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البعثة الدائمة لدولة إريتريا لدى
الأمم المتحدة
نيويورك

PERMANENT MISSION OF THE STATE OF ERITREA TO THE UNITED NATIONS
NEW YORK

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STATEMENT DELIVERED BY THE DELEGATION OF ERITREA

**SIXTH COMMITTEE RESUMED 78TH SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY**

AGENDA ITEM 80: "CRIMES AGAINST HUMANITY", THEMATIC CLUSTER I

1-5 AND 11 APRIL 2024, NEW YORK

Thank you Mr./Madam Chair,

Crimes against humanity are among the most serious crimes under international law and their scourge afflicts every region of the world. Eritrea, therefore, wishes to seize this opportunity to see a constructive exchange of views between States on the International Law Commission's (ILC) Draft Articles that address the prevention and punishment of crimes against humanity, without prejudice to the question of their future adoption or other appropriate action, and in line with the consensus-based tradition of the Sixth Committee.

My delegation would like to thank the ILC for its valuable work on this topic and express its sincere appreciation to the Bureau and Secretariat for facilitating this important platform for discussion.

Eritrea aligns itself with the statement delivered by the distinguished delegate of Uganda on behalf of the African Group.

Turning now to Cluster 1, Eritrea is committed to exploring applicable avenues that promote justice through national laws, its treaty obligations, the United Nations (UN) Charter, and international law. We believe that the primary responsibility for the prevention and punishment of crimes against humanity lies within the domestic jurisdiction of the State. The Draft Articles should, therefore, focus on promoting national prosecution in line with the principle of complementarity. States have the sovereign right to exercise jurisdiction over such crimes committed by their nationals and/or on their territory. Accordingly, Eritrea emphasizes that the principles of sovereignty, non-intervention in the internal affairs, political independence and territorial integrity of a state should be incorporated in **preambular paragraph 3**. The same

Paragraph should also make an explicit reference to the immunity of the State and its officials from foreign criminal jurisdiction.

Regarding **paragraph 4**, without prejudice to the ILC work on this topic, we believe that the identification of *jus cogens* norms (and their legal consequences) should be done systematically and in accordance with a generally accepted methodology. We are mindful of the discussions over the ILC's work on this topic and therefore believe further study is necessary in this respect.

In order to ensure the broadest acceptance of the Draft Articles, it is important for the provisions to reflect widely accepted principles of international law. The definition of crimes against humanity in **paragraph 7** follows the definition in the Rome Statute, which is a treaty that is not universally recognized. By considering this in the preamble, the rights of non-state parties are compromised.

Chair,

Eritrea acknowledges the ILC's intent to establish an additional component in the current international legal framework by adopting and harmonizing national laws, however, notwithstanding their merits, the Draft Articles remain legally ambiguous.

The purported universality reflected in the present Draft Articles is demonstrated to result more so in selectivity rather than egalitarianism. Eritrea reiterates its condemnation of double standards concerning the rule of law at the international level, particularly in international criminal law. Unfortunately, history and current events have demonstrated universal jurisdiction is not being applied universally.

Unless exceptionalism, double and normative standards are addressed, the international community cannot prevent a new treaty from becoming yet another archetype of selective justice. This process starts with collectively determining what constitutes the most serious international crimes, which in itself has never been a neutral endeavor.

Chair,

In conclusion, it is critical to reflect on the ILC's Draft Articles on the prevention and punishment of crimes against humanity. Considering the divergence of views among States, Eritrea asserts it is premature to engage in negotiations on the Draft Articles. It is important to first build a universal consensus on implementing an unambiguous framework without selectivity, politicization, or double standards.

I thank you.