



UN GENERAL ASSEMBLY SIXTH COMMITTEE: Resumption of the Seventy-Seventh Session

Crimes against humanity: Cluster 1

10 April 2023

Statement by Australia

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Thank you Mr Chair,

Australia wishes to commence by thanking the International Law Commission (ILC) for its efforts on prevention and punishment of crimes against humanity, which have brought us to this important session today.

Australia is pleased that we reached consensus last year and that the General Assembly decided the Sixth Committee would resume at this session, and again in April 2024, to exchange substantive views on all aspects of the ILC's draft articles and its recommendation in respect of them.

It is critical that we now build on this momentum and engage constructively to strive for convergence on the way forward.



In successive Sixth Committee debates for many years, we have heard a widespread commitment to combatting impunity for crimes against humanity, recognising they are among the most serious crimes of international concern.

In Australia's view, a convention on the prevention and punishment of crimes against humanity is critical for the international community to achieve this shared goal.

Such a convention would close the gap in the current international legal framework regarding serious international crimes.

It would also provide a new, catalytic basis to strengthen international cooperation for the prevention and punishment of these most heinous crimes, including through building national capabilities in that regard.

Of course, in this initial exchange of views at this resumed session of the Sixth Committee, there will be some differences of views on the substance of some draft articles.

Australia does not see this as a reason not to progress our discussions.

Rather, we see it as a sign that we are ready to engage on the basis of the draft articles; that they provide a valuable starting point for a potential process of elaborating a convention.



Preamble and draft article 1 (Scope)

Mr Chair,

Turning to Cluster 1 of this resumed session, Australia is supportive of the conceptual framework established by the preamble and the scope set out in draft article 1.

In particular, Australia welcomes the preamble's emphasis on the primary responsibility of States to investigate and prosecute crimes against humanity, as well as the importance of the dual objectives of prevention and punishment of such crimes.

These elements underpin the need for a convention on crimes against humanity: to equip States with the tools needed to fill the impunity gap that exists within the current international legal framework.

We are also mindful of discussion over the preamble's reference to the prohibition of crimes against humanity as having *jus cogens* status.

Australia finds the reasoning set out in the ILC commentaries in this regard to be persuasive and, on this basis, we consider it to be an important inclusion in the preamble.



It reflects that the prohibition of crimes against humanity is accepted and recognised by the international community as a norm from which no derogation is permitted.

Finally, we note that others have raised today some proposals for how the preamble may better reflect, for example, the interests of victims and witnesses.

We wish to take the opportunity to note that Australia is also giving consideration to, more generally, how we could better integrate gender equality and First Nations perspectives as cross-cutting issues throughout the draft articles.

Mr Chair,

Australia joins others today in paying tribute to Ben Ferencz. While deeply saddened by his passing, his life and legacy remind us of why we are here today.

Australia looks forward to the remainder of both parts of the resumed session of the Sixth Committee. We stand ready to continue listening and engaging on the substance of all aspects of the ILC's draft articles and its recommendation to elaborate a convention on the basis of them.

Thank you.