundamental human rights.

In this context, the Holy See supports the current wording of Draft Article 13(7), since it allows those States that have abolished the death penalty not to extradite an alleged offender if he or she may be subject to the death penalty. Similarly, those States which maintain the death penalty in their legislation but do not apply it in practice should be able to refuse extradition on the same basis.

While supporting the general objective of Draft Article 13(11) – which is modelled on similar provisions contained in the UN Convention against Transnational Organized Crimes and the UN Convention against Corruption – my Delegation cannot support the ILC’s proposal to replace the term “sex” with “gender” among the valid grounds for refusing extradition. This change does not reflect customary law and would not be acceptable for my Delegation, unless the definition of gender contained in Article 7(3) of the ICC Statute is retained in the Draft Articles. At the same time, the Holy See

condemns all forms of violence against homosexual persons and recalls that, as Pope Francis has stated, “to criminalize people with homosexual tendencies is an injustice”.¹

Moreover, in addition to the grounds for refusing extradition already set forth in Draft Article 13(11), no State should be bound to extradite if there are substantial grounds for believing that the alleged offender would be in danger of being subject to torture or other cruel, inhuman or degrading treatment or punishment in the requesting State. Therefore, the Holy See proposes the addition of a new paragraph to Draft Article 13 based on Article 30(1)(d) of the recently adopted Ljubljana-The Hague Convention.

Mr. Chair,

While my Delegation is broadly satisfied with the current wording of Draft Article 14 on mutual legal assistance, this Article must also include adequate safeguards. Therefore, the Holy See proposes that a new paragraph be added to Article 14 concerning the grounds for refusal of mutual legal assistance, parallel to the current Draft Article 13(11), with the necessary modifications.

Thank you, Mr. Chair.

¹ Pope Francis, In-Flight Press Conference on the Papal flight from South Sudan, 5 February 2023.