



PHILIPPINES

CHECK AGAINST DELIVERY

STATEMENT

Permanent Mission of the Republic of the Philippines to the United Nations
Agenda Item 83: Crimes Against Humanity (Cluster I -Preamble and Article 1)

Sixth Committee

Resumed 77th Session of the United Nations General Assembly

10 April 2023, 10:00 AM

UN Headquarters New York

Thank you, Chair.

The Philippines is grateful for this resumed session and the opportunity for states to further deliberate on the substantive aspects of the Draft Articles on Crimes Against Humanity.

“Mindful that throughout history millions of children, women and men have been victims of crimes that deeply shock the conscience of humanity,” tracks closely PP2 of the Rome Statute.

- PP2 which reads:
‘Recognizing that crimes against humanity threaten the peace, security and well-being of the world,’ also tracks closely PP3 of the Rome Statute.
- PP6 which reads:
‘Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,’ tracks closely PP5 of the Rome Statute.
- PP8 which reads:
‘Recalling that it is the duty of every State to exercise its criminal jurisdiction with respect to crimes against humanity,’ tracks closely PP6 of the Rome Statute

We note that preamble defines the treaty’s context and objectives and, in certain cases, the supplemental character of preambular provisions can fill gaps that might exist elsewhere in a treaty or an agreement. Article 31 of the 1969 Vienna Convention on the Law of Treaties states that "the context for the purpose of the interpretation of a treaty shall comprise", in particular, "the text, including its preamble and annexes". Thus, the determination of the meaning of a particular provision is based on an examination of the treaty text as a whole, including the preamble.

For this delegation, should the Committee decide to adopt these preambular provisions, discussions must provide a distinct context and make clear that we are not merely appropriating these preambular provisions.

2. On the jus cogens or peremptory norm character of crimes against humanity, as noted in PP4 which reads:

Recalling also that the prohibition of crimes against humanity is a peremptory norm of general international law (jus cogens),

As has been noted, the International Law Commission (ILC) is not the first to have made the conclusion that crimes against humanity are of jus cogens nature. This delegation takes this opportunity to recall the ILCs important work on the identification of jus cogens: (1) it is a norm of general international law; and (2) it is accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.’

To the extent that these criteria are met, the Philippines can support the inclusion of PP4.

3. On international cooperation in PP10, we are ready to support stronger language, including based on what is present in similar conventions, such as the Convention on Genocide, which explicitly states that ‘international co-operation is required.’

