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Statement by

**The Delegation of Indonesia
before the Sixth Committee of the General Assembly
on
Agenda item 83:
“Crimes against humanity”
October 2021**

Mdm/Mr. Chair,

At the outset, my delegation wishes to express its appreciation for the inclusion of this item in the committee’s agenda.

We are of the view that the global effort to prevent and punish crimes against humanity, which are among the most serious crimes of concern to the international community, is critical.

Indonesia also wishes to reiterate its position that ending impunity and denying safe haven to individuals who commit crime against humanity is our collective responsibility.

In this regard, we would like to deliver three points, as follows:

First, Indonesia cannot emphasize enough the importance of consensus in responding to paragraph 42 of the ILC’s report regarding the draft articles on the prevention and punishment of crimes against humanity.

My delegation has in this regard closely followed the development of this topic including last year’s adoption of resolution 75/136, as well as the year before, recognizing that the Committee continues to face a divergence of positions, particularly on the way forward.

Moreover, we also aware that there are still differences among Member States concerning the scope and application of the principle of universal jurisdiction, which reflects, among others, in the scope and list of such crimes within the draft articles.

We therefore strongly support the Committee in conducting further consultations to deepen understanding and hence bring us closer to an agreement/consensus.

Second, more specifically on the draft articles as highlighted in the last few years, my delegation is pleased to see the inclusion of a number of elements namely criminalization under national law and establishment of national jurisdiction in Arts. 6 and 7 respectively.

Thus, my delegation concurs with the view of some delegation which highlight the importance of clarifying the scope of Art. 7 (2) whereby state party are not obliged to establish jurisdiction if the offender is national of a non-state party.

Corollary, the same imposition should not be incurred in circumstances where both the requested state party and the country of whom an alleged offender is national, are non-state parties to the founding agreement of either the hybrid or permanent judicial mechanism that look after the offender.

With respect to Article 10, we believe that establishment of jurisdiction is inherently a matter of jurisdictional prerogative. It follows that in executing the undertakings of Art. 7 (2), states will establish jurisdiction as far as its legislation and policy allows. Meaning that Art. 10 does not supplant such prerogative that a state party may have and perform in light of Art. 7 (2). Art. 10 does not, in our view, expand, impose, or create any additional obligation in regard of *aut dedere aut judicare* principle.

Indonesia is also of the view that Arts. 13 and 14, which encompass respective matters on extradition and mutual legal assistance, are crucial. Both provisions reflect important elements of international cooperation in preventing and addressing forms of crimes against humanity.

Third, I am pleased to point out that Indonesia has promulgated Law No. 26 of 2000 on the Human Rights Court which, among others, covers crimes against humanity.

Through this Law, Indonesia's human rights court enjoys the authority to hear and rule on cases of crimes against humanity, including cases perpetrated by Indonesian citizens outside the territory of Indonesia.

Pursuant to the Law, crimes against humanity are defined as any action perpetrated as a part of a broad or systematic direct attack on civilians, in the form of 11 actions such as murder, extermination, enslavement, comparable to the current draft article produced by the ILC.

Furthermore, Law No. 26 of 2000 also describes the national judicial procedure for cases of gross violations of human rights including crimes against humanity. The procedure encompasses arrest, detention, investigation, prosecution and court hearings.

The law also contains provisions on the protection of witnesses and victims of crimes against humanity, as well as compensation, restitution and rehabilitation.

In addition, to further complement the national legal infrastructure, Indonesia also stresses the importance of cooperation among states.

In this regard, Indonesia has concluded and will further cooperate on legal frameworks with other states to deny safe haven and impunity through Mutual Legal Assistance in Criminal Matters and Extradition.

I thank you **Mdm/Mr. Chair**.
