



**New Zealand Permanent Mission to the United Nations
Te Aka Aorere**

**United Nations General Assembly: Sixth Committee
Seventy-eighth session - Crimes against humanity (Agenda
item 80)**

**CANZ Statement delivered by
Second Secretary, Zoe Russell**

11 October 2023

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Thank you [Mr/Madam] Chair.

I have the honour today to speak on behalf of Australia and Canada as well as my own country, New Zealand.

We have been strong supporters of the International Law Commission's work on crimes against humanity and of efforts to advance the consideration of the ILC's Draft Articles on this topic. CANZ is pleased that consensus was achieved last year within the General Assembly that the Sixth Committee would resume over two sessions to exchange substantive views on all aspects of the ILC's Draft Articles and commentaries, and to consider its recommendation for the elaboration of a convention on the basis of these.

Crimes against humanity, along with genocide and war crimes, stand as the most serious crimes of concern to the international community as a whole, threatening peace, security and well-being. With increased frequency of atrocities worldwide, all States must remain steadfast in their commitment to prevent and punish serious international crimes.

The absence of a specific multilateral treaty dedicated to crimes against humanity leaves a significant gap in the international treaty law framework. For this reason, we support open, constructive and inclusive discussion on the substance of the Draft Articles and on the way forward.

It is true that crimes against humanity are well-founded in customary international law and are addressed in some treaties. It is also true that several States, but far from all, have domestically criminalised such crimes within their jurisdiction. However, in the absence of an international convention on crimes against humanity, gaps and ambiguities remain in respect of the definition of these crimes and States' obligations to prevent and punish them, which can lead to opportunities for impunity.

As these crimes, by their widespread, systematic and violent nature, undermine and threaten all three pillars of the UN Charter, it is especially compelling to address these gaps with treaty-level legal certainty. Experience has demonstrated – and the principle of legality demands – that international law must clearly define and establish a minimum standard framework for States' obligations to prevent and punish serious international crimes. This is because, unlike other areas of international law, international criminal law applies both at the individual and State level, requiring close observance of due process of the law.

CANZ also acknowledges the need to strengthen national capacities to prevent, investigate and prosecute crimes against humanity, and the calls from many member States for assistance in doing so. In our view, an international convention – designed precisely to help States fulfil their primary responsibility in this regard – would bolster these efforts. It could provide a new, catalytic basis upon which to strengthen international cooperation and build national capacities.

CANZ considers that the Draft Articles provide a solid foundation for the development of a treaty to fill the gaps to which we refer. A key strength of the Draft Articles is that they are grounded in existing international law. They draw from and replicate existing provisions on prevention and punishment in other treaties, including the 1948 Genocide Convention and the 1984 Convention against Torture, which establish obligations agreed to by States, in addition to language pertaining

to the definition found in the Rome Statute, which a large majority of States have all ratified. Nonetheless, we welcome the opportunity provided to explore and give consideration to language in the draft convention to reflect evolving definitions under customary international law, that is inclusive, and integrates gender equality, in addition to ensuring enhanced prevention and accountability measures for sexual and gender-based crimes.

We welcome the progress made at the first resumed session of the Sixth Committee on this topic last April. While there may remain differences of views on the substance of some Draft Articles between Member States, we were encouraged by the nature and the high level of engagement by all delegations, which reflect our shared commitment to combatting impunity for these heinous crimes. We view this as an indication of our readiness to further engage in robust discussions based on the Draft Articles next year and are confident that a convergence of views can be achieved through constructive engagement of all.

Noting that the General Assembly also decided that this Committee would take a decision on this matter at its 79th session, without prejudice to what that decision would be, it is critical that we continue to build on this momentum, and therefore we also encourage all member States to submit their written comments by December 1, 2023.

Our delegations continue to stand ready to engage constructively with all Member States to build on the valuable work of the ILC and to come together on a path forward on this important work.

I thank you [Mr/Madam] Chair.