

6th Committee of the 79th Session of the UNGA

(Agenda Item 80)

“Crimes Against Humanity”

India Statement

(10th October 2024)

Mr. Chairman,

States have the primary responsibility and obligation to ensure justice and accountability for gravest violations of human rights and mass atrocities, that have been committed either in their territory or by their nationals. Any attempt to impose legal theories or definitions derived from other international agreements will not enjoy universal acceptance.

2. Any treaty requiring States parties to fulfill their international obligations should thoroughly consider differences in legal systems and respect the States' sovereignty. Only then can such a Convention gain universal acceptance.

3. As we deliberate on the draft articles proposed by the International Law Commission (ILC) on prevention and punishment of crimes against humanity, our endeavor should be consistent with the Charter of the United Nations and the universally recognized principles of international law.

4. My delegation has constructively engaged in the preparation of draft articles. We are of the view that terror related acts and use of nuclear weapons must be included in the definition of crime against humanity as they are horrific crimes which qualify for being referred to as crimes against humanity. India is not in favour of simply transposing already existing regimes into a new convention.

Mr. Chairman,

5. We believe that a clear jurisdictional linkage principle should be established for exercise of jurisdiction by States over crimes committed by their nationals. It is in the interest of justice, the rights of the accused, with due consideration to the interests of victims and other such considerations, the territorial or national jurisdictions should be given primacy.

6. The draft articles should not take primacy over a Member State's sovereign right to exercise jurisdiction through its judicial mechanisms for addressing complaints, including Crimes against Humanity-as defined in the respective penal codes.

7. We would like to reiterate that the existing international instruments elaborately address the issue of crimes against humanity. The draft articles are inspired by the Rome Statute of the International Criminal Court.

8. Post 2005, the referrals of situations to International Criminal Court, especially the haste with which such referrals have been made, have come under criticism. The acquittals in recent years have also cast a shadow on the credibility of the ICC. These developments appear to substantiate the view that when cases are referred to ICC primarily for political reasons, the ICC mechanism may not serve the larger purpose of justice. Moreover, several countries in Africa and Asia, including India, and majority of the Permanent Members of the UN Security Council are not parties to the Rome Statute.

9. Therefore, it is important that concerns with the content of the draft articles should be addressed through constructive engagement and meaningful dialogue. An open, inclusive, and transparent debate on this topic is necessary within this Committee further so as to prevent any conflict with the already existing legal framework. The legitimate concerns of all Member States must be taken into account, and there should be no attempt to impose legal theories or definitions derived from other international agreements that do not enjoy universal acceptance.

Thank You Mr. Chair.