



13 April 2023

IT'S TIME FOR A GLOBAL CONVENTION ON CRIMES AGAINST HUMANITY

The Asia Justice Coalition (the Coalition) secretariat¹ welcomes the discussion this week (10 – 14 April 2023) on the International Law Commission's (ILC) [Draft Articles on the Prevention and Punishment of Crimes Against Humanity](#) (Draft Articles) at UN General Assembly's (UNGA) Sixth Committee and calls for the adoption of the convention by the General Assembly or by an international conference of plenipotentiaries.

Crimes against humanity, while criminalised and prosecuted since Nuremberg in 1945, are not the subject of a specialised convention, unlike the crimes of genocide or war crimes. In the absence of a standalone CAH convention, such atrocity crimes against civilians continue unabated across the globe, including in Asia. The [recent airstrikes in Myanmar in the Kanbulu Township, Sagaing Region](#), reported to have killed at least a hundred individuals, are but an example of the relevance and importance of a convention on Crimes Against Humanity for Asia.

The Draft Articles reflect the collective duty of the international community to put an end to the most serious international crimes. In doing so, the Draft Articles respect the principle of sovereignty by recognising the responsibility of States to criminalise and punish crimes against humanity. These Draft Articles, which reflect the codification and progressive development of international law, provide a sound legal basis and an effective blueprint for the elaboration of the convention.

Inspired by well-accepted existing multilateral treaties, the Draft Articles bridge the normative gap in treaty law by providing for state responsibility for crimes against humanity – unlike the Rome Statute, which provides for individual criminal responsibility. The proposed Convention not only fills the accountability gap by requiring States to prevent the commission of crimes against humanity but investigate and prosecute the crimes before their national courts. The Draft Articles further strengthen inter-State cooperation at the horizontal level and consequently could bolster national capacity.

The [Asia Justice Coalition](#) is a network of organizations across Asia whose purpose is to promote justice and accountability for gross violations of international human rights law and serious violations of international humanitarian law. While Asia has been a site for various

¹ This letter shall be attributed to the Asia Justice Coalition secretariat; its contents may not necessarily reflect the position of a specific Member and/or all Members of the Coalition.

international justice endeavours including the Extraordinary Chambers in the Courts of Cambodia and the Special Panels for Serious Crimes in Timor-Leste, the engagement of the States in the region with international justice mechanisms has been minimal. The low ratifications – only 19 – to the Rome Statute is just one example. The absence of a regional human rights treaty or an Asia-wide court further weakens the fight against impunity for atrocity crimes. Building on the principles of the UN Charter, the Coalition secretariat notes that the proposed Convention will reaffirm commitment to a rules-based international legal order and assist in reducing barriers to prosecution of atrocity crimes within our region—a central facet of the Coalition’s broader purpose.

The Crimes Against Humanity Draft Articles complement, rather than compete or duplicate with, the obligations under the [Rome Statute](#) (ICC) and the proposed [Mutual Legal Assistance Treaty](#). CAH treaty provides for cooperation on a horizontal level whereas the Rome Statute regulates the relationship between the Court and States on a vertical level.

The States in the region have developed inter-State cooperation mechanisms in the form of mutual legal assistance and extradition for transnational crimes like corruption, smuggling and trafficking. The adoption of a similar framework for atrocity crimes will assist in the discharge of duties of States to end impunity for international crimes and hold perpetrators accountable.

With this background, the role of Asian States and civil society in effectively participating, engaging, and supporting the Draft Articles in the UNGA Sixth Committee is crucial. Pursuant to [resolution 77/249](#), States are [invited to make written submissions](#) to the Sixth Committee by 1 December 2023, thereby shaping the structure and content of the Draft Articles. UN Member States including Asian States must work towards a global convention on the Prevention and Punishment of Crimes Against Humanity, based on these Draft Articles.

The Coalition secretariat firmly believes that a global convention would fill the gap under international law for state responsibility and prosecution of individuals before national courts for crimes against humanity. As atrocities continue to unfold in the Asia-Pacific, the importance of accountability and justice in the region continues to be paramount. The Coalition secretariat will closely monitor and engage in developments relating to the Draft Articles.
