

# Prevention and Punishment of Crimes Against Humanity: The United Nations General Assembly Long-Walk Journey

Ana Paula Lavalle Arroyo & Amadou Jaiteh

## ABSTRACT

*This article traces the efforts within the United Nations to negotiate a convention on the prevention and punishment of crimes against humanity. The authors offer a behind-the-scenes account of the negotiations that led to the decision to convene the United Nations Conference of Plenipotentiaries on the Prevention and Punishment of Crimes against Humanity, the challenges posed by the impasse within the Sixth Committee due to consensus-based diplomacy, and the pivotal roles of civil society and academic experts. The article concludes with an invitation for States to deliver a strong and inclusive treaty that fills a critical gap in international law and ensures accountability for the gravest crimes of concern to humanity.*

Since the United Nations General Assembly (UNGA) adopted the Nuremberg Judgment and its Principles in 1946,<sup>1</sup> subsequently codified by the International Law Commission (ILC) in 1950, the international community has not lost sight of the need for a standalone convention to prevent and punish crimes against humanity. Despite the absence of such a treaty, consensus on the importance of addressing these atrocities remains strong. In an increasingly polarized international environment, the call for a durable legal framework to end impunity for such crimes has become even more urgent.

An African proverb aptly captures the perseverance required in this effort: “It always seems impossible until it’s done.” This spirit—invoked by Nelson Mandela during his long struggle against apartheid—also inspired the visionaries of 1946. Decades later, Professor Leila Nadya Sadat was also inspired by the power of perseverance when, in 2008, she led the Crimes Against Humanity Initiative at Washington University in St. Louis to catalyze a renewed international movement towards drafting an international convention on this topic. That initiative ultimately prompted

---

<sup>1</sup> G.A. Res. 95 (I), Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal (Dec. 11, 1946).

the ILC to include the topic “Crimes Against Humanity” in its long-term program of work, and to elaborate a set of draft articles on the prevention and punishment of crimes against humanity.

The ILC comprises 34 independent experts of recognized competence in international law. These experts are qualified in both the doctrinal and practical aspects of international law and have independent views that reflect a broad spectrum of expertise and practical experience in the field.<sup>2</sup> The ILC adopted a set of draft articles on the prevention and punishment of crimes against humanity in 2019 and recommended that the United Nations negotiate a convention based on these articles.<sup>3</sup> This milestone provided Member States with an opportunity to engage substantively in deliberations on the potential adoption of a convention within the framework of the General Assembly.

The process provided States in the General Assembly (Sixth Committee) with the opportunity to deliberate on the viability of the draft articles for their eventual adoption and codification into a treaty that serves the interests of the international community as a whole. Diplomatic efforts and the exchange of views were aimed at reaching an agreement on a text that reflects the extensive expert and academic work dedicated to each draft article, following their submission to the Committee for consideration and endorsement. It is far more procedurally complex to obtain the Committee’s approval for a well-crafted document than it may appear. The draft articles were examined by the Sixth Committee for three years, during which progress was repeatedly stalled due to the Committee’s unwritten practice of adopting resolutions by consensus.

Achieving consensus within the Sixth Committee proved to be exceptionally difficult; resolutions 74/187, 75/136, and 76/114 only ‘took note’ of the draft articles and decided to continue examining the recommendation of the ILC.<sup>4</sup> In 2021, due to the impasse and the pattern of inaction shown in those prior resolutions, Mexico decided to dissociate from the consensus. Mexico based this decision on the principle that products of the ILC should be given serious consideration and thorough discussion in line with the mandate of codification and progressive development of international law established in Article 13 (a) of the Charter, especially on a topic as relevant as CAH.<sup>5</sup>

---

<sup>2</sup> *Membership*, INT’L L. COMM’N (Sept. 18, 2025), <https://legal.un.org/ilc/ilcmembe.shtml> [<https://perma.cc/5LC9-GRR8>].

<sup>3</sup> Int’l L. Comm’n, Rep. on the Work of Its Seventy-First Session, at 10, U.N. Doc. A/74/10 (2019).

<sup>4</sup> See G.A. Res. 74/187, Crimes Against Humanity (Dec. 18, 2019); see also G.A. Res. 75/136, Crimes Against Humanity (Dec. 22, 2020); G.A. Res. 76/114, Crimes Against Humanity (Dec. 17, 2021).

<sup>5</sup> See Statement of Mexico, *Agenda Item 83, Crimes Against Humanity*, U.N. GAOR, 76th Sess., 6th Comm. mtg. 29 (Nov. 18, 2021),

After three years of cyclical deadlock that appeared bound to last forever in the Committee, a coalition of States — Mexico, The Gambia, the United States, the United Kingdom, Lebanon, Sierra Leone, and the European Union — formed a Core Group committed to charting a constructive path forward in 2022. Refusing to accept inaction as an option, the Core Group decided to present a State-led resolution.

But what does a State-led resolution mean? There is a well-established practice where most resolutions are introduced by the Bureau of the Committee, rather than by individual or groups of Member States. This practice is often referred to as “Bureau-led resolutions.” In keeping with the consensus-based tradition of the Sixth Committee, the Bureau will work to accommodate the views of delegations and revise the draft accordingly, often through multiple informal consultations. The goal is to reach consensus, avoiding a vote wherever possible, even if the cost is inaction. Contrary to that practice, but in line with the Rules of Procedure of the General Assembly, Mexico and The Gambia decided to exercise the right of any Member State to table a draft resolution directly, without relying on the Bureau. The move was not only procedurally significant; it also challenged the culture of paralysis that had dominated the agenda item for years.

The draft resolution presented by The Gambia and Mexico explored several options for facilitating a substantive exchange on the ILC’s Draft Articles, including the establishment of an ad hoc committee, a working group, and the convening of resumed sessions of the Sixth Committee. The co-facilitators engaged the Sixth Committee in an inclusive manner, with an open mind toward adopting a mandate for any of the proposed options, provided it was agreeable to all States.

As co-facilitators of the process, we witnessed firsthand the political reluctance of certain States to engage in the initiative. For some, this unwillingness stemmed from a broader resistance to accountability measures; for others, it reflected skepticism driven by perceived politicization and double standards in the application of international law. These dynamics complicated multilateral negotiations, even as the normative imperative for action remained clear.

Following several rounds of informal negotiations on the language of the draft resolution and the various procedural formats, the option most amenable to consensus was the convening of resumed sessions of the Sixth Committee, lasting five days in 2023 and six days in 2024. This resolution also mandated the Sixth Committee to decide in 2024 on the next steps towards starting negotiations for a convention.

In November 2022, the Sixth Committee adopted, by consensus and with 86 co-sponsors, the draft proposal on the prevention and punishment of crimes against humanity, which later became General Assembly resolution A/RES/77/249.<sup>6</sup> The resolution was subsequently adopted by the General Assembly on December 30, 2022. Resolution 77/249 provided not only for the convening of resumed sessions to facilitate substantive exchanges of views among States, but also for the use of an interactive format to discuss all aspects of the ILC's draft articles on crimes against humanity. It further invited consideration of the ILC's recommendation, made at its seventy-first session, to elaborate a convention, either through the General Assembly or an international conference of plenipotentiaries, based on the draft articles.

Having adopted this landmark resolution, with the mandate providing the Sixth Committee to resume its session for two consecutive years only to discuss the ILC draft articles and the viability of elaborating a treaty to prevent and punish crimes against humanity, was an exciting, successful first step that came with more responsibilities and expectations for a future convention.

After 75 years of inaction on this vital cause for humanity, the decision by The Gambia, Mexico, and the co-sponsoring States to depart from the established practice of the Sixth Committee and initiate a State-led process, within the framework of the General Assembly's Rules of Procedure, was both bold and transformative. As the international community looked ahead to 2024, this courageous move marked the beginning of a renewed and determined journey toward a future treaty on the prevention and punishment of crimes against humanity.

From the outset, this process was accompanied by activists and legal scholars<sup>7</sup> They played a vital role in shaping and enriching our collective efforts. Their insights, expertise, and clarity have been essential to ensuring that the process remains grounded in the lived experiences of victims, and responsive to the evolving challenges of atrocity prevention. These partnerships were key; the unity of purpose helped us continue to move forward with determination toward a strong and effective convention.

In these collective efforts to keep the momentum going, the co-facilitators in partnership with a number of cross regional States, including Djibouti, South Africa, Senegal, Ghana, the European Union (EU), Canada,

---

<sup>6</sup> G.A. Res. 77/249, Crimes Against Humanity (Dec. 30, 2022).

<sup>7</sup> See, e.g., the Crimes Against Humanity Initiative, Washington University School of Law, which brought together legal scholars and experts—led by Professor Leila Sadat—to develop and promote the first modern draft of a Convention on the Prevention and Punishment of Crimes against Humanity. The Initiative also collaborated with civil society advocates, including Richard Dicker (Human Rights Watch) and Akila Radhakrishnan (Global Justice Center), who played important roles in advancing accountability efforts and advocating for a treaty.

Australia, Costa Rica, Brazil, El Salvador, Costa Rica, Bangladesh and the Republic of Korea, among others, continued the conversation on the future convention on crimes against humanity at several meetings, many of them hosted by Columbia University Law School.

We recall participating in conversations with Professor Charles Jalloh, who provided valuable clarity on international law not only from the perspective of an academic, but also as a member of the ILC. Similarly, at Columbia Law School and during the EU seminars, the co-facilitators heard perspectives from Professor Richard Dicker in a session on “National measures including criminalization, immunities, and the establishment of jurisdiction.” At the EU seminar, the co-facilitators also participated in a conversation on “Crimes Against Humanity: Past, Present, and Future” alongside Professor Philippe Sands, who shared insights from his book *East West Street*, where he explores the development of the legal concepts of “genocide” and “crimes against humanity.”<sup>8</sup>

All of these enriching events injected renewed hope and optimism into the ongoing effort to establish a future convention on the prevention and punishment of crimes against humanity. Civil society organizations, in collaboration with States and academia, have continued these conversations on the margins of every major UN event. One particularly memorable event was titled “Advancing Towards a Crimes Against Humanity Convention,” co-organized by a cross-regional group of States, the Global Justice Center, Human Rights Watch, Amnesty International, the International Commission of Jurists, and the Asia Justice Coalition.

The participation of some Member States that were initially unconvinced about the world’s readiness to establish a convention on crimes against humanity was essential to building momentum. Their concerns could only be addressed through direct engagement. These exchanges provided a gradual pathway to bring them on board and to demonstrate that their voices and perspectives were being considered.

It is worth noting that all States unequivocally condemn crimes against humanity. However, divisions persist regarding the conceptualization and consistent application of the relevant legal framework. States that refused or seemed indifferent to welcoming the ILC draft articles in their current form, because of the similarities or verbatim reproduction of some articles of the Rome Statute, still continue to participate in events to discuss the future convention. They hope to gain greater clarity on the convention, to allay concerns and increase receptiveness to alternative views among hosts and co-sponsors of the event in support of the process.

---

<sup>8</sup> PHILIPPE SANDS, *EAST WEST STREET: ON THE ORIGINS OF ‘GENOCIDE’ AND ‘CRIMES AGAINST HUMANITY’* 448 (Alfred A. Knopf 2016).

This long-walk journey eventually brought the international community closer to the promise of a decision. In compliance with UN General Assembly resolution 77/249, the co-facilitators met once again to draft a new resolution aimed at deciding to convene a United Nations Conference of Plenipotentiaries to elaborate and conclude a legally binding instrument on the prevention and punishment of crimes against humanity. The draft was initially shared with the core group and the co-sponsors of General Assembly Resolution 77/249 and subsequently circulated to the broader United Nations membership at the commencement of the 79th session of the General Assembly. This marked the beginning of substantive negotiations on the text.

The initial draft proposed a structured, methodical approach to advancing negotiations on a treaty to prevent and punish crimes against humanity, organized into three key sections. The first section provided the background and introduction, outlining the historical context and the legal basis for convening a Conference to initiate negotiations on the convention, and emphasizing the urgent need to strengthen international legal mechanisms to address such crimes effectively. The core decision of the draft centered on the proposal to convene a Conference of Plenipotentiaries at UN Headquarters in New York in the first half of 2026, with the mandate to elaborate and conclude a legally binding instrument based on the ILC's draft articles and commentaries, supplemented by Member State observations and outcomes from prior discussions. The third section detailed the modalities of the process, including the establishment of a Preparatory Committee in 2025, inclusive and transparent negotiations open to all States and relevant observers, expert participation (such as the invitation to the former Special Rapporteur), and clear administrative and financial arrangements for the conference. The draft also provided flexibility to adapt the agenda as needed, ensuring a comprehensive, participatory process that delivers a meaningful outcome.

The commitment was to balancing inclusivity and efficiency while navigating the complexities of multilateral negotiations. By prioritizing broad support and maintaining momentum, the co-facilitators aimed to pave the way for the adoption of a much-needed legal framework to address crimes against humanity.

The draft resolution was circulated to the entire UN membership during the first week of the 79th session of the General Assembly. By this time, it had already garnered the support of 63 co-sponsors, reflecting previous commitments from States across all regions.

During the Sixth Committee's session, the co-facilitators convened three informal consultations. In the first one, the draft resolution was introduced to the entire UN membership, and this session provided an opportunity for delegations to share general comments and voice concerns about the

proposed text. At the second consultation, the co-facilitators shared their many views on the concerns expressed. At the end of the meeting, delegations were invited to submit written comments to ensure meaningful input in refining the draft resolution and addressing the concerns of Member States.

Following the first two informal consultations, the co-facilitators received four documents with written comments on the draft resolution. Three of them proposed significant modifications to the draft resolution, advocating that the draft articles be returned to the ILC rather than convening a Conference of Plenipotentiaries. The majority of delegations, including the co-facilitators, deemed this approach unacceptable, as it would undermine the momentum for advancing the negotiation process.

In contrast, one submission offered constructive proposals, albeit with provisions that would delay and extend the negotiation timeline. These suggestions aimed to enhance the process by creating mechanisms for more substantive discussions among States and providing opportunities to submit textual proposals. The compiled proposals would then form the basis for negotiating the Convention at the Conference of Plenipotentiaries.

In general terms, the comments received during the informal consultations and reflected somehow in the proposal presented by six African States and the United Arab Emirates highlighted three main concerns:

States need more time to initiate and conduct negotiations, with calls to extend the proposed three-week negotiation period to ensure a more deliberate and inclusive process.

States need to have the opportunity to present textual proposals on the ILC's draft articles, with these proposals compiled into a document to serve as the basis for negotiations at the Conference of Plenipotentiaries.

Concerns regarding the proposed modalities, particularly the inclusion of additional organizations without ECOSOC consultative status in the negotiation process, were raised by some delegations, who viewed this as problematic.

With these legitimate concerns in mind, and the need to ensure sufficient time for meaningful negotiations while avoiding undue delays in starting discussions on the much-needed Convention, the co-facilitators engaged in discussions with the group of countries that had submitted concrete language proposals (A6+1).

This period of diplomatic efforts and maneuvering leading to the decision day showed that, as co-facilitators, The Gambia and Mexico engaged in several informal and formal sessions of both multilateral and bilateral meetings aimed at not just securing support for the draft resolution tabled by The Gambia and Mexico but also a balanced text fit for adoption by consensus.

The negotiations were challenging, as one would expect when asking the 193 Member States of the United Nations to embark on the demanding journey of a long walk toward unity. Achieving such a result may or may not require extraordinary skill, but it certainly demands patience, flexibility, and a willingness to accommodate and compromise for the greater good. This spirit of determination and collaboration was on full display on November 22, 2024, at the United Nations General Assembly Sixth Committee, where—after six hours of final negotiations and with 99 confirmed co-sponsors—the Committee fulfilled its commitment by paving the way for the United Nations Conference of Plenipotentiaries on the Prevention and Punishment of Crimes Against Humanity. Through the leadership of The Gambia and Mexico, Resolution A/RES/79/122—on convening the UN Conference to negotiate a convention on crimes against humanity with a view to providing accountability for victims of the most heinous atrocity crimes— was adopted by consensus in the Sixth Committee, promising a future convention that foresees universal acceptance.<sup>9</sup>

The successful adoption of resolution 79/122 marked the end of the beginning of a long and challenging journey toward a future treaty. The international community now faces a crucial moment: the responsibility to deliver a negotiated convention that is not only strong and practically enforceable but also grounded in the principle of universality.

A question continues to arise in moments of reflection: if no State wishes to be associated with crimes against humanity, and all States unequivocally condemn them, why has it been so difficult to reach consensus on negotiating a treaty? The answer, though uncomfortable, lies in the complex interplay of geopolitical interests, concerns over sovereignty, and the perceived risks of future accountability. For some States, the cost of legal clarity is political vulnerability—a risk they are reluctant to take.

Yet for The Gambia and Mexico, the motivation to lead this process stems from a shared conviction: that peace and security, the protection and promotion of human rights, and the progressive development of international law are not optional ideals but foundational pillars for a sustainable global order. By strengthening the rule of law—both domestically and multilaterally—we aim to provide legal certainty as a guide for good governance and a safeguard to ensure accountability for the gravest international crimes.

Resistance to accountability often emerges from entrenched power structures, where those in positions of authority seek to preserve their dominance by weakening or obstructing legal mechanisms that might

---

<sup>9</sup> G.A. Res. 79/122, United Nations Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity (Dec. 4, 2024).

constrain their power. As Edmund Burke warned, “*The only thing necessary for the triumph of evil is for good men to do nothing.*” In this spirit, the role of civil society becomes key; their voices represent those who are silenced, marginalized, or unaware of their rights. Their advocacy is essential to ensuring that international law reflects the realities and aspirations of the people it seeks to protect.

Today, atrocity crimes continue to shock the conscience of humanity in many places in the world, like Sudan, Gaza, Ukraine, and Myanmar. This underscores a critical gap in the international legal framework: the absence of a dedicated, universally accepted convention on crimes against humanity. Bridging this gap is a moral and political imperative.

The time has come for the international community to commit to this endeavor with renewed clarity and collective resolve. The forthcoming negotiations must not result in a symbolic document but in a strong, inclusive, and enforceable treaty—one that provides clear definitions, establishes accountability mechanisms, and reaffirms our shared humanity. The road ahead will be demanding, but the journey has already begun. We remain committed to the clarion call issued by the International Law Commission, and to the General Assembly’s decision to move this process forward.

The time to end impunity is now. The time to deliver justice is now. And the time to enshrine accountability in international law, through a convention on the prevention and punishment of crimes against humanity that belongs to and represents all, is now.