



PHILIPPINES

Please check against delivery

## STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations  
Agenda Item 83: Crimes Against Humanity  
Sixth Committee  
76th Session of the United Nations General Assembly  
13 October 2021, Conference Rooms 1-3  
UN Headquarters New York

Thank you, Madam Chair.

When the draft articles on the prevention and punishment of crimes against humanity was first introduced into the agenda of the Sixth Committee, we joined delegations in recognizing the work of the International Law Commission (ILC), particularly the Special Rapporteur, and cited the Draft Articles as ‘an important contribution to the international community’s collective efforts to deter and curtail atrocity crimes’.

[In 2019, the ILC decided to recommend the draft articles on prevention and punishment of crimes against humanity to the General Assembly. In particular, the ILC recommended the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles.]

For the Philippines, as matter of state policy, “the most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.”

If the present draft articles were to become the basis of a Convention, then the Philippines would have complied with the fundamental obligation contained in draft Article 6 on criminalization under national law, that is, that each state shall take necessary measures to ensure that crimes against humanity constitute offences under its criminal law.

After all, as early as 2009, we passed into law the ‘Philippine Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity’. The said law defines “crimes against humanity” in our jurisdiction, based on a list of acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. [The acts listed include, inter alia, willful killing, extermination, torture, prosecution, and other inhumane acts of a similar character.]

Philippine law defines crimes against humanity consistent with the draft articles. One difference is the enlargement of the concept of persecution, with the specific mention of persecution on the basis of sexual orientation in our law.

As an instance of state practice, there are elements in the law that are of value in relation to ILC's mandate for the progressive development of international law and its codification. The law includes a substantive chapter on the protection of victims and witnesses, in particular, reparations for victims. The law also specifies the applicability of international law, including relevant agreements that the Philippines may ratify or accede to.

At this point, however, the Philippines is of the view that the question of the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles needs further deliberation both by Member States on a national level, and by this Committee.

We have cautioned against the premature commencement of negotiations for a convention, noting the concerns raised by states during our previous deliberations – including on state sovereignty, overbroad assertions of jurisdiction, politicization of human rights, as captured in the relevant summary records. The issue of developing national capacities in the investigation and prosecution of crimes against humanity, as well as the implications of the extradition and mutual legal assistance articles are also critical with respect to the good faith implementation of commitments. Implementation is key, whether with respect to international agreements or domestic laws.

The Philippines reiterates that the Sixth Committee is the primary forum for the consideration of legal questions in the General Assembly. In the exercise of its mandate, the Sixth Committee must not be rushed into handing over that mandate to a diplomatic conference over which no consensus has so far been reached. Our measured response to the recommendation of the ILC does not undermine the credibility of the Committee, rather it compels us to re-examine our working methods as we discharge this mandate and work towards our common aspirations to do justice.

Thank you.