

**Statement of Canada**

**by**

**Mr. Alan Kessel,**

**Assistant Deputy Minister, Legal Affairs and Legal Adviser,  
Global Affairs Canada**

**18<sup>th</sup> session of the Assembly of States Parties to the  
Rome Statute of the International Criminal Court**

**December 2019**

Mr. President,

The value of the International Criminal Court has long been clear to Canada. The Court plays an instrumental role in our collective efforts to hold to account those most responsible for serious international crimes. Ending impunity for such crimes helps to ensure respect for the rule of law and a rules-based international order.

Mr. President,

We are particularly concerned about impunity in Myanmar, and welcome that the Court is in the process of examining alleged crimes against humanity being committed against the Rohingya people. We recognize the inherent limitations presented by the need for the Court to stay within its jurisdiction, however. For this reason, Canada continues to call for the UN Security Council to refer the situation in Myanmar to the ICC. Such a referral would ensure that the Court has the jurisdiction to investigate the

full scope of the crimes being committed against the Rohingya people.

Ending impunity for ongoing crimes also requires all States Parties to the Rome Statute, as well as non-Party States as required in the case of Security Council-referred cases, to fulfil their obligations to cooperate with the ICC. In this respect, Canada is concerned that requests for arrest and surrender remain outstanding against 15 individuals. Canada calls on all States to investigate and prosecute serious international crimes in accordance with the principle of complementarity, and ensure that they have the appropriate domestic legislation in place to do so. Canada will continue to help build the capacity of States to pursue accountability for international crimes.

Mr. President,

Canada supports recent efforts by Sweden to have the Court take note of existing best practices in solving challenges related to sexual and gender-based crimes,

when these crimes amount to Rome Statute crimes. In addition, Canada strongly encourages that the Assembly take steps to engage with states parties and others to identify ways to support the Court in achieving accountability and ensuring justice for victims of sexual and gender based violence around the globe, and we hope to see language to this effect in the omnibus resolution. We need to recognize the disastrous impact of the use of sexual violence as a tool of war and inhumanity, and to 'Call It What It Is', which is a threat to peace and security.

Canada also supports the Swiss efforts to propose an amendment to the Rome Statute to ensure that the intentional use of starvation as a weapon of war in non-international armed conflict is covered by the Rome Statute.

Mr. President,

Canada believes that it is also vitally important to *grow* our cohort of States Parties to the Rome Statute. Universal ratification of the Rome Statute is crucial to the Court's success. In this regard, we greatly appreciate the efforts of civil society to conduct activities promoting the universalization of the Rome Statute. However, it is also incumbent upon all States Parties to raise this issue regularly with non-State Parties. Given the importance of universalization, Canada warmly welcomes Kiribati's recent accession to the Rome Statute.

Mr. President,

In the same vein, I would like to note our appreciation for those States Parties that have *reversed* expressions of intention to withdraw from the Rome Statute in recent years. Instead of considering whether to withdraw, States Parties have increasingly started to look at how we can collectively strengthen the Court, to make it more efficient and effective.

Canada is thus appreciative of the efforts of the Bureau in putting together the “matrix” of possibilities for strengthening the Court, and is strongly supportive of the planned Independent Expert Review of the Court in the areas of governance, the judiciary, and investigations and prosecution. It is important that this Review be undertaken by truly independent experts in an inclusive and transparent manner. The results of the Review need to assist the Court in conducting the successful investigations and prosecutions, trial management and the development of a strong and coherent jurisprudence. As a friend of the Court, we are concerned that a few of the Court’s judgments to date have not been helpful in that respect.

Canada also looks forward to a fair, informed, transparent and merit-based search and selection process for the next Prosecutor, in line with the requirements of Article 42 of the Rome Statute, to continue the excellent work of the current Prosecutor, Ms. Fatou Bensouda. We call on States Parties to ensure that any applicants they submit

for this position meet the highest professional and personal qualifications. We also support a strengthening of the role of the Advisory Committee on Nomination of Judges to assist us in the selection of future judges for the Court. They need to be in a position to evaluate candidates more rigorously and to communicate their findings more effectively.

Finally, Mr. President, Canada also supports striving for increased diversity and improved gender balance within the Court and the most efficient and effective allocation of resources to carry out the Court's mission. Our delegation looks forward to engaging with colleagues on these and other issues throughout the week in support of our common goal to maintain and strengthen the structure of a permanent, independent judicial institution that has the respect and confidence of the international community.

Thank you. Merci.

