

**Statement by the representative of the Islamic Republic of Iran
Before the Sixth Committee**

On Draft Articles on the Prevention and Punishment of Crimes against Humanity

Cluster 3: National measures (Article 6 Criminalization under national law; Article 7 Establishment of national jurisdiction; Article 8 Investigation; Article 9 Preliminary measures when an alleged offender is present; Article 10 *Aut dedere aut judicare*)

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Mr. Chair.

With respect to paragraph 8 of draft Article 6, the criminal liability of legal persons in the context of crimes against humanity continues to face legal difficulties arising from the definition, interpretation, and enforcement as well as disagreements on various aspects of this topic including in the light of the principle of *nullum crimen sine lege* and non-existence of such liability in certain legal systems. From a practical standpoint, the inclusion of liability of legal persons may also create practical difficulties and uncertainty regarding the implementation of other provisions of draft

As reflected in the records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, there has

Similarly, and as highlighted in the

and the

ICTY and ICTR did not have criminal jurisdiction over legal persons.

In relation to the Nuremberg Tribunal which had specific context and circumstances, even though the International Military Tribunal could pronounce an organization as criminal, it was not meant to investigate and prosecute legal persons rather a specific procedure to allow for prosecution and trial of individuals was sought for a specific context. The Commentary of the Draft Articles has elaborated that in this Tribunal only natural persons were prosecuted and penalized. The Commentary has enumerated many other relevant frameworks where jurisdiction over criminal liability

of existence of actual connection to exercise jurisdiction." This could assist States when they seek to resolve jurisdictional conflict.

With respect to draft Article 9, any confinement of an alleged offender in the form of custody or through any other measures should be time-bounded. Furthermore, as outlined before by my delegation, regarding draft Article 8, there should be an actual connection between a state intending to prosecute a crime and the territory where the crime has been committed, or the alleged offender is its national. We are doubtful of plenary exercise of jurisdiction by a State where an alleged offender is present on its territory, and in the absence of actual connections such as territoriality or personality jurisdictions.

Having said that, while we are still considering various aspects of Article 9, my delegation is not content with the final clause of paragraph 3 of Article 9, which leaves the
- a State that an alleged offender is present
even when there is no territoriality or personality jurisdictional ties to that State. My delegation's comment is supported by draft Article 13(12), which states that when an extradition request is made before a State where a suspect has been detained, "the State in whose territory the alleged offence has occurred" is given priority.

Thank you.