

**Draft Articles on the Prevention and Punishment of Crime Against Humanity**

**UNGA78 Sixth Committee Resumed Session - Canada Statement**

**Cluster 1**

Thank you Mr Chair,

Canada is pleased with the continued engagement leading into this second resumed session of the Sixth Committee convened to discuss the Draft Articles on the Prevention and Punishment of Crimes against Humanity set forth by the International Law Commission.

Similar to last year, we see this resumed session as an opportunity to further deepen our reflections – in respect of which we are particularly grateful for the written submissions of States. Indeed, we hope to continue making the most of the important work of the International Law Commission, 10 years after it began its consideration of the topic. We look forward to discussions that match the level of engagement of this Committee last April.

Mr Chair,

As raised on numerous occasions, Canada considers that the elaboration of a Convention on Crimes Against Humanity based on the Draft Articles could equip the international community with an additional tool to fight crimes against humanity, domestically and internationally, and to cooperate both to prevent crimes against humanity and to bring perpetrators of such crimes to justice.

As such, Canada remains supportive of a decision by the Sixth Committee this Fall to move towards negotiations on a future Convention on the basis of the ILC Draft Articles.

Mr. Chair,

Since crimes against humanity may be committed in times of both peace and war, we join our voice to those of others in supporting the need to clarify this essential point in any future Convention. However, we will also need to ensure that any such Convention does not operate to modify international humanitarian law, which constitutes *lex specialis* applicable in armed conflicts. Such clarification could be incorporated in the preamble, if not specifically included in the operative provisions.

Mr. Chair,

Canada's stance on the preamble remains aligned with its previous views, as expressed during the last resumed session and in its written submission.

Nevertheless, we wish to reiterate that Canada maintains its position on the proper characterization of the prohibition of crimes against humanity as constituting a norm of *jus cogens*, as included in Draft Preambular Paragraph 4.

We also consider it essential to include a reference to customary international law in Draft Preambular Paragraph 7, as constituting the primary source of law for crimes against humanity. Canada recognizes that not all States present are parties to the Rome Statute of the International Criminal Court. Nonetheless, we maintain the view that a reference to this instrument in any future Convention is relevant when taking into account the ICC's contributions to the jurisprudence considering crimes against humanity.

Lastly on the preamble, we reiterate that, in our view, the *aut dedere aut judicare* principle set out in Draft Article 10 should be better reflected in Draft Preambular Paragraph 10, which currently addresses prosecution only.

Turning briefly to Draft Article 1, we would simply like to reiterate our view that the scope of any future Convention should provide greater clarity on its object and purpose.

Thank you, Mr. Chair.