



**STATEMENT BY**

**DR. KAJAL BHAT**

**COUNSELLOR & LEGAL ADVISER**

**PERMANENT MISSION OF INDIA TO THE UN**

**ON**

**AGENDA ITEM 78**

**"CRIMES AGAINST HUMANITY"**

**AT THE**

**SIXTH COMMITTEE OF THE 77th SESSION OF THE**

**UNITED NATIONS GENERAL ASSEMBLY**

**NEW YORK**

**10 OCTOBER 2022**

We would like to thank the International Law Commission and Special Rapporteur, Mr. Sean D Murphy for their efforts in the elaboration of the draft articles on prevention and punishment of crimes against humanity.

Mr. Chairman,

2. One of the fundamental principles of international criminal law is that States have the primary sovereign prerogative to exercise jurisdiction through their national courts over crimes, including crimes against humanity, that have been committed either in their territory or by their nationals.

3. We believe that a clear jurisdictional linkage principle should be established for exercise of jurisdiction by Nations over crimes committed by their nationals. India conforms to the principle that the State with territorial or active personality jurisdiction is best suited for effective prosecution of crimes against humanity. It is in the interest of justice, the rights of the accused, with due consideration to the interests of victims and other such considerations, that territorial or national jurisdictions should be given primacy.

4. As to the draft Articles on Prevention and Punishment of Crimes Against Humanity - adopted by the International Law Commission at its seventy-first session, in 2019, and submitted to the General Assembly as a part of the Commission's report - are concerned, we would like to reiterate that the existing international instruments elaborately address the issue of crimes against humanity. The draft articles are inspired by the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide, and India is not a party to the Rome Statute.

5. Our understanding is that those Member States that have not subscribed to the Rome Statute, have extant national legislation in place to deal with such offenses. In the absence of sufficient State practice and general willingness on the part of Member States, it would not be advisable to rush into the elaboration of a Convention on crimes against humanity.

Mr. Chairman,

6. Given the shared concerns among the member States that these Draft Articles have largely been put together by analogy or deduction from the provisions of other international conventions, we are of the view that these draft Articles are neither new nor universal. We fail to see the urgency of an accelerated adoption of the draft without a prior exhaustive study of its contents through the methods traditionally employed by the Commission.

7. The goal of preventing crimes against humanity and other core crimes,