

United Nations General Assembly | Sixth Committee

**Crimes against humanity
(Agenda item 78)
Resumed Session**

10 April 2023

(check against

organization of this landmark session. Brazil was a co-sponsor of Resolution 77/249 and is glad to be able to now participate in substantive discussions on the International draft articles on prevention and punishment of crimes against humanity. I am aware that delegations are advised to avoid, as appropriate, general comments and instead to focus on the draft articles themselves in their statements, but I take the liberty of making some preliminary remarks before sharing our comments on the preamble and article 1.

The ILC work on the topic of crimes against humanity seeks to fulfill an important gap in the international system, which already relies on global conventions to prevent and punish genocide and war crimes. Brazil has supported this process since its inception, and we consider that the set of draft articles presented to us by the International Law

Statute. Rather, it would bring an indispensable complement to the work of the International Criminal Court by ensuring accountability for these serious crimes at the national level, in light of the complementarity principle.

Brazil engages in this exercise with an open mind and considers it as an opportunity to reflect together with other delegations on the content of the draft articles and on how to achieve a convention on their basis. In no way the views Brazil will express during this session prejudice the approach we may take during future negotiations to what the text of an international convention on the topic should be. Brazil reserves its right to reconsider or complement its opinion on aspects of the draft articles in the future.

Mister Chair

With regard to the preamble of the draft articles, Brazil is of the view that it would be positive to incorporate language in the spirit of the preambular paragraphs of the Rome Statute that refer to the principles of the UN Charter related to the general prohibition of the use force and to non-intervention in the internal affairs of any State. This would dispel fears of misuse of allegations of crime against humanity as a pretext for aggression and interference in internal affairs of another State, thereby facilitating universal adherence to a future convention on such crimes.

Furthermore, Brazil welcomes the recognition of the prohibition of crimes against humanity as a peremptory norm of general international law, to which the jurisprudence of several international, regional, such as the Inter-American Court of Human Rights, and national tribunals attests. There can be no derogation to this prohibition. Any caveat or reservation in this respect would be inconsistent with the seriousness international law attaches to crimes against humanity.

We also commend the International Law Commission and its rapporteur for proposing a preambular paragraph that takes into consideration the definition of crimes against humanity set forth in the Rome Statute. It is of paramount importance to ensure coherence in the prosecution of the perpetrators of such crimes at the national and international levels, and in line with the principles of complementarity and non bis in idem.

