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## **Time has come to turn the Draft Articles on Prevention and Punishment of Crimes against Humanity, duly amended, into a UN Convention**

### Public statement

London, 30 September 2020

Amnesty International considers that time has come to turn the Draft Articles on Prevention and Punishment of Crimes against Humanity, duly amended, into a UN Convention.

The organization considers that the text of the Draft Articles adopted on second reading by the International Law Commission (ILC) and circulated to states in 2019 provides a good basis for a future convention on the matter. In that vein, Amnesty International supports the recommendation made by the ILC to states last year to elaborate “a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles”.<sup>1</sup> And of the options suggested by the ILC Amnesty International urges states to support – during the UN General Assembly Sixth Committee debate of the item ‘Crimes against Humanity’ (Agenda item 81), scheduled in principle on 15 October, the convening of a conference of plenipotentiaries to debate and adopt the text of such convention. The organization also thinks that such a debate should be open to civil society organizations.

That said, Amnesty International has repeatedly stated that several improvements should be made to the text of the Draft Articles for them to become a powerful tool to put an end to impunity.

Despite the fact that the Draft Articles compress a number of positive provisions, some clauses appear to reflect the lowest common denominator acceptable to all states and not the most protective provisions the community of states should aspire to.

In such a sense, Amnesty International has recommended the inclusion of a ban on amnesties, military courts and reservations; a clause on federal states obligations; a strong definition of victims – as provided, for example, in Rule 85 of the Rules of Procedure and Evidence of the International Criminal Court; a clause on the non-applicability of statutory limitations to civil tort claims; as well as a definition of the crimes against humanity of enforced disappearance and persecution without any jurisdictional threshold, among other recommendations.

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<sup>1</sup> Int’l Law Comm’n, *Report on the Work of Its Seventy-First Session*, UN Doc. A/74/10 (2019), Chapter IV, Crimes against humanity, para. 42.



## Background information

On Amnesty International position on the Draft Articles, see (in English, French and Spanish):

- 1) International Law Commission: Initial recommendations for a convention on crimes against humanity, 2015, [www.amnesty.org/en/documents/ior40/1227/2015/en/](http://www.amnesty.org/en/documents/ior40/1227/2015/en/)
- 2) International Law Commission: Second report on crimes against humanity: positive aspects and concerns, 2016, [www.amnesty.org/en/documents/ior40/3606/2016/en/](http://www.amnesty.org/en/documents/ior40/3606/2016/en/)
- 3) International Law Commission: Commentary to the third report on crimes against humanity, 2017, [www.amnesty.org/en/documents/ior40/5817/2017/en/](http://www.amnesty.org/en/documents/ior40/5817/2017/en/)
- 4) Amnesty International conditional support to the Draft Articles on crimes against humanity adopted by the International Law Commission on first reading, 2017, [www.amnesty.org/en/documents/ior40/7328/2017/en/](http://www.amnesty.org/en/documents/ior40/7328/2017/en/)
- 5) 17-Point Program for a Convention on crimes against humanity, 2018, [www.amnesty.org/en/documents/ior51/7914/2018/en/](http://www.amnesty.org/en/documents/ior51/7914/2018/en/)
- 6) The problematic formulation of persecution under the Draft Convention on crimes against humanity, 2018, [www.amnesty.org/en/documents/ior40/9248/2018/en/](http://www.amnesty.org/en/documents/ior40/9248/2018/en/)