



PRESS RELEASE from WDI: Women and Girls Have a Right to Inclusion in International Law Prohibiting Crimes Against Humanity

From: Women's Declaration International (WDI)
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WDI expresses extreme alarm that the current draft Draft Articles on Prevention and Punishment of Crimes Against Humanity does not include women and girls. Crimes Against Humanity include widespread or systematic attacks on civilian populations including such acts as murder, extermination, enslavement, deportation, imprisonment, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or other sexual violence, persecution of groups, disappearance of persons, apartheid, and other inhumane acts of similar character.

WDI denounces this extreme deprivation of the right of women and girls to be included in this fundamental international law that guarantees basic preservation of human life and dignity against various forms of state sanctioned violence.

The Women's Declaration of International Rights, which has 38,138 signatories from 160 countries and is signed by 531 organisations around the world, in its first Article reaffirms "that the rights of women are based upon the category of sex" and that "states should maintain the centrality of the category of sex, and not 'gender identity', in relation to women's and girls' right to be free from discrimination."

Women and girls have always been included in modern international human rights law. Nonetheless the International Law Commission has fielded a draft treaty in which women and girls are erased and an undefined term "gender" is used in place of sex. This legal erasure of the female sex is an unprecedented act of deprivation of rights for women and girls and such treaty language will cause injuries to women and girls.

"Gender" is a term that cannot be understood without indulging stereotypes that are identified in the major international treaty that promotes women and girls' rights, the CEDAW, as harmful

and which stereotypes CEDAW stipulates states are obliged to uproot. Thus, the Draft Articles on Prevention and Punishment of Crimes Against Humanity conflicts with a fundamental goal of women's and girl's human rights as spelled out in CEDAW.

“Gender” also disguises the realities of sex-based violence — which unfortunately is far too real all around the world — by destroying the ability to document and report sex-specific crimes. Using “gender” as a legal category, instead of sex, also obfuscates sex-specific dimensions of perpetrators and their eventual punishment.

Restitution for survivors of crimes is also confused and impeded when data and qualifying criteria cannot distinguish between male and female but must instead employ the unstable and undefined term “gender”.

Examples of the denial of rights to women and girls because of the way “gender” (rather than sex) operates in criminal law are already easy to find ([see our full report HERE](#)). Such injuries will only multiply if this major international human rights treaty scuttles the reality of sex for the fuzzy concept of “gender.”

Even the International Law Commission (ILC), which organized the drafting of this treaty, stated very clearly that ““The omission of a definition of the term “gender”, contained in subparagraph (h) of paragraph 1, was subject to debate by delegations. A number of delegations supported the omission, stating, in particular, that the definition contained in the Rome Statute had become obsolete. It was underlined that its absence provided more flexibility for States at the national level. Other delegations preferred to retain the definition of gender contained in the Rome Statute, which in their view had not become obsolete, was unambiguous and constituted agreed language. It was stressed that although there were difficulties in clarifying the term, guidance was still needed on how to define it.”¹

Note, even the drafters acknowledge that gender is an unstable term the meaning of which has changed substantially in the past several decades. That is why they do not want to use the definition used in the Rome Statute, which empowers the International Criminal Court.

The Rome Statute defined “gender” to mean “sex”. WDI points out that the Rome Statute definition has a virtue in that it retains clear reference to biological bodies that are sexed. Nonetheless that Rome Statute definition never reflected the CEDAW use of the term gender, which was deeply linked to stereotypes that are harmful to women and girls. The current push to use gender to the exclusion of sex is divorced from both previous meanings of gender, that gender is sex, and that gender expresses stereotypes harmful to women and girls.

¹ Summary by the Chair on the deliberations at the first resumed session (2023) and at the second resumed session (2024) of the Sixth Committee on the Draft Articles on Prevention and Punishment of Crimes Against Humanity and on the recommendation of the International Law Commission, UN GA, Seventy-eighth session Sixth Committee, Agenda item 80, 11 April 2024, paragraph 31, A/C.6/78/L.22/Add.1.

WDI urges the clear recognition that building a major international treaty with language that is slippery, unstable, undefined, and overtly discriminatory against and harmful to women and girls is a very bad idea.

WDI urges the rejection of “gender” in the draft treaty and the full reinstatement of women and girls as fully present humans in this treaty.

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For the full report on the Draft Articles on Prevention and Punishment of Crimes Against Humanity [click here](#).