

Sixth Committee, Resumed 78th Session

India's Statement concerning Draft Articles on Prevention and Punishment of Crimes Against Humanity as recommended by the International Law Commission

1st-5th April 2024

Tuesday, 2nd April, 2024

Thematic Cluster 3: National measures (Articles 6, 7, 8, 9 and 10)

So far as Draft Article 6 is concerned

My delegation believes that Paragraph 5 of the draft articles relating to non-exclusion of criminal responsibility of a person holding an official position, is contrary to the procedural immunity that a foreign State official may enjoy before a national criminal jurisdiction under treaty law and customary international law since the same is an inherent part of the principles of sovereign equality and non-interference in internal affairs.

Regarding Draft Article 7 (Establishment of National Jurisdiction)

We are of the view that multiple States may have jurisdiction in a given situation and may wish to exercise such jurisdiction. The draft article 7 does not explain how such potential conflict of jurisdiction can be resolved.

Similarly paragraph 2 of Article 7, besides overriding the existing bilateral treaties between States concerning extradition/mutual legal assistance, would further complicate the issue of jurisdictional conflict.

We are of the view that primacy should be accorded to the State that can exercise jurisdiction on the basis of at least one of the sub-paragraphs (a) to (c) of Article 7 (1). It goes without saying that such a State would be more interested in prosecuting the offender in question.

