

2023 CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST HUMANITY

RECOMMENDATIONS ON PREVENTION
OBLIGATION

(ARTICLE 1, 3, & 4)

#CAHTreatyNow

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INTRODUCTION

Crimes against humanity ("CAH") are not new – international criminal responsibility for these crimes was first established under the Nuremberg trials and have been incorporated in the statutes of contemporary international tribunals. However, unlike other crimes under international law, crimes against humanity have not been the subject of a specialized and dedicated convention setting out obligations of States. For example, the four Geneva Conventions of 1949 and Additional Protocol I of 1977 set out a regime of grave breaches constituting war crimes. The 1948 Genocide Convention was established to criminalize and prevent the crime of genocide.

While a few of the individual acts that constitute crimes against humanity are criminalized under specialized international treaties such as the Convention Against Torture (CAT),¹ Convention Against Racial Discrimination,² Convention Against Enforced Disappearances,³ there is no global treaty governing the horizontal relationship between States that obligates them to prevent and punish crimes against humanity.

In furtherance of the goal to put an end to international crimes, the proposed Convention on the Prevention and Punishment of Crimes Against Humanity ("Convention"/"CAH Convention") comprehensively addresses crimes against humanity, focusing on their prevention and punishment.

The proposed convention bridges the normative legal gap by addressing state responsibility for crimes against humanity. Recognizing the principle of sovereignty and national ownership over criminal proceedings, the International Law Commission's ("ILC") Draft Articles on Prevention and Punishment of Crimes Against Humanity ("Draft Articles") place the primary responsibility to prevent and punish crimes against humanity upon States.

¹ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85.

² International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195.

³ International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3.

Consequently, the Draft Articles oblige States to criminalize, investigate, and prosecute crimes against humanity within the domestic criminal system. Moreover, the proposed convention will foster robust inter-state cooperation in the investigation, prosecution, and punishment of crimes against humanity by codifying obligations on extradition and mutual legal assistance while simultaneously establishing pathways to enhance national capacity. The adoption of the CAH convention will explicitly proscribe crimes against humanity under national laws, harmonize national laws globally, and enhance prevention efforts and deter potential perpetrators.

Prevention constitutes a core and central pillar within the proposed convention. There is a clear normative gap in international law with the absence of any inter-state treaty framework governing prevention of crimes against humanity.

With this background, the Asia Justice Coalition publishes this briefing note with a set of textual proposals concerning Articles 1, 3, and 4 of the Draft Articles and commentary, with the aim to strengthen the legal framework of prevention under the CAH convention.

The Draft Articles provide a sound legal basis and an effective blueprint for the negotiation of a treaty. While it sets out a comprehensive framework for the varied issues within the convention, including prevention, the Draft Articles represent a floor, not a ceiling. States are urged to strengthen, rather than dilute, the provisions within the Draft Articles concerning prevention of crimes against humanity.

While it is accepted that the investigation, prosecution, and adjudication of crimes against humanity may have a deterrent effect and, accordingly, prevent the commission of crime, the absence of a dedicated set of obligations regarding prevention created a gap in international law.

Modelled on the widely accepted and ratified Genocide Convention,⁴ the CAH convention sets out its two objectives, prevention and punishment.

⁴ Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277. As of 21 April 2026, the Convention has 154 State Parties and 41 signatories.

Both of these obligations are autonomous and have a distinct character.⁵ The proposed CAH convention presents a more robust, tailored, and detailed provision on prevention compared to the Genocide Convention.

The Preamble, reflecting the objective of the proposed convention, recalls that the prohibition of crimes against humanity is not just a rule of international law but a peremptory norm of general international law (*jus cogens*). Such a prohibition also serves as a measure of prevention, and prosecuting such crimes further strengthens prevention. Therefore, prevention and punishment are interlinked objectives of the proposed convention.

Discussions among the United Nations (“UN”) Member States regarding the ILC Draft Articles, from the 2014 Sixth Committee session to the recently concluded January 2026 Preparatory Committee session in New York, reflect strong support from the majority of States in favour of the prevention obligations contained in the text. States have affirmed the importance of the dual scope of the convention and reiterated the importance of the obligation to prevent, in deterring and ensuring perpetrators do not go free.

Unlike the Rome Statute⁶ of the International Criminal Court (“ICC”), which provides for individual criminal responsibility under international law for crimes against humanity, the proposed convention does not establish an international court but empowers national courts and authorities to exercise criminal jurisdiction within their legal systems over alleged perpetrators present on their territory. The Draft Articles facilitate inter-state cooperation; this horizontal cooperation, including extradition and mutual legal assistance, is absent within the Rome Statute framework. In other words, the Rome Statute facilitates a ‘vertical relationship’ between the ICC and Member States, whereas the proposed CAH Convention allows for a ‘horizontal relationship’ amongst States.

⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* Judgment [2007] ICJ Rep 43, 111 [427].

⁶ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.

Similarly, the Ljubljana-The Hague Convention⁷ is an inter-state treaty, negotiated outside of the UN, which governs cooperation between States Parties to investigate and prosecute crimes under international law. The Ljubljana-The Hague Convention is applicable once alleged crimes under international law have been committed and judicial proceedings have been initiated. The Ljubljana-The Hague Convention is complementary and mutually reinforcing to the proposed Crimes Against Humanity Convention, widening legal avenues to pursue justice and accountability for victims and survivors of crimes against humanity.

In the run-up to the diplomatic conference for the elaboration and conclusion of a CAH Convention, States have an opportunity to propose substantial amendments to the Draft Articles to fill the accountability gap, thereby contributing to the progressive development and codification of international law. The proposed CAH Convention presents a distinct platform and avenue for the States to collectively negotiate and conclude an inter-state international treaty under the aegis of the UN. Such an effort will contribute towards the maintenance of international peace and security, reaffirm States' commitment to an international rules-based order, rule of law, and international law and its architecture.

It is imperative that States come together and adopt a treaty that is robust, meaningful, and strengthens the international legal framework supporting justice and accountability. Such an effort will assist in ensuring there are no 'safe havens' for alleged perpetrators of crimes against humanity.

While customary law obligations concerning prevention continue to bind States, this briefing note aims to strengthen and codify the obligation to prevent in the future Crimes Against Humanity Convention. The proposed revisions to Draft Articles 1, 3, and 4 enhance clarity and precision, thereby removing ambiguities regarding the obligations of States. Crucially, these revisions strike a delicate balance as they provide necessary guidance

⁷ Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and Other International Crimes (adopted 26 May 2023)
https://www.gov.si/assets/ministrstva/MZEZ/projekti/MLA-pobuda/The-Ljubljana-The-Hague-MLA-Convention_EN.pdf

without being overly prescriptive, thereby preserving flexibility and discretion for implementation.

This briefing note builds on and is complementary to the various other proposals submitted by civil society partners, including Amnesty International,⁸ Human Rights Watch and Columbia Law School,⁹ the International Commission of Jurists,¹⁰ and the ABILA Study Group on Crimes Against Humanity.¹¹

⁸ Amnesty International, *A Convention on Prevention and Punishment of Crimes against Humanity: Further Recommendations* (2025) <https://www.amnesty.org/en/wp-content/uploads/2025/10/IO4003032025ENGLISH.pdf> last accessed 22 April 2026; Amnesty International, *General Recommendations to States for a Convention on Prevention and Punishment of Crimes against Humanity* (2023) <https://www.amnesty.org/ar/wp-content/uploads/2023/03/IO4064972023ENGLISH.pdf> accessed 16 April 2026.

⁹ Human Rights Watch, *Towards a Convention on Crimes against Humanity: Key Issues for Consideration*(2025) https://www.hrw.org/sites/default/files/media_2025/10/CAH%20Briefing%20Paper%201025%20web_0.pdf accessed 16 April 2026.

¹⁰ International Commission of Jurists, *Developing the Crimes Against Humanity Convention: Implementation and Enforcement of Treaty Obligations* (2026) [icj.org/wp-content/uploads/2026/04/FOR-WEBSITE-ICJ-Briefing-Paper-No.-2-.pdf](https://www.icj.org/wp-content/uploads/2026/04/FOR-WEBSITE-ICJ-Briefing-Paper-No.-2-.pdf) accessed 23 April 2026.

¹¹ American Branch of the International Law Association, *Monitoring Mechanism ABILA Study Group: Crimes against Humanity* (2025) <https://www.ila-americanbranch.org/wp-content/uploads/2025/12/Monitoring-Mechanism-ABILA-CAH-final.pdf> accessed 16 April 2026.

TEXTUAL PROPOSALS WITH COMMENTARY

Article 1: Scope

Original Text: The present draft articles apply to the prevention and punishment of crimes against humanity.

Proposed Text: The ~~present draft articles apply~~ Convention applies to the prevention and punishment of crimes against humanity, which State Parties confirm are crimes under international law, whether or not committed in time of armed conflict.

Commentary: The provision defines the dual scope of the Convention, which is both the *prevention* and *punishment* of crimes against humanity. This inclusion sets out guidance for both the interpretation and application of the Convention.

The proposed text draws verbatim from Draft Article 3(2), clarifying that the threshold of the crime, based on customary international law, encompasses acts committed during both peacetime and armed conflict - international and non-international.¹² The text, modelled on the Genocide Convention,¹³

¹² UNGA Res 95(I) (11 December 1946) UN Doc A/RES/95(I) ('Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal'); Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (adopted 26 November 1968, entered into force 11 November 1970) 754 UNTS 73, art 1; *Prosecutor v Tadić* (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction) IT-94-1 (2 October 1995) [141]–[142]; Allied Control Council, Control Council Law No 10 (20 December 1945).

¹³ Genocide Convention (n 4).

removes any ambiguity and signals the understanding of the parties that a nexus to armed conflict is no longer a requisite element under general international law.¹⁴

By acknowledging that both crimes may occur during peacetime, this clarification also distinguishes crimes against humanity from genocide because of their distinct legal framework.¹⁵ The earlier formulations of the crime with reference to 'armed conflict' were often limited and defined by jurisdictional triggers specific to particular international tribunals (for example, the Nuremberg Tribunal, the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda). Removing this limitation and incorporating it explicitly under Draft Article 1 will establish the mandate and structure of the convention. Therefore, by establishing the crime's definition at the outset, the convention highlights the existing gap in international law and outlines the thematic focus of the treaty.

¹⁴ Rome Statute (n 6), art 7; Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (signed 16 January 2002, entered into force 12 April 2002) 2178 UNTS 137, art 2; UN Transitional Administration in East Timor Regulation 2000/15 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences (6 June 2000) s 5 <https://exhibits.stanford.edu/virtual-tribunals/catalog/xh670tz7801> accessed 16 April 2026; Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea (signed 6 June 2003, entered into force 29 April 2005) 2329 UNTS 117, art 5; Law No 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Kosovo, 2015) art 13 https://www.scp-ks.org/sites/default/files/public/05-l-053_a.pdf accessed 16 April 2026; *Situation in the Republic of Côte d'Ivoire* (Decision pursuant to art 15 of the Rome Statute on the Authorisation of an Investigation) ICC-02/11-14 (ICC, Pre-Trial Chamber III, 3 October 2011); *Prosecutor v Kaing Guek Eav (Duch)* (Judgment) 001/18-07-2007/ECCC/TC (ECCC, 26 July 2010) [292]; *Prosecutor v Tadić* (Appeal Judgment) IT-94-1-A (ICTY, 15 July 1999) [251]; *Prosecutor v Kunarac and others* (Appeal Judgment) IT-96-23 & IT-96-23/1-A (ICTY, 12 June 2002) [86]; *Prosecutor v Vasiljević* (Trial Judgment) IT-98-32-T (ICTY, 29 November 2002) [29]-[30]; *Prosecutor v Norman, Fofana and Kondewa* (Decision on Motions for Judgment of Acquittal pursuant to Rule 98) SCSL-04-14-T (Special Court for Sierra Leone, 21 October 2005) [66].

¹⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)* (Judgment) [2015] ICJ Rep 3, 64 [139].

Such an explicit reference will reaffirm the “willingness to consider [crimes against humanity] as a crime under international law, which states must prevent and punish independently of the context “of peace” or “of war” in which it takes place”.¹⁶ Moreover, the “prohibition against crimes against humanity and attribution of individual criminal responsibility” is well established under customary international law since the Nürnberg Charter.¹⁷ As indicated by the International Court of Justice (“ICJ”), the prohibition against crimes against humanity is a peremptory norm of general international law (*jus cogens*).¹⁸ Consequently, crimes against humanity are crimes under international law and constitute punishable acts, regardless of whether they are criminalized under national law.¹⁹ This formulation was presented by the ILC Special Rapporteur on the Draft Articles in his First Report.²⁰

While the provision does not specifically address the temporal scope of the proposed Convention, Article 28 of the Vienna Convention on the Law of Treaties guides the scope.²¹ In other words, the Convention will not be retroactive in nature, and consequently, it will not bind any party for any acts committed prior to entering into force. However, as mentioned in the ILC commentary, “States would remain bound at all times by whatever obligations exist under other rules of international law, including customary international law.”²²

¹⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar)* (Provisional Measures) Order [2020] ICJ Rep 3, [74]; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Yugoslavia)* (Preliminary Objections) Judgment [1996] ICJ Rep 595, 615 [31].

¹⁷ *Prosecutor v Duško Tadić* (Opinion and Judgment) IT-94-1-T (ICTY, 7 May 1997) [623].

¹⁸ *Jurisdictional Immunities of the State (Germany v Italy: Greece intervening)* (Judgment) [2012] ICJ Rep 99, 141 [95].

¹⁹ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 53 [13] (commentary to art 3).

²⁰ ILC First Report (n 16), p. 253, Draft Article 1(1): “Each State Party confirms that crimes against humanity, whether committed in time of peace or in time of war, are crimes under international law which it undertakes to prevent and punish.”

²¹ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 28. “Non-retroactivity of treaties: Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.”

²² International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with commentaries* (2019) UN Doc A/74/10, 27 (commentary to art 1).

Article 3: General Obligations

Original Text:

1. Each State has the obligation not to engage in acts that constitute crimes against humanity.
2. Each State undertakes to prevent and to punish crimes against humanity, which are crimes under international law, whether or not committed in time of armed conflict.
3. No exceptional circumstances whatsoever, such as armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity.

Proposed Text:

1. Each State Party ~~has the obligation~~ **shall** not to engage in **any act or omission** that constitute or contribute to crimes against humanity **whether directly or indirectly**.
2. Each State ~~undertakes to~~ **shall** prevent and punish crimes against humanity, ~~which are crimes under international law, whether or not committed in time of armed conflict~~.
3. No exceptional circumstances whatsoever, such as **the existence or threat of** armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity or a **State's failure to discharge its obligations to prevent and punish crimes against humanity**.

Commentary: The general obligation clause under Draft Article 3(1) establishes an overarching duty on States to not commit crimes against humanity, either directly or indirectly. Modelled on the Convention Against Torture (CAT), the provision signals that crimes against humanity may be

perpetrated through action or omission,²³ thereby attracting state responsibility under international law. As per the ICJ, such an obligation is not merely hortatory or purposive, but rather constitutes a binding legal duty for States.²⁴ It ensures that States are held accountable if they commit or contribute to an internationally wrongful act.

Inherent in the obligation to prevent is the legal duty for States to abstain from committing crimes against humanity *themselves*. As recognized by the ICJ, this duty extends to any action by a State's 'own organs, or persons over whom they have such firm control that the conduct becomes attributable to the States'.²⁵ Crucially, this duty is not restricted by territorial boundaries but is determined by the control a State exercises over individuals or other States alleged to have committed crimes against humanity.²⁶ Consequently, state responsibility arises when such conduct is attributable to the State.

Further, the addition of the phrases 'contribute' along with 'constitute' and 'directly or indirectly' paves a path for secondary modes of liability and inchoate crimes, thereby closing the gap in international law and preventing complicity. Under the law of State responsibility, a State incurs responsibility for contributing (including by omission) to the internationally wrongful acts of another State, if such conduct is attributable to it.²⁷ Such responsibility may

²³ *Prosecutor v Krnojelac* (Trial Judgment) IT-97-25-T (15 March 2002) [329]: "the [a]ccused, or those for whom he bears criminal responsibility... intended by that act or omission to cause the suicide of the victim, or have known that the suicide of the victim was a likely and foreseeable result of the act or omission"; *Prosecutor v Krnojelac* (Trial Judgment) IT-97-25-T (15 March 2002) [133]: "crimes enumerated in Article 5 and Article 3 of the Tribunal's Statute, and thus The Trial Chamber is satisfied...constituted acts and omissions of a seriousness comparable to the other warrants a finding that those acts and omissions constitute inhumane acts and cruel treatment under those Articles"; *Prosecutor v Delalić and others* (Trial Judgment) IT-96-21-T (16 November 1998) [424]; *Prosecutor v Bemba Gombo* (Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo) ICC-01/05-01/08 (15 June 2009) [132].

²⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Yugoslavia (Serbia and Montenegro))* (Provisional Measures) Order of 8 April 1993 [1993] ICJ Rep 3, [45]; International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 49 [8] (commentary to art 3).

²⁵ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [166].

²⁶ Amnesty International, *A Convention on Prevention and Punishment of Crimes against Humanity: Further Recommendations* (2025) 1 15.

²⁷ International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries* (2001) UN Doc A/56/10, arts 16–19.

arise from aiding, abetting, directing, controlling, or coercing the other State. In international criminal law, such a responsibility is mirrored with respect to individual criminal responsibility and encompasses accessorial modes of liability, including aiding and abetting,²⁸ assisting,²⁹ planning,³⁰ ordering,³¹ coercing and instigating³² within its ambit, thus ensuring comprehensive criminality is prevented and punished based on customary international law.³³ It would also include inchoate offences like public and direct incitement³⁴ and conspiracy,³⁵ which would cover any contribution or assistance to the substantive crime regardless of whether the substantive crime or harm has ultimately been committed. Incorporation of such criminal liability strengthens the prevention framework and serves as a deterrent. The ICJ, in relation to the Genocide Convention, has previously held that obligation to prevent includes a duty to take preventive and deterrent measures against those suspected of preparing for such a crime.³⁶

The second clause of Draft Article 3 includes the addition of the modal verb 'shall' and the relocation of the phrase 'crimes under international law, whether or not committed in times of armed conflict' to Draft Article 1. The addition of 'shall' unequivocally denotes the legally binding obligation to

²⁸ *Prosecutor v Semanza* (Judgment and Sentence) ICTR-97-20-T (ICTR, 15 May 2003) [384]; *Prosecutor v Kaing Guek Eav (Duch)* (Judgment) 001/18-07-2007/ECCC/TC (ECCC, 26 July 2010) [533]; *Prosecutor v Furundžija* (Judgment) IT-95-17/1-T (ICTY, 10 December 1998) [190]–[249].

²⁹ *Prosecutor v Taylor* (Judgment) SCSL-03-01-T (Special Court for Sierra Leone, 18 May 2012) [482] n 1135.

³⁰ *Prosecutor v Nahimana and others* (Appeal Judgment) ICTR-99-52-A (ICTR, 28 November 2007) [479]–[480]; *Taylor* (n 29) [469] n 1104.

³¹ *Nahimana* (n 30) [481]; *Prosecutor v Galić* (Appeal Judgment) IT-98-29-A (ICTY, 30 November 2006) [176].

³² *Prosecutor v Kordić and Čerkez* (Appeal Judgment) IT-95-14/2-A (ICTY, 17 December 2004) [27]; *Prosecutor v Stanišić and Župljanin* (Trial Judgment) IT-08-91-T (ICTY, 27 March 2013) [96].

³³ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 49 [6] (commentary to art 3).

³⁴ *Nahimana* (n 30) [678]; See, on incitement, International Federation for Human Rights (FIDH), *The Future Crimes against Humanity Convention Should Address Public and Direct Incitement* (2023).

³⁵ See generally, *Prosecutor v Musema* (Trial Judgment) ICTR-96-13-T (ICTR, 27 January 2000); *Nahimana* (n 30).

³⁶ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [431]: "if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (*dolus specialis*), it is under a duty to make such use of these means as the circumstances permit."

prevent and punish crimes against humanity. This provides interpretative guidance to States and judicial bodies, confirming that the provision ‘impos[es] an obligation on States parties’ to that convention.³⁷

The second clause also reiterates the dual scope of the convention i.e. prevention and punishment of crimes against humanity. It establishes the interrelated and interdependent relationship between prevention and punishment obligations. While punishment is one of the tools to prevent the commission of crimes against humanity, the duty to prevent and punish remain distinct and separate obligations imposed on States.³⁸

Under Draft Article 3(3), aligned with the UN Charter,³⁹ the Convention Against Torture,⁴⁰ and the Convention for the Protection of All Persons from Enforced Disappearance (“ICPPED”),⁴¹ the phrase ‘the existing or threat of’ is recommended to be added before ‘armed conflict’. This ensures no crimes are committed in lieu of the threat of armed conflict. Additionally, the text explicitly includes ‘State’s failure to discharge its obligations to prevent and punish crimes against humanity’.

Draft Article 3(3) makes it clear that no derogation from the obligation to commit crimes against humanity is permissible. Crimes against humanity are prohibited without any exception. Factoring in the *jus cogens* nature of crimes against humanity, as reflected in the Preamble,⁴² the text stipulates that no justification, even in exceptional circumstances, may legitimize the commission of crimes against humanity. States must respect and ensure compliance with the absolute prohibition against crimes against humanity.

³⁷ *Immunities and Criminal Proceedings (Equatorial Guinea v France)* (Preliminary Objections) Judgment [2018] ICJ Rep 292, 321 [92].

³⁸ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [162].

³⁹ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI, art 2(4): “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”.

⁴⁰ Convention Against Torture (n 1), art. 2(2).

⁴¹ International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3, art 1(2).

⁴² Preamble [OP6], “Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes.”

Building on the Convention Against Torture, no circumstances may be invoked to justify any act of crimes against humanity;⁴³ this prohibition must be maintained and respected under all conditions. It is noted that the list of circumstances provided is illustrative rather than exhaustive in nature, as indicated by the phrase 'such as'.⁴⁴

Article 4: Obligation to Prevent

Original Text: Each State undertakes to prevent crimes against humanity, in conformity with international law, through:

- (a) effective legislative, administrative, judicial or other appropriate preventive measures in any territory under its jurisdiction; and
- (b) cooperation with other States, relevant intergovernmental organizations, and, as appropriate, other organizations.

Proposed Text: Each State ~~undertakes to~~ shall, without delay, prevent crimes against humanity, in conformity with international law, through:

- (a) effective **and necessary** legislative, administrative, judicial, **diplomatic**, or other appropriate preventive measures in any territory under its jurisdiction **or its control**;
- (b) cooperation with other States, relevant intergovernmental organizations, and, ~~as appropriate~~, other organizations.

Commentary: To guarantee that preventive measures are undertaken promptly, without unreasonable delay, the text explicitly includes 'without

⁴³ Convention Against Torture (n 1), art. 2.

⁴⁴ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 53 [20] (commentary to art 3).

delay' in the chapeau. Embedding this obligation in the chapeau underscores the importance for States to take timely action to prevent crimes against humanity. This duty encompasses both the positive preventive measures mentioned under Draft Article 4(a) and the obligation to cooperate with other States and relevant stakeholders under Draft Article 4(b). The inaction of States, including the UN Security Council, has frequently resulted in the worsening of conflicts and prolonged conflicts. Such exacerbation of conflict threatens the maintenance of international (and regional) peace and security.⁴⁵ The absence of explicit textual guidance in the Genocide Convention led the ICJ to infer the temporal element with respect to the preventive measures. According to the ICJ, concerning the Genocide Convention, a "State's obligation to prevent, and the corresponding duty to act, arise *at the instant* that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed" (emphasis added).⁴⁶ This will ensure that States implement preventive measures with immediacy.⁴⁷ Therefore, an explicit expression of 'without delay' would remove any ambiguity regarding the scope of obligation to prevent.

In Draft Article 4(a), the text incorporates the phrase 'and necessary' alongside 'effective measures' in agreement with various established international treaties, including the Inter-American Convention on Forced Disappearance of Persons⁴⁸ and the International Convention on the Suppression and Punishment of the Crime of Apartheid,⁴⁹

⁴⁵ UN Secretary-General, *Annual Report of the Secretary-General on the Work of the Organization* (2025) https://www.un.org/sites/un2.un.org/files/sg_annual_report_2025_en.pdf accessed 16 April 2026; UN General Assembly, *Report of the Secretary-General on the Responsibility to Protect: 20 Years of Commitment to Principled and Collective Action* (2025) UN Doc A/79/875 <https://docs.un.org/en/A/79/875> accessed 16 April 2026.

⁴⁶ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [431].

⁴⁷ See generally, Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 2; Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (adopted 11 May 2011, entered into force 1 August 2014) CETS No 210, art 4.

⁴⁸ Inter-American Convention on Forced Disappearance of Persons (adopted 9 June 1994, entered into force 28 March 1996) 33 ILM 1529, art 1.

⁴⁹ International Convention on the Suppression and Punishment of the Crime of Apartheid (adopted 30 November 1973, entered into force 18 July 1976) 1015 UNTS 243, art IV; Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (adopted 31 May 2001, entered into force 3 July 2005) 2326 UNTS 208, art 9.

amongst others.⁵⁰ This obligation calls upon States to undertake positive actions as well as eliminate any obstacles that hinder the prevention of crimes against humanity. In other words, States must take steps that go beyond mere formal compliance and ensure that the intended outcome is achieved. The term ‘effective’, implies a continuing duty and calls upon States to “keep the measures that it has taken under review and, if they are deficient, to improve them through more effective measures”.⁵¹

The text retains ‘in conformity with international law’ despite the fact that it is already mentioned in the Preamble⁵² because such an explicit reference in the body of the Convention will guide States to undertake measures in compliance with existing international law, including the UN Charter and its principles of sovereign equality, non-interference, use or threat of use of force, and customary and international treaty law.⁵³

The non-exhaustive measures listed under Draft Article 4(a) are general and unspecific. Different types of preventive measures that a State may adopt range from legislative, judicial, administrative, and diplomatic measures to other appropriate measures.⁵⁴ This may include the adoption of national laws

⁵⁰ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (adopted 11 May 2011, entered into force 1 August 2014) CETS No 210, art 4(2); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 2(2); Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507, art 11(1).

⁵¹ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 58 [8] (commentary to art 4).

⁵² International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity* (2019) UN Doc A/74/10, preamble [3]: “Recalling the principles of international law embodied in the Charter of the United Nations.”

⁵³ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity* (2019) UN Doc A/74/10, preamble [5]: “Affirming that crimes against humanity, which are among the most serious crimes of concern to the international community as a whole, must be prevented in conformity with international law”.

⁵⁴ UNGA Res 60/1 (15 September 2005) UN Doc A/RES/60/1; UNGA, *Implementing the Responsibility to Protect: Report of the Secretary-General* (12 January 2009) UN Doc A/63/677, [20]–[27]; Convention Against Torture (n 1), art. 2, art 7; Convention Against Racial Discrimination (n 2), art 2, art 7.

and regulations; continuous and effective training for police, military, judicial authorities, militia, and other relevant personnel; capacity building for government officials' training; and establishment of national mechanisms with early warning and monitoring system.⁵⁵ These measures are dynamic, illustrative, and non-exhaustive in nature. The addition of 'diplomatic' measures intends to cover acts such as naming and shaming (press statements, press or digital media, or social media), diplomatic protests, or informing or presenting information to relevant international or regional institutions or forums.⁵⁶

This must be distinguished from the concept of 'preventive diplomacy', which focuses on active steps undertaken by States to prevent disputes from becoming conflicts and includes measures like negotiation, inquiry, mediation, and conciliation.⁵⁷ While preventive diplomacy comprises outward-looking measures, preventive diplomatic measures, within Draft Article 4(a), are inward-looking. Further, the qualifier 'as appropriate' affords States the necessary flexibility and discretion to undertake and tailor these measures to their specific capacities and contextual realities.

Further, while the ILC commentary indicates that 'jurisdiction' under Draft Article 4(a) covers instances of both *de jure* and *de facto* jurisdiction (the factual control or authority exercised by a State over an individual or territory or situation),⁵⁸ the explicit addition of 'its control' in the text would bring

⁵⁵ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 59 [11] (commentary to art 4).

⁵⁶ Advisory Committee on Public International Law, *The Obligation of Third States to Prevent Genocide* (Advisory Report No 50, 2025) 8 <https://www.advisorycommitteeinternationallaw.nl/site/binaries/site-content/collections/documents/2025/08/04/the-obligation-of-third-states-to-prevent-genocide/CAVV+Advisory+report+no.+50+The+obligation+of+third+states+to+prevent+genocide.pdf>

⁵⁷ Boutros Boutros-Ghali, *An Agenda for Peace: Preventive Diplomacy, Peace-making and Peacekeeping* (UN 1992) para 20 <https://digitallibrary.un.org/record/145749?ln=en&v=pdf> accessed 16 April 2026: "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur".

⁵⁸ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 60 [12] (commentary to art 4).

certainty and legal clarity for interpretation and application of the convention.⁵⁹ Draft Article 4(a) covers crimes against humanity committed aboard ships, and aircrafts, but this addition will specifically cover scenarios where a State exercises effective control over a territory⁶⁰ i.e. where a State does not hold a *de jure* jurisdiction; however, they continue to exercise *de facto* control, such as in the case of intervention, occupation, and annexation, whether lawful or not.⁶¹ This exercise of jurisdiction does not require agents to exercise authority and control over the individual.⁶² Such an inclusion will ensure that no safe haven exists for perpetrators and guarantee that all victims within a State's territory or where it exercises effective control have access to justice. Moreover, it will add to legal certainty and clarity regarding the geographical and functional extent of State's obligation.

The obligation to prevent obliges States to undertake and implement positive actions or measures preventing the commission of crimes.⁶³ Consequently, the obligation to prevent imposes a positive duty, and the failure to meet this duty on account of omission incurs state responsibility. However, a State would only incur such a responsibility when it "was aware or should normally have been aware" of the serious risks that such a crime would be committed without a positive intervention.⁶⁴ Lastly, if such a proscribed act did not take

⁵⁹ The ILC previously included such a formulation. See International Law Commission, *Statement of the Chairman of the Drafting Committee on Crimes against Humanity, Dr Mathias Forteau* (30 July 2015) https://legal.un.org/ilc/documentation/english/statements/2015_dc_chairman_statement_crimes_aga_inst_humanity.pdf

⁶⁰ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Advisory Opinion) [2024] ICJ Rep [90]–[91]; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* (Merits) [1986] ICJ Rep 14 [105]–[115]; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, 179 [109]; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* [2005] ICJ Rep 168, 231 [178]; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)* (Advisory Opinion) [1971] ICJ Rep 16, 54 [118].

⁶¹ International Law Commission, *Draft Articles on Prevention and Punishment of Crimes Against Humanity, with Commentaries* (2019) UN Doc A/74/10, 60 [12] (commentary to art 4).

⁶² *Loizidou v Turkey* (Preliminary Objections) (Admissibility) [GC] App No 15318/89 (23 March 1995).

⁶³ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [438].

⁶⁴ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [432].

place, a State cannot be held responsible for an omission leading to a violation of the obligation to prevent.⁶⁵

Crucially, the duty to prevent is an obligation of conduct rather than an obligation of result.⁶⁶ According to the ICJ, “A State does not incur responsibility simply because the desired result is not achieved; responsibility is, however, incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide.”⁶⁷ The due diligence obligation calls upon States to employ all means reasonably available to them to prevent crimes against humanity in compliance with international law. The discharge of this preventive duty rests on State’s capacity to effectively influence the erring States as far as possible, which in turn is based on means available at the State’s disposal but also geographical proximity.⁶⁸

In Draft Article 4(b), the removal of the phrase ‘as appropriate’ importantly signals the mandatory obligation upon States to cooperate with other States, relevant intergovernmental organizations,⁶⁹ including the UN and its specialized agencies, as well as with ‘other organizations’, including *sui generis* organizations (for example, the International Committee of the Red Cross) and relevant civil society organizations.⁷⁰ Such cooperation with intergovernmental organizations, especially those engaged in prevention by early warning monitoring mechanisms, capacity building,⁷¹ investigation,

⁶⁵ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [431].

⁶⁶ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [430].

⁶⁷ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [430].

⁶⁸ *Bosnia and Herzegovina v Serbia and Montenegro* (n 5) [431].

⁶⁹ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI art 1(3): “To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” and art 56: “All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55”.

⁷⁰ International Law Commission, *Statement of the Chairman of the Drafting Committee on Crimes against Humanity, Dr Mathias Forteau* (n 59) 9: “These organizations include non-governmental organizations that might play an important role in the prevention of crimes against humanity in specific countries.”

⁷¹ For example, Global Action Against Mass Atrocity Crimes; ASEAN Intergovernmental Commission on Human Rights.

preservation and storage of evidence⁷² is essential. It facilitates coordination, prevents duplication, enables the sharing of best practices, and operationalizes institutional response to end impunity.

Note: A treaty-based monitoring body to further the aims and objectives of the convention has a direct and causal relationship with atrocity prevention. Such a body actuates prevention with institutionalized reporting, treaty interpretation guidance and implementation, capacity building, technical assistance, policy exchange, and promoting compliance with the treaty framework.⁷³ While it could be situated within Draft Article 4, a separate and comprehensive provision should be added to the Draft Articles to reflect the urgency and need for such a mechanism.

⁷² For example, International, Impartial and Independent Mechanism for Syria; Independent Investigative Mechanism for Myanmar.

⁷³ See generally, ICJ (n 10); American Branch of the International Law Association, *Monitoring Mechanism ABILA Study Group: Crimes against Humanity* (2025) https://www.ila-americanbranch.org/wp-content/uploads/2025/12/Monitoring-Mechanism_ABILA_CAH_final.pdf accessed 16 April 2026.

RECOMMENDATIONS

Article 1: Scope

The Convention applies to the prevention and punishment of crimes against humanity, which State Parties confirm are crimes under international law, whether or not committed in time of armed conflict.

Article 3: General Obligations

1. Each State Party shall not engage in any act or omission that constitute or contribute to crimes against humanity whether directly or indirectly.
2. Each State shall prevent and punish crimes against humanity.
3. No exceptional circumstances whatsoever, such as existence or threat of armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity or a State's failure to discharge its obligations to prevent and punish crimes against humanity.

Article 4: Obligation to Prevent

Each State shall, without delay, prevent crimes against humanity, in conformity with international law, through:

- (a) effective and necessary legislative, administrative, judicial, diplomatic, or other appropriate preventive measures in any territory under its jurisdiction or its control;
- (b) cooperation with other States, relevant intergovernmental organizations, and other organizations.

ANNEX I

State Positions on the Prevention Obligation in the CAH Draft Articles

The State positions tabulated below are derived from publicly available statements and submissions by UN delegations across various stages of the International Law Commission and Sixth Committee processes.⁷⁴ These sources include:

- Statements delivered at the 76th, 77th, 78th, 79th, and 80th of the UN General Assembly's Sixth Committee;
- ILC governmental comments (2015–2017 and 2019);
- Written submissions and statements from the 2023 and 2024 Sixth Committee Resumed Sessions; and
- Statements and debates within the Preparatory Committee and facilitator oral reports.

	No Substantive Objection or Implied Support
	Minor Amendments Proposed
	Substantial Amendments Proposed or Qualifiers
	No Information on Participation

S.No.	State	Article 1	Article 3	Article 4
1	Afghanistan			
2	Albania			
3	Algeria			
4	Andorra			
5	Angola			

⁷⁴ The positions reflected in this table are derived from the above-mentioned public sources. The color-coding represents Asia Justice Coalition's interpretation and analysis of these texts and statements at the time of publication. This classification is indicative rather than definitive.

6	Antigua and Barbuda			
7	Argentina			
8	Armenia			
9	Australia			
10	Austria			
11	Azerbaijan			
12	Bahamas			
13	Bahrain			
14	Bangladesh			
15	Barbados			
16	Belarus			
17	Belgium			
18	Belize			
19	Benin			
20	Bhutan			
21	Bolivia			
22	Bosnia and Herzegovina			
23	Botswana			
24	Brazil			
25	Brunei			
26	Bulgaria			
27	Burkina Faso			
28	Burundi			
29	Cabo Verde			
30	Cambodia			
31	Cameroon			
32	Canada			
33	Central African Republic			
34	Chad			
35	Chile			
36	China			
37	Colombia			

38	Comoros			
39	Congo (Congo-Brazzaville)			
40	Costa Rica			
41	Croatia			
42	Cuba			
43	Cyprus			
44	Czechia (Czech Republic)			
45	Democratic Republic of the Congo			
46	Denmark			
47	Djibouti			
48	Dominica			
49	Dominican Republic			
50	Ecuador			
51	Egypt			
52	El Salvador			
53	Equatorial Guinea			
54	Eritrea			
55	Estonia			
56	Eswatini			
57	Ethiopia			
58	Fiji			
59	Finland			
60	France			
61	Gabon			
62	Gambia			
63	Georgia			
64	Germany			
65	Ghana			
66	Greece			
67	Grenada			
68	Guatemala			
69	Guinea			
70	Guinea-Bissau			

71	Guyana			
72	Haiti			
73	Honduras			
74	Hungary			
75	Iceland			
76	India			
77	Indonesia			
78	Iran			
79	Iraq			
80	Ireland			
81	Israel			
82	Italy			
83	Jamaica			
84	Japan			
85	Jordan			
86	Kazakhstan			
87	Kenya			
88	Kiribati			
89	Kuwait			
90	Kyrgyzstan			
91	Laos			
92	Latvia			
93	Lebanon			
94	Lesotho			
95	Liberia			
96	Libya			
97	Liechtenstein			
98	Lithuania			
99	Luxembourg			
100	Madagascar			
101	Malawi			
102	Malaysia			
103	Maldives			
104	Mali			

105	Malta			
106	Marshall Islands			
107	Mauritania			
108	Mauritius			
109	Mexico			
110	Micronesia			
111	Moldova			
112	Monaco			
113	Mongolia			
114	Montenegro			
115	Morocco			
116	Mozambique			
117	Myanmar			
118	Namibia			
119	Nauru			
120	Nepal			
121	Netherlands			
122	New Zealand			
123	Nicaragua			
124	Niger			
125	Nigeria			
126	North Korea			
127	North Macedonia			
128	Norway			
129	Oman			
130	Pakistan			
131	Palau			
132	Palestine			
133	Panama			
134	Papua New Guinea			
135	Paraguay			
136	Peru			
137	Philippines			
138	Poland			

139	Portugal			
140	Qatar			
141	Romania			
142	Russia			
143	Rwanda			
144	Saint Kitts and Nevis			
145	Saint Lucia			
146	Saint Vincent and the Grenadines			
147	Samoa			
148	San Marino			
149	Sao Tome and Principe			
150	Saudi Arabia			
151	Senegal			
152	Serbia			
153	Seychelles			
154	Sierra Leone			
155	Singapore			
156	Slovakia			
157	Slovenia			
158	Solomon Islands			
159	Somalia			
160	South Africa			
161	South Korea			
162	South Sudan			
163	Spain			
164	Sri Lanka			
165	Sudan			
166	Suriname			
167	Sweden			
168	Switzerland			
169	Syria			
170	Tajikistan			
171	Tanzania			

172	Thailand			
173	Timor-Leste			
174	Togo			
175	Tonga			
176	Trinidad and Tobago			
177	Tunisia			
178	Turkey			
179	Turkmenistan			
180	Tuvalu			
181	Uganda			
182	Ukraine			
183	United Arab Emirates			
184	United Kingdom			
185	United States			
186	Uruguay			
187	Uzbekistan			
188	Vanuatu			
189	Vatican City (Holy See)			
190	Venezuela			
191	Vietnam			
192	Yemen			
193	Zambia			
194	Zimbabwe			

ANNEX II

The Path to a UN Convention on the Prevention and Punishment of Crimes Against Humanity

In 2019, the International Law Commission, following multi-year deliberations, adopted and submitted the Draft Articles on Prevention and Punishment of Crimes Against Humanity with its commentary to the UN General Assembly (“UNGA”), cognisant of the glaring gap that exists in international law.

Pursuant to the recommendations of the ILC, the Draft Articles were taken up by the Sixth Committee (“Committee”) of the UNGA, which is the primary forum for the consideration of legal questions in the General Assembly. In November 2022, a cross-regional resolution, 77/249, co-sponsored by 86 States,⁷⁵ established a two-year timeframe to discuss the contents of the Draft Articles in an interactive mode through resumed sessions.

The first (10 to 14 April 2023) and the second (1 – 5 and 11 April 2024) resumed sessions of the Sixth Committee held at the UN Headquarters in New York witnessed the exchange of substantive views on all aspects of the Draft Articles thematically divided across five clusters.⁷⁶ States also submitted their written comments on the Draft Articles to the Sixth Committee in December 2023.

In December 2024, the UNGA adopted resolution 79/122, deciding to advance to formal negotiations on a Convention on the Prevention and Punishment of Crimes against Humanity.⁷⁷ Resolution 79/122 provides that

⁷⁵ UN General Assembly, *Crimes against Humanity* (30 December 2022) UN Doc A/RES/77/249, <https://documents.un.org/doc/undoc/gen/n23/004/85/pdf/n2300485.pdf>.

⁷⁶ UN General Assembly, *Crimes against Humanity Written Summary of the Resumed Sessions* (30 December 2022) UN Doc A/C.6/76/2, <https://documents.un.org/doc/undoc/gen/n24/100/77/pdf/n2410077.pdf>.

⁷⁷ UN General Assembly, *United Nations Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity* (4 December 2024) UN Doc A/RES/79/122, <https://documents.un.org/doc/undoc/gen/n24/400/18/pdf/n2440018.pdf>.

the proposals for amendments to the Draft Articles by governments must be submitted by governments by 30 April 2026.

The resolution also established two sessions of the Preparatory Committee (“PrepCom”) in 2026 (19 – 30 January) and 2027 (12 – 15 April), followed by three weeks of diplomatic negotiations at the UN Headquarters in New York in 2028 and 2029, with a view to conclude and adopt an international treaty on crimes against humanity.

The first PrepCom collated and facilitated discussions for States to prepare amendment proposals to the Draft Articles to be included in the Secretary General’s compiled text.⁷⁸ On 30 January 2026, the first PrepCom adopted without a vote a decision allowing the participation of civil society stakeholders other than those in consultative status with the Economic and Social Council (ECOSOC), facilitating representation of relevant non-governmental organizations, academic institutions, and the private sector at the negotiations.⁷⁹

The second PrepCom in 2027 will decide upon the organization and methods of work, including the rules of procedure of the Diplomatic Conference, scheduled for 2028 and 2029.

Furthermore, resolution 79/122 “encourages participants in the Conference to **organize consultations** on issues of substance, prior to the convening of the Conference”.

The proposed amendments by States by April 2026, the written submissions and observations made by States, the Chair’s summary of the resumed sessions of the Sixth Committee, and the 2019 Draft Articles along with its commentaries, and the ILC recommendations will be submitted to the Diplomatic Conference as a compiled text forming the basis of the diplomatic negotiations.

⁷⁸ UN Office of Legal Affairs, *Diplomatic Conference on the Prevention and Punishment of Crimes against Humanity*, <https://legal.un.org/diplomaticconferences/cah/>.

⁷⁹ Preparatory Committee for the United Nations Conference of Plenipotentiaries on the Prevention and Punishment of Crimes against Humanity, Decision on the participation of stakeholders other than those in consultative status with the Economic and Social Council in accordance with the provisions of Council resolution 1996/31 of 25 July 1996 (2026), https://legal.un.org/diplomaticconferences/cah/prepcom_1sess/cso_decision.pdf.

CAH Timeline and the Next steps

Date(s)	Event	Location
19-30 January 2026	First Preparatory Committee Meeting/Working Group Session	New York, UN Headquarters
30 April 2026	Deadline to Submit Written Comments by States on the ILC Draft Articles	
October 2026	81st Sixth Committee Session	New York, UN Headquarters
12 – 15 April 2027	Second Preparatory Committee Meeting	New York, UN Headquarters
October 2027	82nd Sixth Committee Session	New York, UN Headquarters
2028 (three weeks)	UN Diplomatic Conference	New York, UN Headquarters
2029 (three weeks)	UN Diplomatic Conference	New York, UN Headquarters

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ABOUT ASIA JUSTICE COALITION

Founded in 2018, the Asia Justice Coalition's purpose is to improve the legal landscape in Asia to ensure justice and accountability for gross violations of international human rights law and serious violations of international humanitarian law. The Coalition operates through collaboration, resource-sharing, and coordinating efforts between local and international civil society organizations working in the region. Its work is accomplished by undertaking joint activities relating to justice and accountability and engaging in collective advocacy.

DISCLAIMER

This paper shall be attributed to the Asia Justice Coalition; its contents may not necessarily reflect the position of a specific Member and/or all Members of this Coalition.

These views are without prejudice to any future positions taken in light of ongoing consultations and negotiations concerning the Convention on the Prevention and Punishment of Crimes Against Humanity.



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