



Statement Urging Sixth Committee Action on The International Law Commission's Draft Articles on Prevention and Punishment of Crimes Against Humanity

Whereas over the course of human history, millions of people, particularly women and children, have been subjected to murder, extermination, enslavement, deportation, persecution, and other atrocities that have shocked the conscience of humanity,

Whereas it was established in 1946 by the International Military Tribunal at Nuremberg that these “crimes against humanity” are crimes under international law for which the perpetrators should be prosecuted and punished,

Whereas in 2013, the United Nations International Law Commission approved the topic “crimes against humanity” for inclusion in its programme of work, and subsequently, over the next six years, proceeded to study the topic and prepare draft articles for inclusion in a possible new treaty to be negotiated and adopted by States,

Whereas in 2019, the International Law Commission adopted upon Second Reading, following input from States during the course of its work, a draft preamble, draft articles, a draft annex and commentaries thereto on the Prevention and Punishment of Crimes against Humanity, and recommended in paragraph 42 of its Report the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles,

Whereas in 2019, although the government of Austria offered to host an international conference of plenipotentiaries for the elaboration of such a convention, progress on the ILC draft articles has not advanced in the Sixth Committee,

Whereas crimes against humanity are among the most serious crimes in international law, along with genocide and war crimes and the absence of a treaty regulating their prevention and punishment is incongruous with crimes of comparable gravity, fueling the misconception that there is a hierarchy of importance,

Whereas a treaty on crimes against humanity would close a crucial gap in the current international framework on mass atrocities.

Whereas the absence of a treaty on crimes against humanity has a real-world consequence for the victims of atrocity crimes,

Whereas although the ILC draft articles represent an adequate baseline for negotiations, there remain a range of views on certain substantive points. The perspectives must not perpetuate an inert cycle, but rather be given the opportunity to be discussed in an inclusive, transparent, and holistic process,

Now therefore, the undersigned, urge the following in order to make real and substantive progress on the work of the International Law Commission draft articles:

1. The Sixth Committee should establish a procedure at the 76th Session of the UN General Assembly for the consideration of the draft articles with a view towards realizing the recommendation of the International Law Commission that the draft articles on the Prevention and Punishment of Crimes against Humanity be elaborated into a treaty.
2. The process must have a clear mandate, defined meetings, specific terms of reference, and a timeline for completion of its work.

The Sixth Committee debate on the draft articles was marked by overwhelming support for the core aspects of the draft articles.

We urge States to translate this momentum into action.

Signed the 9th of November, 2021:

For the Steering Committee of the Initiative

Leila Nadya Sadat, *Chair*, James Carr Professor of International Criminal Law, Washington University School of Law; Special Advisor on Crimes Against Humanity, International Criminal Court Prosecutor

Hans Corell, former Under-Secretary General for Legal Affairs and Legal Counsel of the United Nations

Richard J. Goldstone, former Chief Prosecutor, International Criminal Tribunals for the former Yugoslavia and Rwanda

Juan E. Mendez, Professor of Human Rights Law in Residence, American University – Washington College of Law

William A. Schabas, Professor of International Law, Middlesex University, London

Christine Van Den Wyngaert, Judge, Kosovo Specialist Chambers; former Judge, International Criminal Tribunal for the former Yugoslavia and International Criminal Court; Special Advisor to the International Criminal Court Prosecutor

For the Global Justice Center

Akila Radhakrishnan, President, Global Justice Center

Additional Signatories

Asli Abbasi, Human Rights Researcher, UNESCO Chair for Human Rights, Peace, and Democracy, Shahid Beheshti University, Iran

Hirad Abtahi, Chef de Cabinet to the President of the International Criminal Court; Adjunct Professor at Sciences Po's Paris School of International Affairs

Anees Ahmed, UN Department of Peace Operations

Payam Akhavan, Professor of International Law; Senior Fellow, Massey College, University of Toronto;

Reine Alapini-Gansou, Judge, International Criminal Court

Kai Ambos, Professor, Georg August Universität Göttingen

Diane Marie Amann, Regents' Professor of International Law at the University of Georgia School of Law; former Special Adviser to International Criminal Court Prosecutor Fatou Bensouda on Children in & affected by Armed Conflict

Paul Angaman, President of the International Federation of ACATs (FIACAT)

Evelyn Ankumah, Legal Director, Africa Legal Aid

Mohammed Ayatt, Professor of Law; former President and current Vice-president of the International Convention on the Protection of all Persons from Enforced Disappearances

Freya Baetens, University of Oslo PluriCourts Centre and University of Leiden Europa Institute

Tae-Ung Baik, Professor of Law, William S. Richardson School of Law, University of Hawaii at Manoa

Michael Bazyley, Professor of Law and The 1939 Society Scholar in Holocaust and Human Rights Studies, Fowler School of Law, Chapman University

Olympia Bekou, Professor of Public International Law and Head of School, School of Law, University of Nottingham

Fatou Bensouda, Prosecutor, International Criminal Court (2012-2021)

Morten Bergsmo, Director, Center for International Law Research and Policy (CILRAP)

Gilbert Bitti, Judge, Kosovo Specialist Chambers

Michael Bohlander, Chair in Comparative and International Criminal Law, Durham University, UK

Eleni Chaitidou, Senior Legal Officer, Kosovo Specialist Chambers; former Legal Officer in the Pre-Trial/Trial Division, International Criminal Court

Roger S. Clark, Board of Governors Professor Emeritus, Rutgers Law School

David M. Crane, Chief Prosecutor, Special Court for Sierra Leone

Param Kumaraswamy, former UN Special Rapporteur on the Independence of Judges and Lawyers

Lisa Davis, Co-Director, Human Rights and Gender Justice (HRGJ) Clinic; Special Advisor on Gender Persecution to the International Criminal Court Prosecutor

Emmanuel Decaux, Professor Emeritus, University of Paris II; President, René Cassin Foundation; former President, Committee on Enforced Disappearances

Roland Dekkers, Judge, Basic Court and Trial Chambers, Kosovo Specialist Chambers

Fatoumata Dembélé Diarra, Former First Vice-president of International Criminal Court

Steven Dewulf, Professor of International Law, Royal Military Academy Belgium, and International Criminal Law, University of Antwerp

Richard Dicker, Director, International Justice Program, Human Rights Watch

David Donat Cattin, Secretary-General, Parliamentarians for Global Action

John Dugard, SC, Emeritus Professor of Law, Universities of Witwatersrand and Leiden; Former Judge Ad Hoc, International Court of Justice

Ariel Dulitzky, Human Rights Clinic, University of Texas at Austin

Yvonne Dutton, Professor of Law, Indiana University Robert H. McKinney School of Law

Mark S. Ellis, Executive Director, International Bar Association

Mohamed El Zeidy, Senior Legal Advisor to the President, Kosovo Specialist Chambers

Gareth Evans, Distinguished Honorary Professor, Australian National University; former Foreign Minister of Australia

Megan A. Fairlie, Professor of Law, Florida International University College of Law

Silvia Fernandez de Gurmendi, President, Assembly of States Parties, International Criminal Court; former President, International Criminal Court

Caroline Fournet, Professor of Law, Law School, University of Exeter

Professor Sévane Garibian, SNF Professor of Law at the University of Geneva; Adjunct Professor of Law at the University of Neuchâtel

Jocelyn Getgen Kestenbaum, Associate Professor of Clinical Law, Cardozo Law School

Philip Grant, Executive Director, TRIAL International

José Antonio Guevara Bermúdez, Professor of International Human Rights Law at the Autonomous University of Tlaxcala; Vice Chair of the Atrocity Crimes Investigation Center

Margaret M. deGuzman, James E. Beasley Professor of Law; Co-Director, Institute for International Law and Public Policy, Temple University Beasley School of Law

Christopher "Kip" Hale, UN Expert on Atrocity Crimes Accountability, UN Assistance Mission to Afghanistan; Board Member, American Bar Association's International Criminal Court Project

Kevin Jon Heller, Professor of International Law & Security, University of Copenhagen (Centre for Military Studies); Professor of Law, Australian National University

Larissa van den Herik, Professor of Public International Law, Grotius Centre for International Legal Studies, Leiden University

Salvador Herencia-Carrasco, Director, Human Rights Clinic, HRREC, University of Ottawa

Catherine van de Heyning, Member of the UN Human Rights Council Advisory Committee; Professor of Law at the University of Antwerp

Piotr Hofmański, PhD, Judge, President, International Criminal Court

Larry Johnson, Professional Lecturer, Vienna Diplomatic Academy

Michael J. Kelly, Senator Allen A. Sekt Endowed Chair in Law; Director, Nuremberg International Criminal Law Study Abroad Program, Creighton University School of Law

Karim A. A. Khan, QC, Prosecutor of the International Criminal Court

Jocelyn Getgen Kestenbaum, Associate Professor of Clinical Law, Cardozo Law School

Claus Kreß, Professor and Director, Institute of International Peace and Security Law, University of Cologne

Gerhard Kemp, Professor of Law, University of Derby, United Kingdom

David Luban, University Professor and Professor of Law and Philosophy, Georgetown University Law Center

Tarciso Dal Maso, Legislative Advisor of Brazilian Senate

Anja Matwijiw, PhD, Professor of Ethics & Human Rights, Indiana University Northwest

Antoine Kesia-Mbe Mindua, Judge, Second Vice-President, International Criminal Court

Sanji Mmasenono Monageng, Judge, Southern African Development Community Administrative Tribunal, Botswana; Judge, International Criminal Court (2009-2018)

Janet M. Nosworthy, former Judge, International Criminal Tribunal for the former Yugoslavia; former Trial Chamber Judge, Special Tribunal for Lebanon

Valerie Oosterveld, Professor, Western University Faculty of Law (Canada); Associate Director, Centre for Transitional Justice and Post-Conflict Reconstruction

Alphons Orié, Judge, UN International Residual Mechanism for Criminal Tribunals; former Judge, International Criminal Tribunal for the former Yugoslavia

Sir Geoffrey Palmer, QC, Global Affiliated Professor University of Iowa College of Law; Distinguished Fellow Victoria University of Wellington, Faculty of Law and Centre for Public Law

Andres Parmas, Prosecutor General of Estonia and Board Member of the International Criminal Court Trust Fund for Victims

Klaus Rackwitz, Director, International Nuremberg Principles Academy

Stephen J. Rapp, Former US Ambassador-at-Large for Global Criminal Justice

Naomi Roht-Arriaza, Albert Abramson Distinguished Professor of Law, University of California, Hastings College of Law

Gabor Rona, Professor of Practice, Cardozo Law School

Erin Farrell Rosenberg, Senior Legal Policy Advisor, Red Lines Initiative

Robert Roth, Eminent Professor at the University of Geneva; former Director of the Geneva Academy of International Humanitarian Law and Human Rights

Susana SáCouto, Director, War Crimes Research Office; Director, Summer Law Program in The Hague; Professorial Lecturer-in-Residence, American University Washington College of Law

Philippe Sands, QC, Professor of Law, University College London

Michael P. Scharf, Dean, School of Law, Case Western Reserve University School of Law

David J. Scheffer, Former US Ambassador-at-Large for War Crimes Issues

Kim Thuy Seelinger, Research Associate Professor of Public Health and Visiting Professor in Law, Washington University; Special Adviser on Sexual Violence in Conflict to the International Criminal Court Prosecutor

Ian Seiderman, Legal and Policy Director, International Commission of Jurists

Patricia Viseur Sellers, Visiting Fellow, University of Oxford; Practicing Professor, London School of Economics; Special Advisor on Slavery Crimes, Prosecutor, International Criminal Court

Sam Saman Shoamanesh, Adviser to the Prosecutor of the International Criminal Court

Elies van Sliedregt, Professor of Criminal Law and Procedure, Tilburg University

Carsten Stahn, Professor of International Criminal Law and Global Justice, Leiden Law School and Queen's University Belfast

Milena Sterio, The Charles R. Emrick Jr.-Calfee Halter & Griswold Professor of Law, Cleveland-Marshall College of Law; Managing Director, Public International Law & Policy Group

Mari Takeuchi, Professor of Public International Law, Kobe University, Graduate School of Law

Jennifer Trahan, Professor, NYU Center for Global Affairs; Convenor, Global Institute for the Prevention of Aggression

Ekaterina Trendafilova, Judge, President Kosovo Specialist Chambers; Former Judge, International Criminal Court

Françoise Tulkens, Former Judge and Vice-president of the European Court of Human Rights; Professor Emeritus at the UCLouvain (Belgium)

Gert Vermuelen, Professor of International and European Criminal Law, Ghent University

John Vervaele, Professor, Utrecht University; President, International Association of Penal Law

Johan van der Vyver, I.T. Cohen Professor of International Law and Human Rights, Emory University School of Law

John L. Washburn, American Bar Association

Jan Wouters, Full Professor of International Law and International Organizations, Jean Monnet Chair and Director of the Leuven Centre for Global Governance Studies - Institute for International Law, KU Leuven; Visiting Professor at Sciences Po, LUISS University and the College of Europe