

MARCH 12, 2010 2 P.M.

FINAL TEXT

WASHINGTON UNIVERSITY LAW

WHITNEY R. HARRIS WORLD LAW INSTITUTE

CRIMES AGAINST HUMANITY INITIATIVE

**DECLARATION ON THE NEED FOR A COMPREHENSIVE
CONVENTION ON CRIMES AGAINST HUMANITY**

Whereas over the course of human history, millions of people, particularly women and children, have been subjected to murder, extermination, enslavement, deportation, persecutions and other atrocities that have shocked the conscience of humanity,

Whereas it was established in 1946 by the International Military Tribunal at Nuremberg that these “crimes against humanity” are crimes under international law for which the perpetrators could be prosecuted and punished,

Whereas in 1998, 120 States participating in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court agreed upon a definition of crimes against humanity during the negotiations of the Rome Statute of the International Criminal Court,

Whereas it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes, including crimes against humanity,

Whereas the Rome Statute of the International Criminal Court condemns crimes against humanity, and requires States to put an end to impunity by ensuring their prosecution and punishment at the national and international levels, but does not provide for universally effective inter-state cooperation,

Whereas since the Second World War, the world has seen hundreds of conflicts, in which tens of millions of victims have died, and only a limited number of perpetrators have been prosecuted,

Whereas there currently exists no international treaty providing for effective inter-state cooperation in the prosecution and punishment of crimes against humanity,

Whereas crimes against humanity constitute crimes under international law which give rise to the responsibility of States for internationally wrongful acts,

Whereas crimes against humanity continue to undermine the peace and security of the world, being the source of untold suffering and a threat to human civilization,

Whereas the Crimes Against Humanity Initiative has developed a draft *International Convention on the Prevention and Punishment of Crimes Against Humanity* (the “Draft Convention”), to which more than 200 experts from around the world have contributed,

Whereas the Draft Convention was further discussed at a Conference organized by the Initiative in Washington, D.C. on March 11-12, 2010,

Whereas the Steering Committee of the Initiative will, on its own responsibility, finalize the Draft Convention in the near future,

Now therefore we, the undersigned, adopt the following Declaration:

1. States should make adoption of a comprehensive convention on crimes against humanity a priority, so as to prevent the occurrence of crimes against humanity and to enhance the fair and effective prosecution and punishment of the perpetrators of such crimes.

2. The convention should adopt as its definition of crimes against humanity the provisions of article 7 of the Rome Statute of the International Criminal Court, in order to facilitate the integration of the convention's provisions into a comprehensive system of international criminal justice, while at the same time acknowledging that there may be cases not covered by the convention or by other international agreements, in which case the human person nevertheless remains under the protection and authority of the principles of international law.

3. The convention should embody provisions on immunities, official capacity, superior orders and statutory limitations that are consistent with existing international law.

4. The convention should include provisions explicitly providing for the responsibility of States for international wrongful acts for the commission of crimes against humanity and for the failure to prevent crimes against humanity, and provide a mechanism for the resolution in the event of a dispute that may arise between two or more States Parties concerning the interpretation or application of the convention, including a compromissory clause vesting jurisdiction in the International Court of Justice.

5. The convention should provide for a monitoring mechanism, or some other vehicle, so as to enhance the preventive elements of the convention, as well as to help ensure the capacity of States Parties to fulfill their obligations to prevent and punish crimes against humanity.

6. The convention should incorporate the principle *aut dedere aut judicare* and provide for universal jurisdiction over crimes against humanity, in accordance with international law.

7. The convention should incorporate provisions protecting the rights of the accused and suspects in inter-state proceedings, including the right to a fair trial, *ne bis in idem*, and conforming to internationally recognized standards of fairness and effectiveness in the collection of evidence.

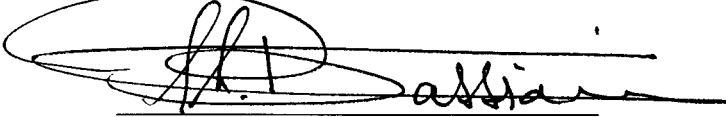
8. The convention should explicitly focus on prevention, including the development of educational and informational programs, training of law enforcement officers and military personnel, development of State capacity, the adoption of legislation, and the promotion of effective inter-state cooperation and mutual legal assistance.

Done at Washington, D.C.

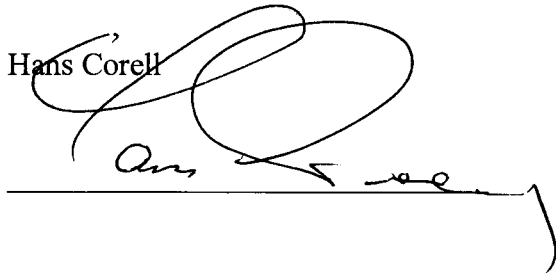
March 12, 2010

For the Steering Committee of the Initiative


M. Cherif Bassiouni

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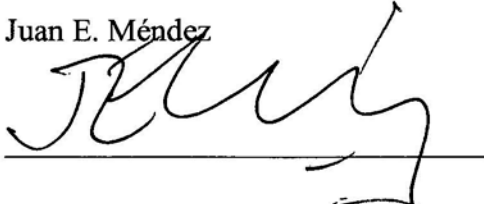
Hans Corell

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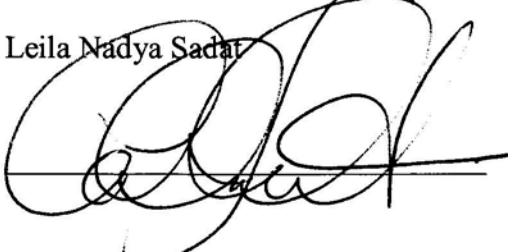
Richard J. Goldstone

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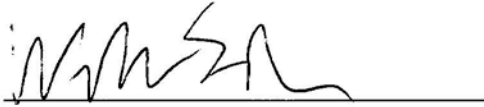
Juan E. Méndez



Leila Nadya Sadat



William A. Schabas



Christine Van den Wyngaert



The following persons who have participated in the process have declared that they support the Declaration:

Mr. Hiram Abtahi, Legal Advisor, International Criminal Court

Judge Carmel Agius, International Criminal Tribunal for the former Yugoslavia

Mr. Anes Ahmed, Extraordinary Chambers in the Courts of Cambodia; United Nations Assistance to Khmer Rouge Trials (UNAKRT)

Professor David Akerson, University of Denver, Sturm College of Law

Professor Payam Akhavan, McGill University

Judge Joyce Aluoch, International Criminal Court

Professor Dr. Kai Ambos, Georg-August-Universität, Göttingen

Ms. Silvana Arbia, Registrar, International Criminal Court

Dr. Kelly Dawn Askin, Open Society Justice Initiative

Senator Robert Badinter, French Senate

Mr. Gilbert Bitti, International Criminal Court

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Professor Wim Blockmans, Netherlands Institute for Advanced Study in the Humanities and Social Sciences

Dr. Gideon Boas, Monash University

Professor Neil Boister, University of Canterbury

Professor Frank Chalk, Concordia University; Director, Montreal Institute for Genocide and Human Rights Studies

Mr. Hicham Cherkaoui, Coordinator of Moroccan Coalition to the International Criminal Court

Professor Roger Clark, Rutgers University School of Law - Camden

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Professor Robert Cryer, University of Birmingham, Birmingham Law School

Dr. Philippe Currat, Avocat au Barreau de Genève

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Professor Mélanie Deshaies, Université de Montréal

Mr. Richard Dicker, Human Rights Watch

Mr. Nick Donovan, Aegis Trust

Professor Mark Drumbl, Washington & Lee University School of Law

Professor John Dugard, Centre for Human Rights, University of Pretoria

Professor Max du Plessis, University of KwaZulu-Natal, Durban

Mr. Mark Ellis, International Bar Association

Dr. Mohamed El Zeidy, International Criminal Court

The Honorable Gareth Evans, Professor, University of Melbourne

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Mr. Christopher Hale, Senior Counsel, American Bar Association Center for Human Rights

Mr. Whitney R. Harris, Former Prosecutor, International Military Tribunal at Nuremberg

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Supporters Updated: 17 July 2017