

Statement by
Mr. Ali Nasimfar, Representative of the Islamic Republic of Iran
Before the Sixth Committee of the
75th Session of the United Nations General Assembly
on
“Prevention and punishment of Crimes against Humanity”
(Agenda item 81)
New York, 15 October 2020

Thank you, Mr. Chairman,

My delegation extends its gratitude to the International Law Commission for its valuable work in providing the draft articles on the “Prevention and punishment of Crimes against Humanity”, and reaffirms Iran’s unwavering commitments to the prevention and punishment of these heinous crimes.

With respect to the draft articles presented to the Sixth Committee, we have expressed our viewpoints in the previous meetings and I will highlight today a few points, in view of time constraint.

on the way forward: Given the divergence in the comments and observations of the Member States it is obvious that further work is needed so as to allow the relevant authorities of the Member States to provide their comments and engage in an inclusive and intergovernmental negotiation. The work of the ILC could be considered as a source, in this process that should be shaped under the auspices of the Sixth Committee. Therefore, it is premature at this stage to call for a diplomatic conference to adopt the proposed draft articles.

Mr. Chairman,

with respect to substance, my delegation would like to raise following points:

1. The obligation of States to prevent crimes against humanity, as currently drafted, is too broad and will therefore add on to the legal ambiguity on the scope of prevention. it is recommended that draft articles articulate the obligations of

Parties to the Convention in detail and do not leave it to subsequent practice of Member States.

2. Draft articles provide that States are under an obligation to cooperate, as appropriate, with "other organizations". According to the commentary, "other organizations" includes non-governmental organizations. However, the commentary has not addressed the legal basis of such obligation, if any, as well as the practice of States in that respect. We believe that it is inappropriate to impose such an obligation upon States.
3. We are also concerned with the possible implication of Paragraph 3 of draft article 2 which provides: "This draft article is without prejudice to any broader definition provided for in any international instrument, in customary international law or in national law." We are of the view that the addition of this phrase cannot serve for the purpose of harmonization of national laws and it will pave the way for further fragmentation of the concept. In this regard, the basis of any broader definition in draft article 2 should be only the future developments of treaties or contractual law.
4. Article 5 paragraph (2) puts forward a non-legal criterion for determination of the refusal for the extradition of a criminal to a requesting state, which may be abused due to politically motivated considerations. The current formulation of this article would lead to impunity or arbitrary implementation of justice. There are other instances where the draft articles have, willingly or unwillingly, linked the future convention with political issues. For example, Article 14 paragraph (9) is intended to create an obligation for member states to enter into agreements or arrangements with international mechanisms that are established by the United Nations or by other international organizations with a mandate to collect evidences, with respect to crimes against humanity. Formulating a linkage between the possible convention on crimes against humanity with such mechanisms that may be established through the politicized decisions of the UN or other international organizations would increase the politicization of the overall process and, in our view, is not necessary.

In conclusion, my delegation believes that the draft articles on the “Prevention and punishment of Crimes against Humanity” should be remain open to further in-depth discussion and consideration of member states in this committee. It is important to focus on legal issues, avoid politicization and selectivity and create a framework that genuinely addresses the plight of mankind, whenever they face crimes against Humanity, in full conformity with the principles and objectives of the UN Charter.

I thank you Mr. Chairman.