

Sixth Committee

Agenda Item 76

Criminal Accountability of UN Officials and Experts on Mission

INDIA STATEMENT

By

Mr. Yedla Umasankar
First Secretary/Legal adviser

9 October 2019

Mr. Chairman,

We align ourselves with the statement delivered by the Islamic Republic of Iran on behalf of the Non-Aligned Movement. I would like to make the following additional remarks in our national capacity.

2. India reiterates its concern regarding all crimes committed by United Nations officials and experts on mission during their work for the UN, as reflected in resolution 73/196. We underline our continued support for the United Nations' zero tolerance policy. Even a few of such instances or allegations of crimes committed by UN personnel is highly damaging for the image and credibility of the UN system and its work around the world.

3. We would like to thank the Secretary-General for his Reports A/74/142 and A/74/145 on the criminal accountability of UN officials and experts on mission pursuant to resolution 73/196 and for his continued commitment to the fight against impunity.

4. The listing of policies and procedures across the UN system in this context and information received from member states regarding the establishment of jurisdiction over their nationals is a useful exercise. It is encouraging to note that we, collectively, are making some progress on dealing with this problem.

Mr. Chairman,

5. There has been considerable focus on incidents of Sexual Exploitation and Abuse reported to have been committed by some individuals involved with UN peacekeeping operations. We welcome the Secretary-General's initiatives to prevent and address sexual exploitation and abuse by those involved in peacekeeping missions and special political missions.

6. India was the first country to have contributed to the Secretary General's Trust Fund to assist the victims of Sexual Exploitation and Abuse.

Mr. Chairman,

7. At the broader level, the issue of accountability has remained elusive because of the complexities of legal aspects relating to sovereignty and jurisdiction of Member States. Further, the 'legal personality' of the United Nations that may bestow some immunity or privileges that may be necessary for UN operations in a country; and the functional capacity or the willingness of member states to investigate and prosecute the accused have further complicated this issue.

8. The UN itself can only take some disciplinary measures and does not exercise any criminal jurisdiction. It is unclear whether investigations conducted by the UN may be accepted as evidence in criminal law proceedings in the courts of a Member State.

9. The immunity enjoyed by the United Nations from prosecution in national courts as an organisation should not be confused with the UN officials and experts not having any responsibility for their criminal acts or omissions.

10. We also recognize that primary responsibility to bring perpetrators to justice rests with Member States. It is only through concerted action and cooperation between States and the United Nations, we can ensure criminal accountability. It is crucial that the State of nationality of an alleged offender is promptly informed and consulted by the UN. It is equally important that the State of nationality acts in a timely manner, establishes and exercises jurisdiction, investigates and prosecutes, where appropriate.

Mr. Chairman,

11. In cases of member States that do not assert extra-territorial jurisdiction over crimes committed abroad by their nationals, 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.

12. 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.

13. The Indian Penal Code and the Code of Criminal Procedure of India have provisions to deal with extra-territorial offences committed by Indian nationals and for seeking and providing assistance in criminal matters. The Indian Extradition Act 1962 deals with extradition of fugitive criminals and related issues. The Act allows for extradition in respect of extraditable offences in terms of an Extradition Treaty with another State. 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,

14. Although the UN has been working hard to establish clear standards and rules by which UN personnel must abide, much more progress needs to be made. Developing uniform rules; investigation capacity; organizational, managerial and command accountability; and individual disciplinary, financial and criminal accountability would help to effectively address this issue.

15. 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.

I thank you.
