



Government of Canada
Permanent Mission of Canada
to the United Nations

Gouvernement du Canada
Mission permanente du Canada
auprès de l'Organisation des Nations Unies

Note no. 6578

The Permanent Mission of Canada to the United Nations presents its compliments to the International Law Commission, and acknowledges receipt of the request for States and civil society to submit comments on the first reading of the draft articles on the Proposed Convention on Crimes Against Humanity.

Canada welcomes the Commission's work on the topic of prevention of crimes against humanity and appreciates the leadership demonstrated by Special Rapporteur Sean Murphy on this topic. As State Party to the Rome Statute of the International Criminal Court, Canada actively supports efforts to hold to account those most responsible for serious international crimes, including crimes against humanity.

Canada is currently reviewing the proposed Convention and consulting with stakeholders, including on the question of whether it addresses aspects of crimes against humanity that are not sufficiently covered in existing legislation, including the Crimes Against Humanity and War Crimes Act.

Canada's primary objective at this stage is to highlight to the Commission concerns with the Convention's definition of gender. While we acknowledge that this definition was taken directly from the Rome Statute, the international community's understanding has since then evolved.

The proposed definition tethers the concept of gender to that of sex. This raises some serious legal and policy concerns. Generally speaking, the term “sex” has been used to refer to biological attributes, whereas the term “gender” refers to the socially constructed roles, behaviours, expressions, and identities of girls, women, boys, men, and gender diverse persons. Canada considers the Rome Statute definition as under-inclusive and inaccurate. As there is currently no common definition agreed upon by States, Canada respectfully recommends against including any definition of gender.

The Convention raises a number of other issues that will require more detailed consideration from the Government of Canada; as such we may submit additional comments to the Commission as the process moves forward.

The Permanent Mission of Canada to the United Nations avails itself of this opportunity to renew to the International Law Commission the assurances of its highest consideration.

NEW YORK, November 30, 2018