



Permanent Mission of the Republic of Kenya to the United Nations
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STATEMENT

BY

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TO THE UNITED NATIONS

TO THE

SIXTH COMMITTEE

ON

AGENDA ITEM 80:
"CRIMINAL ACCOUNTABILITY OF
UNITED NATIONS OFFICIALS AND EXPERTS ON MISSION"

DURING THE

70TH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

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Mr. Chairman,

Kenya associates itself with the statement delivered by the distinguished representative of the Islamic Republic of Iran speaking on behalf of the Non-Aligned Movement and the statement delivered by the distinguished representative of South Africa speaking on behalf of the African Group. Kenya would also like to thank the Secretary-General for his informative report under this agenda item.

Kenya is home to the United Nations Office at Nairobi, the UN Headquarters in Africa, and various agencies of the United Nations including UN Human Settlements Programme (UN Habitat) United Nations Environmental Programme (UNEP) just to mention but a few.

With the number of United Nations Officials and Experts on Mission steadily increasing, and especially considering the number of UN peacekeeping missions active in the world, this topic is as relevant today as it was at its inception, if not even more important.

It has been acknowledged in many General Assembly meetings that the lack of prosecution of criminal acts committed by United Nations officials and experts on mission poses a serious threat to the reputation of the United Nations, undermines the work of these Missions and in most cases hampers the acceptance of these UN deployments even in very needy situations.

It is for these reasons that Kenya considers it extremely important that the crimes committed by UN affiliated persons are properly investigated and prosecuted in a timely manner keeping in line with the various conventions on diplomatic relations, privileges and immunities.

Mr. Chairman,

Kenya supports the zero tolerance policy of the United Nations concerning criminal conduct, particularly that involving sexual abuse and exploitation, committed by United Nations officials or experts on mission. Criminal accountability is a fundamental pillar of the rule of law, and that it is crucial for the Organization's integrity and effectiveness. It is therefore important for the Organization to give a clear political signal that it does not tolerate criminal behaviour.

We note that the immunity of a UN staff member on mission can only be waived by the Secretary General and only where he is persuaded that the host country is incapable of adhering to the principles of due process and human rights.

In the recent past Kenya has further strengthened its governance and criminal justice system following the promulgation of the Constitution in 2010. Key institutions such as the judiciary, the Office of the Director of Public Prosecutions,

the Police have been revamped and accountability measures strengthened to ensure that they deliver their mandate in accordance with law and high thresholds set for such offices.

Kenya is thus well equipped to prosecute nationals who have committed serious offences in our and also in other jurisdictions while serving in UN Missions. The key challenge we face is the existence of a fairly lengthy process of seeking waiver of immunity by the Secretary General thus further delaying criminal proceedings.

It is apparent from the Secretary-General's reports that there are gaps in legislation and capacity to exercise jurisdiction. This notwithstanding Kenya encourages Member States to exercise jurisdiction in applicable cases in order to ensure that criminal acts do not go unpunished thereby closing the impunity gap.

Mr Chairman,

Further to these bureaucratic and jurisdictional challenges, the lack of a comprehensive procedural law providing for the seamless procedure from complaints stage to investigations; to waiver of immunity; to prosecution and eventually sentencing further exacerbates this problem.

We are of the view that the remedial measures adopted under several General Assembly Resolutions on these matters, if properly implemented, could address these aforementioned gaps.

We however call for the harmonization of these efforts and the development of a model law that guides States in addressing these challenges. Such model law may then be replicated in the domestic laws of the Member States.

Kenya welcomes the measures implemented regarding existing training on UN standards of conduct, including through pre-deployment and in-mission induction training and awareness raising programmes and welcomes the technical assistance offered by the UN to Member States requesting support in developing their domestic criminal law especially in the context of mutual legal assistance and extradition.

In conclusion, Kenya calls for greater cooperation amongst States in criminal investigations and/or extradition proceedings in respect of crimes of a serious nature committed by UN officials and experts on mission.

I thank you.