



PHILIPPINES

CHECK AGAINST DELIVERY

STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations
Agenda Item 83: Crimes Against Humanity (*Cluster II - Articles 2-4*)
Sixth Committee
Resumed 77th Session of the United Nations General Assembly
11 April 2023, 3:00 PM
UN Headquarters New York

Thank you, Chair.

The Philippines has the honor to share the following views on Cluster 2 of the Draft Articles.

As context, the Philippines passed into law the 'Philippine Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity' (or Republic Act 9851) in 2009.

Philippine state policy, as explicitly set out in said law, contains the following elements:

- First, the most serious crimes of concern to the international community as a whole must not go unpunished;
- Second, the effective prosecution of these most serious crimes must be ensured by taking measures at the national level;
- Third, this is for the purpose of putting an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes;
- It is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.

Against this legal and policy framework, our preliminary comments on the Draft Articles are as follows:

- **On Draft Article 2 on the definition of crimes against humanity**

As noted in the International Law Commission's Commentary, the text of Article 2's first two paragraphs, which establish a definition of "crime against humanity," is an 'almost verbatim copy of the text of article 7 of the Rome Statute.'

Draft Article 2 is generally consistent with the definition of 'other crimes against humanity' under our national law, RA 9851, which defines it 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. The definitions under Draft Article 2(2) are also generally consistent with those under Philippine law.

For this reason, the Philippines could support Draft Article 2, with the following suggested revisions: Article 2(1)(a) could read “willful killing” instead of murder; Article 2(1)(d) add the word “arbitrary” to read “arbitrary deportation or forcible transfer of population; Article 2(1)(h) add “sexual orientation” after gender such that the list includes persecution based on that ground.

We could also support Draft Article 2(3) on the understanding that should a State wish to adopt or retain a broader definition in its national law, the draft articles would not preclude it from doing so.

- **On Draft Article 3 on general obligations**

With regard to the general obligations of States, as set forth in Draft Article 2, we support the inclusion of the general obligation of States not to engage in acts that constitute crimes against humanity and the further general obligation to prevent and punish crimes against humanity. This would be in line as well with existing national law and policy in favor of ending impunity for the perpetrators of these crimes and prevent their commission.

Under our law, no exceptional circumstances whatsoever may be invoked as a justification of crimes against humanity, and Paragraph 3 of Draft Article 3 makes this clear as well.

- **On Draft Article 4 on the obligation of prevention**

We note the further obligation of prevention in Draft Article 4, which makes it mandatory for each State to prevent crimes against humanity, in conformity with international law, through effective legislative, administrative, judicial, or other preventive measures in any territory under its jurisdiction as well as through cooperation with other States and other international organizations.

We support the inclusion of the current draft Article, noting that the Philippines has complied with this further obligation contained in draft Article 4 (a) that is, by taking legislative measures to prevent crimes against humanity, particularly through the passage of RA 9851.

Cooperation for the effective prevention of crimes against humanity must always proceed in conformity with international law.

Thank you. **END**

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