

1 August 2024

Dear Sir/Ma'am,

Draft Convention on the Prevention and Punishment of Crimes Against Humanity

I write to you as the Director of the [Asia Justice Coalition](#) about the upcoming United Nations General Assembly (UNGA) Sixth Committee session on the [Draft Articles on Prevention and Punishment of Crimes Against Humanity](#) (Draft Articles) and call on your government to express its support for a UNGA resolution to begin treaty negotiations for a global convention on crimes against humanity (CAH).

The Sixth Committee of the [UNGA Sixth Committee](#) is currently considering the Draft Articles adopted by the International Law Commission (ILC) in 2019. In the **79th session of the General Assembly in October and November 2024**, states will decide on the future of the Draft Articles based on the [ILC's recommendations](#), i.e., the elaboration of a convention by the UNGA or by an international conference.

Unlike genocide or war crimes, there is no international treaty on the prevention and punishment of crimes against humanity. Based on well-accepted existing multilateral treaties, the ILC Draft Articles **bridge this normative gap** in treaty law by recognising the responsibility of states to criminalise and punish crimes against humanity. The Draft Articles provide for state responsibility in international law and strengthen inter-state cooperation at the horizontal level, including extradition and mutual legal assistance. Such a convention, if adopted, will enable states to develop the national capacity to investigate and punish CAH within their territory.

In light of multiple protracted conflicts around the world and their disproportionate impact on civilians, including women and children, the Draft Articles lay strong emphasis on **codifying prevention obligations**. It calls upon states to prevent the commission of crimes against humanity in accordance with UN principles and international law by exercising their criminal jurisdiction. In other words, the Draft Articles provide national ownership over criminal proceedings.

In furtherance of [resolution 77/249](#), states exchanged substantive views on the Draft Articles in **resumed sessions** of the Sixth Committee, in April 2023 and April 2024. States also submitted [written comments](#) on the Draft Articles to the Sixth Committee in December 2023.

At the Sixth Committee, a majority of states have expressed their support to move forward towards formal negotiations of a convention on crimes against humanity. This position also has the support of civil society organisations, across all regions. While there are recommendations to improve the Draft Articles, the correct forum to do so remains a diplomatic conference.

The Draft Articles provide a **sound legal basis and an effective blueprint** for the negotiation of a treaty. We welcome the active participation from Asia-Pacific states across the two resumed sessions and hope that your government will continue its robust and positive engagement with the Draft Articles, in order to move towards treaty negotiations. For a comprehensive overview of our region and its approach to this issue, you may find **our briefing paper on Asia and the Draft Articles useful, [available here](#)**.

The Draft Articles are **non-duplicative in nature** and fill distinct gaps in international law. Unlike the [Rome Statute](#) of the International Criminal Court (ICC), the Draft Articles do not establish an international court but empower national courts and authorities to exercise jurisdiction within their legal systems. Further, the Rome Statute facilitates a 'vertical relationship' between the ICC and member states, providing for individual criminal responsibility, whereas the proposed CAH Convention establishes state responsibility and allows for a 'horizontal relationship' amongst states. Likewise, the Draft Articles complement the [2023 Ljubljana-The Hague Convention](#) in actuating horizontal cooperation between states once an atrocity crime has been committed.

As atrocities continue to unfold across the globe, including in the **Asia-Pacific**, the importance of [accountability and justice in the region continues to be paramount](#). Entrenched impunity for atrocity crimes may contribute to instability in the region and to the furtherance of transnational crimes, including human and drug trafficking, and corruption. Further, establishing a treaty framework to prevent and punish crimes against humanity would align with the state's obligation under the UN Charter to maintain international peace and security.

We firmly believe that a global convention would fill the gap in international law for state responsibility and the prosecution of individuals before national courts for crimes against humanity. **In this light, we call upon your government to support the call for formal treaty negotiations for crimes against humanity convention based on the Draft Articles.**

If you would like more information on the ILC Draft Articles, the Asia Justice Coalition would be happy to assist and provide further resources.

Yours sincerely,

Priya Pillai
Director, Asia Justice Coalition