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**Preparatory Commission for the International
Criminal Court**

Working Group on Elements of Crimes

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**Proposal submitted by Bahrain, Iraq, Kuwait, Lebanon, the
Libyan Arab Jamahiriya, Oman, Qatar, Saudi Arabia, the
Sudan, the Syrian Arab Republic and United Arab Emirates
concerning the elements of crimes against humanity**

Article 7 (1): Chapeau

(a) The following elements are common to all crimes against humanity:

1. The act or acts constituting the crime were committed on a multiple basis, pursuant to or in furtherance of a state or organizational policy; and
2. The act or acts constituting the crime were committed as part of a military attack or by any other means of violence, campaign or operation against any civilian population; and
3. The act or acts constituting the crime were committed as part of a widespread or systematic attack directed against any civilian population; and
4. The act or acts constituting the crime were knowingly committed; and
5. The act or acts constituting the crime were committed without justification or excuse.

(b) The act or acts mentioned in paragraph (a) do not affect family matters recognized by different national laws of the State Parties.

Comment

These elements are placed in a chapeau to avoid repetition. The present paper is without prejudice to its final format, in particular with regard to the inclusion of a general paragraph and footnotes.

Article 7 (1) (a): Murder

1. The accused killed or caused the death of one or more persons; and
2. The accused intended to kill or cause death to one or more persons.

Article 7 (1) (b): Extermination

1. The accused inflicted conditions of life such as the deprivation of access to food and medicine in a manner calculated to bring about the destruction of a population or a part of a population; and
2. The accused intended to inflict conditions of life calculated to bring about the death of a population or a part of a population.

Article 7 (1) (c): Enslavement

1. The accused exercised powers attaching to the right of ownership over one or more persons.
2. The accused intended to exercise powers attaching to the right of ownership over one or more persons.
3. Powers attaching to ownership does not include rights, duties and obligations incident to marriage between a man and a woman or between parent and child.

Article 7 (1) (d): Deportation or forcible transfer of population

The perpetrator, directly or indirectly:

1. Induced, facilitated, participated or helped in any manner in the transfer of civilian population of the Occupying Power into the territory it occupies; or
2. Deported or transferred all or parts of the population of the occupied territory within or outside this territory.

Article 7 (1) (e): Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law

1. The accused unlawfully imprisoned one or more persons or severely deprived one or more persons of their physical liberty in violation of the recognized principles of international law universally accepted.
2. The accused intended to unlawfully imprison or severely deprive one or more persons of their physical liberty.
3. Nothing in these elements shall affect family matters recognized by different national laws.

Article 7 (1) (f): Torture

1. The accused intended to inflict severe physical or mental pain or suffering on one or more persons.
2. The accused had custody of or control over such person or persons at the time of the offence.
3. The accused committed acts resulting in the infliction of severe physical or mental pain or suffering.

4. Torture shall not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 7 (1) (g) (1): Rape

1. The accused invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The accused intended the invasion of the body of one or more persons by means of this conduct.
3. The invasion was committed by force, or by threat of force such as violence, duress, detention of or against such person or another person, or the invasion was committed against a person incapable of giving genuine consent.
4. Nothing in these elements shall affect natural and legal marital sexual relations in accordance with religious principles or cultural norms in different national laws.

Article 7 (1) (g) (2): Sexual slavery

1. The accused exercised a power attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons.
2. The accused caused such person or persons to engage in one or more acts of a sexual nature.
3. Powers attaching to ownership do not include rights, duties and obligations incident to marriage between a man and a woman.

Article 7 (1) (g) (3): Enforced prostitution

1. The accused caused one or more persons to engage in one or more acts of a sexual nature with a person by force, or by threat of force such as violence, duress, detention of or against such person or another person, or by taking advantage of a person's or persons' incapacity to give genuine consent.
2. The accused or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.

Article 7 (1) (g) (4): Forced pregnancy

1. The accused confined one or more women.
2. Such woman or women had been forcibly made pregnant.
3. The accused intended by these acts to affect the ethnic composition of a population or carry out another grave violation of international law.
4. These acts do not include acts related to natural marital sexual relations or the bearing of children in different national laws in accordance with religious principles or cultural norms.

Article 7 (1) (g) (5): Enforced sterilization

1. The accused committed an act or acts which resulted in depriving one or more persons of biological reproductive capacity.

2. The accused intended by that act or acts to deprive one or more persons of biological reproductive capacity.
3. The conduct neither was justified by the medical or hospital treatment of the person or persons concerned nor was carried out with their genuine consent.

Article 7 (1) (g) (6): Any other form of sexual violence of comparable gravity

1. The accused committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force such as violence, duress, detention of or against such person or another person, or by taking advantage of a person's or persons' incapacity to give genuine consent.
2. The conduct was of gravity comparable to that of rape.
3. Nothing in these elements shall affect natural and legal marital sexual relations in accordance with religious principles or cultural norms in different national laws.

Article 7 (1) (h): Persecution against any identifiable group

1. The accused deprived an identifiable group, or members of that group, of a fundamental right or rights universally recognized under international law.
2. The accused intended to severely deprive an identifiable group of persons of life or other fundamental rights universally recognized under international law.
3. The deprivation was motivated by the group's race, religion, culture, gender as interpreted by article 7, paragraph 3, or ethnicity.
4. The deprivation was carried out in conjunction with another offence within the subject matter of the jurisdiction of the present Statute.

Article 7 (1) (i): Enforced disappearance of person

1. The accused, under the authority of a State or a political organization, arrested, detained or abducted one or more persons.
2. The accused, under such authority, intended to arrest, detain or abduct one or more persons.
3. The accused refused to give information on the fate or whereabouts of the person or persons arrested, detained or abducted.
4. The accused intended to deprive such person or persons of the right to enjoy normal legal protection for a long period of time.

Article 7 (1) (j): The crime of apartheid

1. The accused committed one or more acts of a character similar to those referred to in paragraph 1 of article 7.
2. The acts were committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups.
3. The accused intended by committing those acts to maintain that regime.

Article 7 (1) (k): Other inhumane acts

1. The accused inflicted great suffering or grave physical or mental injury by an act or acts equally serious to those defined in article 7 of the Statute.
 2. The accused intended to cause great suffering or grave physical or mental injury.
 3. The committed act or acts were grossly inconsistent with the recognized principles of international law universally accepted.
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