



Resumed 78 session of the United Nations General Assembly Sixth Committee: Agenda item 60 crimes against humanity Recommendation





The General Assembly has decided that the Sixth Committee will take a decision on this matter at its upcoming 79th session, without prejudice to what that decision will be.

As momentum builds towards this decision, ANZ has carefully reviewed and listened to views throughout this process. We take the opportunity to recommend to elaborate a convention on the basis of draft articles.

First, some delegations have sought clarity on what we mean when we say there are gaps in the current international legal framework that a convention on crimes against humanity would close.

At the highest level, the gap is simply that there is no comprehensive international convention that requires States to prevent and punish crimes against humanity as there is for genocide and war crimes





In the absence of a comprehensive international treaty, gaps and ambiguity in the international law regulating these heinous crimes and frameworks to support international cooperation in that regard will remain.

And those gaps lead to opportunities for impunity.

There is an especially compelling need to fill these gaps with clear legal certainty for crimes against humanity.

Experience has demonstrated and the principle of legality requires that when it comes to suppressing and punishing international crimes, it is critical

to ensure that there are no gaps in the international legal system. This is particularly true in the case of crimes against humanity, which are among the most serious crimes under international law. The international community has a responsibility to ensure that these crimes are not committed and that those who do commit them are held accountable. This requires a clear and comprehensive international legal framework that provides for the prevention, prosecution and punishment of these crimes. The current international legal framework is inadequate in this regard and there is a need to fill these gaps with clear legal certainty for crimes against humanity.



Secondly we note some States have argued that combatting impunity for the commission of crimes against humanity does not require a new convention, but rather greater capacity at the national level

CANZ acknowledge the need to strengthen national capabilities to prevent, investigate, prosecute and punish crimes against humanity, and the calls from many delegations for assistance in doing so.

In our view, assessing and addressing gaps at the national level is by no means mutually exclusive to the elaboration of an international convention. In fact, the two are necessary complements to one another.

A convention that which is designed precisely to empower States to fulfil their primary responsibility to prevent and punish crimes against humanity that occur within their jurisdiction could provide a new, catalytic basis to strengthen international cooperation and build prosecutorial and judicial capacity in that regard



Third, we note some States have suggested that on the basis of the draft articles, a convention would impose appropriate obligations on States that infringe upon their sovereignty





CANZ is firmly of the view that this is not necessarily States are never bound, in any treaty negotiation, to remain within the confines of existing customary international law.

As outlined in the ILC commentary the objective of the draft articles was not to codify existing law and state practice. It was to draft provisions that would be both effective and widely acceptable to States, based on provisions often used in widely adhered to treaties addressing international crimes, as a basis for a possible future convention.

CANZ considers that the ILC has achieved this very objective.

In conclusion CANZ remains convinced that there is a pressing and compelling need to close the impunity gap in the international treaty framework by commencing negotiations on a convention on prevention and punishment of crimes against humanity



We are convinced that such a convention will provide a toolkit for our fight against impunity for crimes that are universally recognised as being amongst the most egregious crimes of international concern

Crimes that, by the widespread, systematic and violent nature of their commission, undermine and threaten all three pillars of the United Nations Charter.

Crimes that require collective will and international cooperation to prevent



Our continued engagement on the draft articles demonstrates that States are ready to proceed to negotiations on the basis of them, which would provide the opportunity and forum for the resolution of any remaining divergences in views on the text.

Our delegations continue to stand ready to engage constructively with all member States to come together at the upcoming 79th session on a path forward to advance this important goal.

Thank you.