



**PERMANENT MISSION OF THE REPUBLIC OF
SIERRA LEONE TO THE UNITED NATIONS**

STATEMENT

by

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Ambassador and Deputy Permanent Representative**

**Resumed Session of the Sixth Committee
of the United Nations General Assembly**

**Agenda Item 78: “Crimes Against Humanity”
Cluster 1: Introductory provisions (Preamble and Article 1)**

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**Chair,
Co-Facilitators,
Excellencies,
Distinguished Delegates,**

1. The delegation of Sierra Leone is pleased to take the floor in this resumed session of the Sixth Committee, on this important agenda item - 'Crimes against humanity', appreciative of the significance of its continued consideration; welcoming the exchange of substantive views by member States and the further consideration of the recommendation of the International Law Commission ("ILC" or "Commission"), as contained in General Assembly resolution **A/77/249**.
2. At the outset, Sierra Leone is deeply concerned that we continue to debate this agenda item amidst the regrettable and unacceptable continuing perpetration of crimes against humanity with impunity.
3. My delegation will preface its intervention on Cluster 1 of our discussion, with three preliminary general points.
4. **First**, the delegation of Sierra Leone wishes to recall and reaffirm its expression of support for action to be taken on the recommendation of the ILC contained in paragraph 42 of its report on the work of its seventy-first session, to in particular, elaborate "*a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the draft articles*".

5. Acting on the recommendation will clearly be a good path towards elevating crimes against humanity to the level of war crimes and genocide with their own specific global treaties, requiring States within their national law to prevent and punish such crimes, and to cooperate to end them.
6. **Second**, and for the purposes of this discussion, we wish to also recall our written comment submitted on 30 November 2018, (see A/CN.4/726), upon request, following the ILC's adoption on first reading, the draft articles on crimes against humanity at its sixty-ninth session (2017). As appropriate and practicable, we wish to restate and incorporate the written comment as part of the exchange of substantive views in this Committee.
7. **Third**, the delegation of Sierra Leone further wishes to put on record that our engagement in this exchange of substantive views is guided by the overarching policy consideration to ensure effectiveness and accountability in addressing impunity as it relates to crimes against humanity. As such, and in noting that a future convention on crimes against humanity, will be a gap-filling one, the said future convention should primarily codify existing customary international law, and to the extent possible, seek to incorporate aspects of "progressive development" on, for instance, extradition and mutual legal assistance to be part of national laws.
8. The Rome Statute of the International Criminal Court is our starting point for a future crime against humanity treaty. Proposals towards that end must fully respect the integrity of the Rome Statute of the International Criminal Court, which was a necessary negotiated compromise amongst States. This

is important given that the future treaty would apply at the horizontal level.

9. Accordingly, the delegation of Sierra Leone will be guided by the need to achieve a universal treaty on crimes against humanity to fill the existing gap, and to ensure effective national prosecutions of crimes against humanity. This will be consistent with the Rome Statute complementarity principle, which underpins the Statute and emphasizes the primacy of national prosecutions, for one of the most egregious crimes known to international law. This also means that the future treaty on crimes against humanity must be complementary to existing obligations, and also be implementable for States.

Chair,

10. Sierra Leone generally agrees with the Commission's final product on crimes against humanity and will use the exchange of views to highlight important provisions that are to be safeguard, and also to point out areas where we disagree with the Commission's work.
11. In this regard, on **Cluster 1: Introductory provisions dealing with the Preamble and Article 1**, we wish to welcome and particularly voice support for the recognition that crimes against humanity threaten the peace, security and well-being of the world as contained in **paragraph 2** of the **preamble**. The peace and justice nexus must therefore be prominent in our work.

12. We are also particularly supportive of **paragraph 4** of the **preamble**, in that, the prohibition of crimes against humanity bears a *jus cogens* character, meaning that, by their very nature, they constitute a norm of general international law from which no derogation is permitted.
13. We thus see consistency with Conclusion 23 on the Non-exhaustive list of peremptory norms of general international law, specifically paragraph (c) of the Annex to the adopted draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*) adopted by the Commission at its seventy-third session (2022), and submitted to the General Assembly as part of the Commission's report covering the work of that session (A/77/10, paragraph 43).
14. In relation to **paragraph 7** of the **preamble**, the threshold matter, we wish to make two points. First, we understand that an aspect of the Commission's work that appear to largely reflect "codification" of the customary law of crimes against humanity is the definition of the crime. We take note that the articles are "without prejudice to existing customary international law". Second, we appreciate that appropriate consideration has to be given to the definition of crimes against humanity set forth in article 7 of the Rome Statute of the International Criminal Court, noting the necessary compromise made by States and the balance struck, as we have already noted.

- 15.** Regarding **Article 1**, on scope, *ratione materiae*, we take note and agree with the Commission's adoption of a narrow approach, focusing solely on crimes against humanity. This is in line with the intent declared by the Commission as contained in the 2013 syllabus presented for this topic, and with the objective "*to draft articles for what would become a convention on the prevention and punishment of crimes against humanity*" (see Annex B of A/68/10, para. 3). This position was also reflected in the first report of the Special Rapporteur (A/CN.4/680, para. 13).
- 16.** This two-prong scope for a future convention is very much supported, as a future treaty on crimes against humanity must cover both measures for the prevention and punishment of crimes against humanity as expressed in the preamble as well as various substantive articles and the commentary.
- 17.** Article 1 makes this point clear as it provides that the articles apply to both prevention and punishment of the crime. Similarly, Articles 3 and 4 respectively address the "general obligation" and the "obligation of prevention" in respect of crimes against humanity. The two provisions would require States to undertake measures ensuring that crimes against humanity are prevented in conformity with international law. Prevention is also implied by Article 5, concerning *non-refoulement*.
- 18.** The commentary to the preamble and the above draft articles put the prevention and punishment objectives of the instrument beyond any doubt. The delegation of Sierra Leone

was therefore pleased with the Commission acting on our suggestion to amend the title of the draft articles then adopted on first reading to the present title - *Draft Articles on the Prevention and Punishment of Crimes against Humanity*.

19. Finally on Article 1, the delegation of Sierra Leone further notes with agreement the third paragraph in the commentary on the temporal scope, *ratione temporis*, of a future crime against humanity treaty.

20. Let me close on the Cluster 1 intervention, **Chair**, by restating that the articles represent a significant contribution to the present global thinking on the prevention and punishment of crimes against humanity, and our work will take our collective endeavour a step further.

21. On the part of the delegation of Sierra Leone, we are compelled to reflect our experience with the realities of crimes against humanity in all of our engagements, comments, and observations, hopeful as well that it will take us a step further to concluding a complementary, universal, and implementable crimes against humanity treaty.

22. I thank you.