



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

STATEMENT

by

**MR. ABASS SALIEU KAMARA
Minster Counsellor**

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

**Agenda Item 78: "Crimes Against Humanity"
Third Cluster: *National Measures*
(*Articles 6, 7, 8, 9 and 10*)**

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**336 East 45th Street, New York NY 10017
Tel: (212) 688 1656 - FAX (212) 688 4924 email: sierraleone@un.int**

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

1. In consideration of the third cluster focusing on “**national measures**” covering Articles 6, 7, 8, 9, and 10 of the International Law Commission’s (“ILC” or “Commission”) articles on prevention and punishment of crimes against humanity, the delegation of Sierra Leone will make the following points:

2. In relation to **Article 6, criminalization under national law**, my delegation generally supports this provision, especially the obligation contained in paragraph 1. Nonetheless, we wish to reiterate our concerns about some aspects of the provisions of Article 6. In paragraph 2 of Article 6, we observe that the Commission's listing of various forms of criminal participation lacks comprehensiveness, featuring selective inclusion of inchoate crimes like attempts while omitting others such as conspiracy. This also applies to the treatment of "incitement" as a mode of liability.

3. As previously stated, we maintain that incitement as a form of accessory liability is well established in customary international law. It's significant to genocide and, given the systemic nature of such core crimes, also to crimes against humanity. This mode of criminal participation is evident in State practice and the practice of international criminal courts and tribunals in prosecuting crimes against humanity. In this regard, Sierra Leone maintains the call for the addition of "**inciting**" and possibly "**conspiracy**" to the list of forms of participation mentioned in paragraph **2 (c)** of Article **6**.

4. Reflecting on previous deliberations on draft article **6**, which focuses on the criminalization of these crimes under national law, various perspectives were shared. My delegation agrees that draft article **6** is pivotal, obliging States to integrate crimes against humanity into domestic legal frameworks, thus addressing existing gaps. We believe that this inclusion could significantly improve prosecution at the national level, particularly where current laws only cover specific acts like murder or torture.

5. However, we also note differing opinions on retaining specific paragraphs in draft article **6**. Some advocate for keeping only the first paragraph to align with the Genocide Convention, while others suggest flexibility in naming crimes, recommending the text be advisory rather than obligatory for States. Despite these differences, we continue to see merit in the idea that variations in national laws should not impede future cooperation under a potential convention.

6. Regarding paragraph **5 of Article 6**, we wish to highlight the nexus or connection to procedural immunities even though official position is not a ground for excluding criminal liability. My delegation has extensively commented on the Commission's work on immunities, and we support the Sixth Committee's ongoing consideration of universal jurisdiction, aiming to prevent its misuse and abuse and ensure a thorough examination of these crucial issues.

7. Concerning **Article 7, establishment of national jurisdiction**, the delegation of Sierra Leone welcomes the provisions and refers to our previously mentioned written comments.

8. Regarding **Article 8 on investigation**, the delegation of Sierra Leone agrees that when there are allegation or claims that a Crimes Against Humanity occur, it is the duty of a State and its authorities to conduct not just prompt and impartial investigations, but thorough ones as well. We appreciate the clarification provided by the qualifiers "prompt, "thorough", and "impartial investigation," which eliminates doubt and addresses potential gaps in a State's investigative process.

9. In moving onto **Article 9 on preliminary measures when an alleged offender is present**, the delegation of Sierra Leone, as previously observed, finds the provision similar to Article 6 of the Convention against Torture, and finds its appropriate and suitable for the current Crimes Against Humanity articles.

10. My delegation notes the Commission's omission of an explicit clause prohibiting amnesties or pardons for Crimes Against Humanity. The issue of amnesty is only addressed in the commentary to Draft Article 10. The Commission's commentary explains that the ability of a State to implement an amnesty might not be compatible with the obligation to submit the case to the competent authorities for investigation and possible prosecution. We agree with this assessment.

11. We have concerns about whether granting amnesties might undermine or conflict with other provisions of the articles, including Articles **8**, **9**, and **12**. We believe that including an explicit clause addressing amnesties, especially blanket amnesties, would be highly valuable. Referring to our national experience, we appreciate the complexity of these issues. However, we see value in these substantive exchanges bringing the international community closer to ending impunity for perpetrators of crimes against humanity and preventing such crimes.

12. I thank you.