

Crimes Against Humanity Initiative releases final text of proposed international treaty

Initiative to focus on gaining international support

The Crimes Against Humanity Initiative at the Whitney R. Harris World Law Institute of Washington University School of Law recently released the text of a proposed multilateral treaty on the prevention and punishment of crimes against humanity.

According to Professor Leila Nadya Sadat, director of the Initiative, “this is the first time that such a convention has been drafted, and it represents a real opportunity for the international community to complete the Rome Statute system by imposing a clear obligation on States to prevent and punish crimes against humanity. Moreover, it offers mechanisms designed to help States cooperate with each other in the investigation and prosecution of such crimes.”

Sadat, the Henry H. Oberschelp Professor of Law and Harris Institute director, chairs the Initiative’s seven-member Steering Committee. Committee members are: M. Cherif Bassiouni, the Distinguished Research Professor of Law at DePaul University College of Law and founder and president emeritus of the International Human Rights Law Institute; Hans Corell, former Under-Secretary-General for Legal Affairs and legal counsel of the United Nations; Richard J. Goldstone, former chief prosecutor of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda; Juan E. Méndez, visiting professor, Washington College of Law, American University, Washington, D.C.; William A. Schabas, director of the Irish Centre for Human Rights, National University of Ireland, Galway; and Christine Van den Wyngaert, judge for the International Criminal Court. The Initiative has been generously supported by Washington University alumnus Steven Cash Nickerson, The United States Institute of Peace and Humanity United.

The text of the *Proposed International Convention on the Prevention and Punishment of Crimes Against Humanity* can be found at <https://sites.law.wustl.edu/WashULaw/crimesagainsthumanity/> in English and French. It will also appear in the book *Forging a Convention on Crimes Against Humanity*, to be published by Cambridge University Press in Spring 2011.

In addition to the treaty, the book will contain a Comprehensive History chronicling the drafting process of the Proposed Convention and essays from 15 distinguished experts in international criminal law. During the development of the Proposed Convention, the Initiative convened multiple conferences and technical advisory sessions. As part of this three-year process, nearly 250 experts from around the world gathered to discuss the problem of crimes against humanity and work on the draft convention.

Focus on international support

This fall the Initiative is entering its fourth and final phase, which will focus on publicity, advocacy, and educational activities to raise awareness of the pervasiveness of crimes against humanity, the plight of victims, the existing culture of impunity for perpetrators, and the great need for a specialized international convention to combat this problem.

The process of circulating the *Proposed Convention* is under way. It is currently being brought before governments, United Nations decision-makers, academics and non-governmental organizations for the purpose of promoting the work of the Initiative and urging support for the adoption of a comprehensive international instrument on crimes against humanity.

Steering Committee member Goldstone notes that while treaties exist to address genocide and war crimes—the Genocide Convention of 1948 and the Geneva Conventions of 1949 together with their Optional Protocols of 1977—there is currently no treaty on “crimes against humanity.”

“This gap in the law was thrown into sharp relief in the recent decision of the International Court of Justice in the case between Bosnia and Serbia,” he notes. “The Court was restricted to claims of genocide, and crimes against humanity fell between the cracks. The Crimes Against Humanity project is designed to fill this important gap in international humanitarian law.”

Steering Committee member Schabas agreed that the Crimes Against Humanity project addresses a significant gap in international law.

“Many obligations, such as the duty to cooperate in prosecution and extradition, and the responsibility to prevent the crime, are said to be enshrined in customary international law,” he says. “However, it is important to take such vague commitments a step further, and incorporate them in a binding treaty.”

The next step will be for the Initiative to convene and participate in regional meetings in Africa, the Middle East, Latin America, and Asia to further its objectives and complete Phase IV of the project.

“It is hoped that by the end of this phase of the Initiative the international community will have a strong conviction that the elaboration of a comprehensive international instrument on crimes against humanity is both urgently required and eminently feasible,” Sadat says.