



10 April 2023

**Statement by H.E. Majed Bamyá, Deputy Permanent Observer of the State of Palestine, before 77<sup>th</sup> General Assembly Meeting of the Sixth Committee on Agenda Item 78: Crime Against Humanity (Cluster I):**

At the outset, we join the international community in mourning the loss of Prosecutor Benjamin Ferencz. As a witness to, a survivor, and a prosecutor of the most heinous crimes that befell humanity, notably the Holocaust. Ferencz dedicated his dignified life to pursuing justice. He embodied the principles that all human beings deserve a life of dignity and rights free of fear and persecution; that there can be no peace without justice; and that no one is beyond accountability. Ferencz dedicated his life to prevention and prosecution of crimes against humanity globally, and the State of Palestine remains committed to fighting impunity, to the objective of a Convention helping to achieve this aim, and finally addressing a glaring and unacceptable gap in the normative framework to prevent and punish crimes of concern for the international community as whole.

Our forefathers and foremothers did their part and we inherited from them rules to preserve humanity and to advance a more just and peaceful world and now we must decide of the world we pass on to future generations. An important part of our legacy will be determined by the discussions in this room. We must act with the victims in mind, all victims, the victims we might not be able to spare but have a duty to deliver justice to, and those we might be able to save from such a horrific fate.

The State of Palestine welcomes the draft articles on crimes against humanity and recognizes the indispensable role of the ILC as it is uniquely placed as the universal body tasked with making recommendations for the purpose of encouraging the progressive development of international law and its codification. The Sixth Committee is the appropriate forum to discuss the ILC draft articles and we express our appreciation to all States for reaching consensus to allow this in-depth discussion that should help us identify together the way forward.

The State of Palestine is proud of the role it was able to play to contribute to reaching such consensus, including its efforts to reconcile two opposing views, one pleading for the convening of a resumed session of the sixth committee and the other advocating for the establishment of a working group. The State of Palestine is proud that its proposal to hold a substantive, thematic and interactive resumed session of the sixth committee contributed to reaching consensus. We decided to put this proposal forward to contribute to consensus while it runs counter to the State of Palestine's own interests in terms of participation as it prevents us from taking part in these deliberations on equal footing with Member States as would have been the case in a working group format. We wish to also recognize the important role of the co-facilitators of the resolution and of the States which were willing to make compromises to allow us to reach consensus and convene today.

The State of Palestine supports this inclusive and deliberative approach in discussing the draft articles. We are encouraged that this approach will further inform the General Assembly's process to find consensus on a path forward.

The State of Palestine would also like to take this opportunity to thank international organizations and civil society for their contributions and submissions. We have advanced and continue to advance international justice with you.

The State of Palestine generally agrees with the ILC's proposed draft articles on prevention and punishment of crimes against humanity and inter-State cooperation and notes the following regarding Cluster I:

1. We welcome the recognition that crimes against humanity threaten peace, security and well-being of the world. Preambular 1 essentially and rightly stresses the necessary link between the pursuit of justice and the maintenance of peace and security, echoing the purposes set forth in Article 1 of the UN Charter;
2. While taking note of the commentary provided in Preambular 3, we are of the view, and given the distinct nature of the draft articles and the crime therein, that reference to principles of justice should also be mentioned, in accordance with Article 1 of the UN Charter;
3. It is important that Preambular 4 recalls that the prohibition of crimes against humanity is not only a rule under customary international law but is also a *jus cogens*, with certain obligations, of which no derogation can be permitted, and with particular consequences;
4. While it is important to recall that crimes against humanity are among the most serious crimes of concern to the international community as a whole, it is equally important to recall in Preambular 5 that it entails not only an obligation in terms of prevention but also in terms of prosecution;
5. Ending impunity is not only to deter or prevent the commission of these crimes but also to ensure accountability for those who nevertheless do commit them and that should be duly reflected in Preambular 6;
6. There is relatively a limited State practice investigating and prosecuting crimes against humanity at the national level within national courts, separate from the Rome Statute. As such, the reference in Preambular 7 to the consideration of the definition of these crimes in Article 7 of the Rome Statute is valuable and without prejudice to each State's position on acceding to the Rome Statute itself. We believe that consistency would only reinforce the international regime to deter and prosecute those responsible for the commission of crimes against humanity;
7. The State of Palestine is a strong supporter of a victim-oriented approach. We welcome the reference to victims and witnesses in Preambular 9. This reference is an explicit recognition of the indispensable role of the victims and witnesses in prevention and punishment of crimes against humanity. We submit, in line with other relevant Conventions and preambles therein, that "the right of victims to justice and to reparation", is one of the purposes of criminal justice and should be included. We reassert that reparations include not only those who most directly suffer crimes against humanity but also subsequent generations who live with the consequences of those crimes. While we support a reference to fair treatment and fair trial in

principle, we do not believe it should be addressed in the same paragraph as the rights of victims and witnesses;

8. The State of Palestine attaches importance to ensuring that the proposed draft articles supplement and are complementary to existing instruments. We believe that consistency and building upon existing obligations will only strengthen the international regime to prevent and prosecute crimes against humanity. This will help both in strengthening national response and international cooperation. We note that from a conventional law perspective, the obligations to prosecute or extradite are reflected in the conventions on torture, enforced disappearance, and apartheid- listed as crimes in the proposed Article 2 of these draft articles. Recalling these conventions in Preambular 10 will thus further consolidate the international regime on crimes against humanity;
9. Draft articles on prevention and punishment of crimes against humanity are a harmonious part of the global regime of international protection of human rights. Indeed, crimes against humanity are essentially systematic and widespread violations of human rights. As such we suggest adding the standard reference to the Universal Declaration of Human Rights , as an embodiment of the widest possible consensus on human rights. For example: “Considering the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin”.

As for article 1, we remain convinced of its legal value and the importance of its inclusion.

Finally, we assure you of the State of Palestine’s full commitment to constructively engage with other States and colleagues.