

**Statements by Mr. Mohammad Ghorbanpour
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Sixth Committee
Resumption of the seventy-seventh session
10 - 14 April 2023**

Cluster 1: Introductory provisions (preamble and Article 1)

The preambular section of each international instrument is considered one of its most important parts, given its role in implementing and interpreting the instrument. It should be streamlined, concise, and encompassing. In addition, taking

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Court. However, if there is a desire to dedicate a specific instrument to Crimes Against Humanity, it should not be verbatim from ICC Statute. In this regard, my delegation proposes either the reference to Article 7 of the Rome Statute of the International Criminal Court to be deleted or the word “Considering” be replaced by the word “Noting” in the preamble's seventh paragraph.

Cluster 2: Definition and general obligations (Articles 2, 3 and 4)

With respect to **Article 2**, considering my delegation's position regarding the relevance of this draft Articles with the ICC Statute, which was expressed in Cluster 1, my delegation does not agree with such a broad description of this crime. Furthermore, this definition does not encompass all acts that can be considered crimes against humanity, such as imposing unilateral coercive measures against civilians with intentional insertion of suffering to make them dissatisfied with their governments, particularly when it results in deaths, as well as instigation, provocation, and incitement that turn peaceful protests into violence and vandalism, resulting in crimes against humanity. If there is a desire to keep this extensive definition in Article 2, including the previous additions that just suggested, it is necessary to dedicate a separate Article entitled "Elements of Crime" to this draft articles. In addition, since Crimes Against Humanity are one of the most egregious crimes under international law, the threshold should be higher than for other less serious crimes. As a result, we believe that the enumerated acts listed in article 2-1 are considered "Crimes Against Humanity" if they are committed as part of a widespread "and" systematic attack against civilians.

While paragraph 1 of Article 3 outlines the general "obligation to act" of all States not to engage in acts that constitute crimes against humanity, draft Article 4 is silent in addressing the "obligation to refrain" not to “organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State and their populations”. In the same vein, it is incumbent upon States to prevent acts of provocations, incitement, or instigations from occurring on their territories or the territory they control,

It is understood that “the United Nations Convention against Corruption” (UNCAC) and “United Nations Convention against Transnational Organized Crime and the Protocols Thereto” (UNTOC) serve as primary inspirations for the draft Articles on the Prevention and Punishment of Crimes Against Humanity. Nevertheless, it should be borne in mind that the two topics deal with two distinct sets of crimes that are very different in nature and content. Draft **Article 6** does not fall outside this conclusion and is a repurposed UNCAC and UNTOC articles. There is no such specific article within the “Convention on the Prevention and Punishment of the Crime of Genocide”. My delegation believes that a prospective instrument for such a crime need not go into as much detail as the existing draft Article 6 does. However, my delegation suggests deleting all of draft Article 6 except the first part of paragraph 1, which states, "Each State shall take the necessary measures to ensure that crimes against humanity constitute offences under its criminal law," and leaving the specific criminalization of this crime to national jurisdictions if delegations wish to include such language in this draft Article. Meanwhile, and without prejudice to

connection between a State wishing to exercise its jurisdiction and the territory where the alleged crime occurred, as well as the State of the alleged person's nationality, is required. Although draft Article 13(12) attempts to resolve a conflict of jurisdictions by prioritizing "the State whose territory the alleged offence occurred," we believe one paragraph should be devoted to this significant issue by addressing "the necessity of existence of actual connection to exercise jurisdiction." This can assist States when they seek to take use of the dispute resolution mechanism outlined in draft Article 15 in the event of a jurisdictional conflict.

With respect to draft **Article 9**, and consistent with States human rights obligations, any confinement of a suspect in the form of custody or through any other measures should be time-bonded. Furthermore, as outlined in my remarks regarding draft Article 8, there should be an actual connection between a state that desires to prosecute a crime and the territory where the crime has been committed, or the suspected person is its national. It is our belief that a State where a suspected person is present on its territory, and in the absence of actual connections such as territoriality or personality jurisdictions, is the last jurisdiction that has the competence to prosecute that person. Having said that, my delegation is unsatisfied with the final clause of paragraph 3 of Article 9, which leaves the exercise of jurisdiction up to a State's "intention"- a State that a suspect is present even when there is no territoriality or personality jurisdictional ties to that State. My delegation's comment is supported by draft Article 13(12), which states that when an extradition request is made before a State where a suspect has been detained, "the State in whose territory the alleged offence has occurred" is given 7(s)-3()18(gi)-7-a7(m)-7Ect.

Draft **Articles 13 and 14**, concerning Extradition and Mutual legal assistance, respectively, are strikingly similar to those of UNCAC and UNTOC. While reiterating our position previously expressed on those Conventions when they are supposed to be the source of aspiration to draft the current instrument in our hands, my delegation believes this prospective instrument should follow the pattern of “Convention on the Prevention and Punishment of the Crime of Genocide” in terms of drafting, and arrangements in those draft Articles should be left to sovereign States. Without prejudice to its position, however, my delegation could not go along with draft Article 14 (9) in any way since it acknowledges mechanisms that were neither adopted by consensus nor were legitimate and legal since they were established based on political agendas by bodies that lacked the authority and competence to do so or will be established with a similar practice.

In terms of draft Article 15, my delegation generally supports the current formulation, particularly paragraph 3, which serves as a safeguard for the ICJ's non-compulsory jurisdiction.

Cluster 5: Safeguards (Articles 5, 11 and 12)

as has been articulated in paragraph 3, my delegation believes that only jurisdictions where the crime takes place have competence to consider the request for reparation. Meanwhile, to compensate the alleged victims of the crime against humanity, those competent authorities must strictly abide by the principle of immunity of States and their properties in all their proceedings. My delegation believes that this principle should be reflected in this draft Article.