



**Statement by H.E. Archbishop Gabriele Caccia
Apostolic Nuncio and Permanent Observer of the Holy See
UNGA 79 – Sixth Committee
Agenda item 80: Crimes against humanity
New York, 10 October 2024**

Mr. Chair,

Since this is my first intervention in this Committee during the current session of the General Assembly, allow me to congratulate you and the other members of the Bureau on your election. I would also like to take this opportunity to thank the co-facilitators for guiding the resumed session of the Sixth Committee on this topic earlier this year.

Mr. Chair,

Customary international law has indeed long recognized crimes against humanity as international crimes. Nonetheless, the conclusion of a universal, multilateral, legally binding instrument, codifying the existing customary law in this area, would certainly facilitate international cooperation for the prevention and punishment of these heinous acts.

On the other hand, the definition of these acts must also be deeply rooted in customary international law. Therefore, in defining such crimes, this Committee should not depart from existing customary norms. Adding to or modifying the already agreed upon definitions of these crimes as contained in the ICC Statute, before State practice and *opinio iuris* have fully developed, would not only hinder consensus, but would also undermine the effectiveness of the new instrument.

In such a context, my Delegation cannot but express its concern for the fact that the ILC draft omits the definition of gender contained from Article 7 of the ICC Statute.

Neither State practice nor *opinio iuris* supports a definition of gender different from that found in the Rome Statute. Moreover, the lack of a clear definition of gender rooted in the biological reality of the two sexes would undermine our efforts to prevent and prosecute those crimes that disproportionately affect women, such as rape, sexual slavery and forced prostitution. Similarly, the Holy See cannot agree to any change to the definition of forced pregnancy as contained in Article 7 of the ICC Statute.

At the same time, efforts to prevent and punish crimes against humanity must respect, on the basis of the principle of complementarity, the sovereignty of other States. Any new convention should therefore follow well-established precedents, building on the duty of States Parties to prosecute crimes within their own borders and to cooperate with each other in extraditing perpetrators and in assisting victims.

The principle of legality and the core principles of criminal justice, including the right to due process and the presumption of innocence, must always be respected. On the other hand, these negotiations are not the place to amend the norms regarding 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.

On the issue of the death penalty, the new convention should allow those States that have abolished the death penalty not to extradite an alleged offender if he or she may be then subjected to capital punishment.

Moreover, no person should be expelled, returned, surrendered or extradited to a jurisdiction where he or she risks being subjected to a crime against humanity or if there are substantial grounds for believing that he or she will be subject to torture or other cruel or inhuman treatment.

The new instrument should also uphold the dignity of victims, by enshrining in law their right to receive compensation and assistance to repair the damage they have suffered and to facilitate their reintegration into society. Given that such assistance may not be readily available in the territory where the crimes were committed, assistance to the victims from other States, international organizations, non-governmental organizations and religious charitable institutions should also be encouraged.

The Holy See therefore supports the conclusion of a universal, multilateral, legally binding instrument on the prevention and punishment of crimes against humanity, on the basis of existing customary law, with a view to upholding the dignity of every human person, promoting international cooperation and ending impunity for perpetrators.

Thank you, Mr. Chair.