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PREPARATORY COMMITTEE ON THE
ESTABLISHMENT OF AN INTERNATIONAL
CRIMINAL COURT
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Working Group on definition of crimes

Working paper submitted by the delegations
of New Zealand and Switzerland

For the information of delegations in connection with the discussion on the definition of war crimes, the above delegations deem it advisable to disseminate the following list prepared by the International Committee of the Red Cross.

War crimes

1. Grave breaches of international humanitarian law applicable in international armed conflicts:

(a) One of the following acts committed in violation of international humanitarian law:

- (i) Wilful killing;
- (ii) Torture or inhuman treatment, including biological experiments;
- (iii) Wilfully causing great suffering or serious injury to body or health, in particular rape;
- (iv) Compelling a prisoner of war or another protected person to serve with the forces of a hostile Power;
- (v) Wilfully depriving a prisoner of war or another protected person of the rights to fair and regular trial;
- (vi) Unlawful deportation or transfer or unlawful confinement of a protected person;

(vii) Taking of hostages;

(viii) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

(b) One of the following acts, when committed wilfully, and causing death or serious injury to body or health:

(i) Making the civilian population or individual civilians the object of attack;

(ii) Launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, which is excessive in relation to the concrete and direct military advantage anticipated;

(iii) Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, which is excessive in relation to the concrete and direct military advantage anticipated;

(iv) Making non-defended localities and demilitarized zones the objects of attack;

(v) Making a person the object of attack in the knowledge that he/she is hors de combat;

(vi) The perfidious use of the distinctive emblem of the red cross or red crescent or of other protective signs and signals recognized by international humanitarian law;

(c) One of the following acts, when committed wilfully and in violation of international humanitarian law:

(i) The transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(ii) Unjustifiable delay in the repatriation of prisoners of war or civilians;

(iii) Practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination;

(iv) Making the clearly recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent

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international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the use by the adverse Party of such objects in support of the military effort, and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives;

(d) Wilful acts or omissions, in violation of international humanitarian law, which seriously endanger the physical or mental health or integrity:

Subjecting persons who are in the power of the adverse Party or who are interned, detained or otherwise deprived of liberty, to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the Party conducting the procedure and who are in no way deprived of liberty, in particular to carry out on such persons, even with their consent:

- (a) Physical mutilations;
- (b) Medical or scientific experiments;
- (c) Removal of tissue or organs for transplantation.

2. Other serious violations of international humanitarian law applicable in international armed conflicts:

- (i) To employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering, or inherently indiscriminate;
- (ii) To cause wilfully widespread, long-term and severe damage to the natural environment;
- (iii) Attacks against buildings, material, medical units and transports, and personnel entitled to use, in conformity with international humanitarian law, the distinctive emblem of the red cross or red crescent;
- (iv) Starvation of civilians;
- (v) To recruit children under the age of fifteen years in the armed forces, or to allow them to take part in hostilities;
- (vi) Perfidy;
- (vii) To declare that there shall be no survivors;
- (viii) Pillage;

- (ix) Violation of armistices, suspensions of fire or local arrangements concluded for the removal, exchange and transport of the wounded and the dead left on the battlefield;
- (x) To make improper use of a flag of truce, of the national flag or of the military insignia and uniform of the enemy, as well as the distinctive emblems of the Geneva Conventions.

3. Serious violations of international humanitarian law applicable in non-international armed conflicts:

- (i) Violence to the life, health and physical or mental well-being of persons, in particular murder, as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (ii) Collective punishments;
- (iii) Taking of hostages;
- (iv) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape and enforced prostitution;
- (v) Passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees generally recognized as indispensable;
- (vi) Attacks directed against the civilian population as such, or individual civilians;
- (vii) To employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering, or inherently indiscriminate;
- (viii) To cause wilfully widespread, long-term and severe damage to the natural environment;
- (ix) Attacks against buildings, material, medical units and transports, and personnel entitled to use, in conformity with international humanitarian law, the distinctive emblem of the red cross or red crescent;
- (x) Attacks directed against historic monuments, works of art or places of worship, which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort;
- (xi) Starvation of civilians;
- (xii) To recruit children under the age of fifteen years in the armed forces or groups, or to allow them to take part in hostilities;

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- (xiii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or military reasons so demand;
- (xiv) Perfidy;
- (xv) To declare that there shall be no survivors;
- (xvi) Pillage;
- (xvii) Violation of armistices, suspensions of fire or local arrangements concluded for the removal, exchange and transport of the wounded and the dead left on the battlefield.
