



PERMANENT MISSION OF CUBA TO THE UNITED NATIONS
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STATEMENT BY THE DELEGATION OF CUBA AT THE SIXTH COMMITTEE
ITEM 81 "CRIMES AGAINST HUMANITY"
New York, 14 October 2020

Mr. Chairman,

We appreciate the work carried out by the International Law Commission in order to present the draft articles on this topic.

Cuba is a historic defender of respect for international law and its principles, especially for international criminal law.

The fight against the impunity of crimes against humanity has great significance and importance in the current international context. For this reason, Cuba considers that the draft articles prepared by the International Law Commission is a valid contribution to the efforts to concretize prevention and international repression of this type of crimes and will

contribute to the efforts to reinforce the international criminal justice system.

Likewise, it provides a useful guidance for States that have not yet adopted regulations relating to the criminalization and prosecution of those crimes at the national level.

Cuba recognizes the efforts made by the Special Rapporteur to take into account various national and regional approaches in order to enrich the draft articles and contribute to national consensus.

At the same time, it considers it appropriate to reiterate that a Convention on this matter must reflect, as a fundamental principle, that the primary responsibility to prevent and punish serious international crimes that take place under its jurisdiction must fall, first of all, on the State in question.

Cuba shares the views expressed by others that this principle should be part of the content of the operative

part of the Convention, apart from the fact that it may be mentioned in the preamble.

One of the main principles of international criminal law is that States have the sovereign prerogative to exercise, in their national courts, jurisdiction over crimes against humanity committed on their territories or by their nationals. This principle is based on the fact that no one is in a better condition to effectively prosecute the perpetrators of this type of crime than the State with jurisdiction on grounds of the territory or the nationality of the defendant or the victims.

The abovementioned will benefit a better application of justice, since the interests of the victims, the rights of the defendant and other similar aspects will be taken into account. The application of other prosecution mechanisms should be considered only when States are unable or unwilling to exercise jurisdiction over these crimes.

Mr. Chairman,

The Sixth Committee must continue to consider this issue based on the comments of States, given the concerns that still exist in some substantive matters of the draft articles presented. This discussion will report a practical benefit to ensure that a possible future international convention, based on them, is not in contradiction with national laws applicable to crimes against humanity.

Only in this way it will be possible for a future Convention to be widely accepted by the international community and for its drawing-up to take into account the differences between the different existing national systems of law, as well as those States that are not Parties to the Rome Statute of the International Criminal Court.

Said Convention must avoid conflicts with international instruments already adopted, in order to ensure that there is coherence with current regulations and institutions of international criminal law, as well as avoid the legislative dispersion of this issue in the international system.

We reiterate that the binding force of this type of instrument derives from the consent of States in the process of establishment of international law. We cannot consider the ILC, by itself, as a sort of legislative body in charge of establishing norms of international law. Its valuable contribution has been to record the issues in which the States have prepared regulations with significance for international law and to propose those matters with respect to which the States might be interested in studying the possibility of preparing them. In this regard, the drawing-up of draft articles is not an exercise of codification of customary international law, but rather an effort in the progressive development of law.

Thank you.