

Canada

Sixth Committee, 40th Plenary Meeting

“Crimes Against Humanity”

Cluster I – Introductory Provisions

Statement delivered by Canada

Thank you, Madame Chair.

Canada would like to join its voice to others who have expressed appreciation for the tremendous work done so far to bring us together to discuss the draft Convention on the Prevention and Punishment of Crimes against Humanity presented by the International Law Commission to this Committee. We would like to commend the ILC, and rapporteur Sean Murphy, for their contribution to the work of the Sixth Committee, which builds on the legacy and experience of numerous international courts and tribunals.

Supporting progress towards a Convention on the Prevention and Punishment of Crimes Against Humanity, we would like to commend the strong attendance at this resumed session. This high level of participation allows us to engage substantively and exchange constructive views on each provision of the proposed draft Convention. We look forward to our discussions and engagement with our Facilitators.

We also welcome the input received from members of civil society over the years since the ILC first developed its draft articles. This wide range of views helps inform each delegation's position.

Confronted with a rise in atrocity situations worldwide, we must remain steadfast in our efforts to prevent and punish serious international crimes, including crimes against humanity as one of the most serious crimes of international concern.

As the only atrocity crime without a dedicated convention, we certainly hope that the work that will be carried out this week will contribute to efforts to close this gap in the international accountability framework, and bring perpetrators of crimes against humanity to justice.

Madame Chair,

While we recognize the value of basing many provisions on existing language in other treaties, we also welcome the opportunity to explore language in the draft convention that is inclusive, and encompasses a gender perspective more broadly, in addition to ensuring enhanced prevention and accountability measures for sexual and gender-based crimes.

Turning to the preamble, Canada is of the view that the draft establishes well the context within which we are examining the current draft convention.

With respect to Preambular Paragraph 1, we believe it could be warranted to strengthen the provision to emphasize more acutely the seriousness of the atrocity crimes that continue to be perpetrated around the globe to this day. We would also recommend noting that these crimes continue at present.

In terms of the debate we have been having with respect to the reference to *jus cogens* in Preambular Paragraph 4, we would note that this

characterization of such crimes, which are an outrage against humanity, certainly corresponds with our views.

In consideration of Preambular Paragraph 7, as others have noted already, not all States present are parties to the Rome Statute. However, we will recall that in coming to agreement on the content of the Rome Statute, the international community was attempting to reflect the status of customary international law at the time, which took into account the views of *all* States, and not just those who signed on to the Rome Statute.

As we equally agree that customary international law continues to evolve with time, we think that there would be value to adding an element to emphasize customary international law as it pertains to crimes against humanity, as all remain bound by it.

Currently, Preambular Paragraph 9 recognizes the rights of victims and others to fair treatment, which we welcome, but we also feel that there would be value to including elements recognizing the experiences of victims and survivors as well.

To better reflect Article 8 of this draft Convention, we would further like to suggest adding a reference to investigation in the last paragraph of the preamble, in addition to the need for effective prosecution, as well as perhaps a reference to the obligation to extradite or prosecute.

Finally, in light of the International Court of Justice's finding that the obligation to prevent atrocity crimes includes a duty not to commit those crimes, which is incorporated in Article 3(1) of this draft, we believe that a mention of this decision in the Preamble could be appropriate.

With respect to Article 1, and questions raised yesterday, we view the scope as appropriate, as the object and purpose of the convention would be to prevent and punish crimes against humanity. The remainder of the articles will deal with *how* we accomplish that goal, such as by investigation, prosecution, and prohibition.

Thank you, Madame Chair.