

STATEMENT BY

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ON

AGENDA ITEM 77

**“CRIMINAL ACCOUNTABILITY OF UN OFFICIALS AND EXPERTS ON
MISSION”**

AT THE

SIXTH COMMITTEE OF THE 75th SESSION OF THE

UNITED NATIONS GENERAL ASSEMBLY

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Mr. Chairman,

India aligns itself with the statement delivered by the Islamic Republic of Iran on behalf of the Non-Aligned Movement (NAM). Further, India would like to make the following additional remarks in its national capacity.

2. India appreciates the continued efforts of the United Nations to promote accountability for misconduct and serious crimes committed by UN officials, experts on mission and members of peacekeeping forces. We extend our gratitude to the Secretary General for his recent report in this regard (A/75/228). India wishes to emphasise the importance of *zero-tolerance policy* on such issues to preserve the credibility of UN system and its work around the world

Mr. Chairman,

3. Accountability for misconduct and serious crimes by UN officials and experts on mission are generally secured by way of taking disciplinary measures and initiating criminal actions. Considering the legal aspects of State sovereignty and jurisdictional issues, the United Nations may only take disciplinary measures and no criminal actions directly by itself. Similarly, the legal personality of UN and consequent immunity and privilege under international law necessary for its operation in a country may hinder the exercise of criminal jurisdiction by host States as well. However, India reiterates that immunity does not imply impunity for crimes and misconduct.

4. India believes that primary responsibility to bring perpetrators to justice rests with member States. It is crucial that the State of nationality of an alleged offender is promptly informed and consulted by the UN. It is only the collective effort of States in coordination with the United Nations may result in establishing criminal accountability for serious crimes. A concerted effort between States and UN in exchange of information, conduct of investigations, and mutual acceptance of findings as evidence in disciplinary proceedings of UN as well as in domestic criminal proceedings of States would avoid multiple investigations on the same alleged misconduct.

5. The UN has immunity from prosecution in national courts, but this is not to confuse with the UN not having any responsibility for their acts or omissions. Instead, they have an institutional responsibility for acts within their missions, which mean that they should collaborate with member states to ensure accountability.

6. Nevertheless, UN effort to establish the Trust Fund in Support of Victims of Sexual Exploitation and Abuse is one of the remarkable initiatives to protect the rights of victims; and India was the first country to contribute to the Fund. In this regard, the Prime Minister of India has joined in the Circle of Leadership and India has signed the Voluntary Compact. India encourages other States to become contributors to the Fund in the interest of humanity and to preserve the nobility of UN system.

Mr. Chairman,

7. In cases of member States that do not assert extra-territorial jurisdiction over crimes committed abroad by their national, it is necessary to encourage and provide appropriate assistance to update their national laws and regulations to provide for such jurisdiction and to prosecute any such misconduct of their nationals serving as UN officials on mission abroad. Such law should also provide for international assistance for the investigation and prosecution of crimes committed.

8. Even though many countries have updated their jurisdiction to also include a possibility to prosecute their nationals serving as UN officials in the host State, the first approach would be to ensure that all member States have jurisdiction needed to prosecute their nationals. The UN could compile a list of those member states that have implemented principle of nationality, and the question regarding potential jurisdictional gaps could then be answered. It would further allow the UN to focus on other things, rather than reiterating the same recommendations concerning jurisdiction.

9. The Indian Penal Code 1860 and Code of Criminal Procedure 1973 are two notable domestic legislations in India that allows the exercise of extra-territorial jurisdiction over crimes committed abroad by Indian nationals. Similarly, the Indian Extradition Act 1962 facilitates the extradition of fugitive criminals and deal with other related issues. In the absence of bilateral treaty, the Act also allows an international convention to be used as the legal basis for considering an extradition request.

Mr. Chairman,

10. India wishes that the United Nations soon establishes uniform standards of rules, procedures and codes of conduct by which UN officials and experts on

mission abide by; and ensures its application across UN system, including specialised agencies and related organisations. The recent report of the Secretary General summarises different rules and procedures followed by different UN entities and specialised agencies. However, developing uniform standards and investigation capacity would help to address accountability issues more effectively.

11. Finally, Mr. Chairman, it is important to be able to implement a policy of zero tolerance against any criminal acts committed by UN personnel. We hope that the UN system and the member states will further strengthen provisions to enforce accountability so that no such crimes go unpunished and the image and the work of the United Nations is not tarnished.

Thank you, Mr. Chairman!
