

## **Comments and observations of the Kingdom of Morocco on the draft articles on prevention and punishment of crimes against humanity**

The Kingdom of Morocco takes note of the report of the International Law Commission on the work of its seventy-first session, held from 29 April to 7 June 2019, which appears in *Yearbook of International Law*, vol. II, Part Two, and has the honour, in line with paragraph 6<sup>1</sup> of General Assembly resolution 77/249, distributed on 9 January 2023, to respond to the request, transmitted through the Secretary-General (see also A/77/416 dated 18 November 2022), that Governments submit observations and comments on the draft articles on prevention and punishment of crimes against humanity and on the Commission's recommendation for the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles by 1 December 2023 (

Crime of Genocide of 1948, the Rome Statute of the International Criminal Court, the United Nations conventions against corruption, torture, enforced disappearance, crime, the United Nations convention on jurisdictional immunities, the United Nations Convention on the Law of the Sea, the Protocols Additional to the Geneva Conventions of 1949 for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). In terms of its structure, the text comprises (i) all the draft articles recommended for the elaboration of a convention recommended in paragraph 4 of the report, and (ii) explanations of the aforementioned draft articles with references to relevant instruments such as the Convention on the Non-Applicability of Statutory Limitations to Crimes against Humanity and the Rome Statute.

The preamble specifies no limit on the obligations of States under the draft articles and international instruments related to international human rights law; (ii) specify the limit on the obligations of States under international instruments related to international humanitarian law (such as the Geneva Conventions of 1949, the Protocols I and II Additional to the Geneva Conventions of 1949, the rules of international humanitarian law, the Convention on the Elimination of All Forms of Discrimination against Women) and (iii) include provisions that may contradict or overlap with regard to the terms of the draft articles and (iii) include provisions on the protection of children, women, and persons with disabilities.

The key role of national institutions in combating crimes against humanity and the role of national committees on international humanitarian law, are also addressed. Provisions specifically addressing that aspect were needed.

The draft articles do not include final or

are not subject to any statute of limitations and ensure that alleged perpetrators cannot invoke their official positions as a ground for excluding their criminal responsibility. They also address the rights of victims, witnesses and others in relation to crimes against humanity, as they require each State to take the necessary measures to ensure that any person who alleges that crimes against humanity have been committed has the right to complain to the competent authorities. The term “any person” includes, but is not limited to, persons who are victims or witnesses of a crime, and can also refer to

Draft article 14: Morocco proposes that the following wording be added at the end of draft article 14 (Mutual legal assistance), paragraph 3 ( ) : “to the extent permitted under national law”.

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