

Interventions by Pakistan on the draft International Law Commission's draft Articles on Crimes Against Humanity (Sixth Committee)

2nd Resumed Session 1st April – 5 April and 11 April 2024

Cluster wise Comments

Cluster 1:

holding the 2nd Resumed Session to discuss these draft articles.

building and the transfer of proceedings to an international jurisdiction in accordance with the complementarity principle and a clear reference to the non-retroactivity of the draft articles, in line with general international law .

I thank you, Mr. Chair.

Cluster 2. Definition and General Provisions (Articles 2,3 & 4)

Mr. Chair,

My delegation expresses its concerns regarding Article 2 , as raised by some Member States. Given that a significant number of States were not parties to the Rome Statute, the definition of crimes against humanity, derived from the Rome Statute, presents certain problematic aspects due to its broad scope.

2. The need for specific terms and their definitions such as "forced pregnancy," "enslavement," "persecution," and "enforced disappearance of persons," warrant further careful examination and study to ensure alignment with existing treaties and recent jurisprudence.

3. In Article 4, paragraph (a), my delegation reiterates that the responsibility for preventing international crimes falls within the national jurisdiction of States. We emphasize that the inclusion of broad terminology such as "or other appropriate preventive measures" may impose an overly extensive obligation on States. Therefore, it is imperative that we engage in thorough discussion regarding whether this language should be retained in the text or not.

I thank you, Mr. Chair .

Cluster 3 National Measures (Articles 6,7,8,9 and 10)

Mr. Chair,

My delegation believes that penalizing crimes against humanity is undeniably vital in upholding justice and ensuring accountability for the most egregious violations of human rights. However, it is imperative to approach this matter with sensitivity and understanding, acknowledging the diverse legislative frameworks of different nations.

2. In Article 6, "Criminalization under national Law", we would like to underscore that no customary rule obliging States to penalize crimes against humanity exists, and there is no agreed definition of crimes against humanity yet, the text of the draft article should be written in a recommendatory manner, avoiding the use of the word "shall". The suggestion made by some delegations during the first resumed session that the only the first paragraph of draft article

Cluster 5 (Safeguards (Article 5,11 and 12))

Under this cluster, my delegation for now, will only comment on 12.

2. In Article 12, paragraph 3, States are required to ensure that victims of crimes against humanity have the right to obtain reparation for material and moral damages, individually or collectively. My delegation suggests that an explicit reference to moral damages is unnecessary, to allow each State to determine the scope of eligible compensation.