



PERMANENT MISSION OF THE REPUBLIC OF

of the Sixth Committee
of the United Nations General Assembly

Agenda Item 78: "Crimes Against Humanity"
Fifth Cluster:

Seventy-Seventh Session
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[Please _____]

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

Chair,
Co-Facilitators,
Distinguished Colleagues,

1. The delegation of Sierra Leone is very pleased to highlight some important points in the consideration of the fifth cluster focusing on "safeguards" covering Articles 5, 11, and 12 of the International Law Commission's ("ILC" or "Commission") articles on prevention and punishment of crimes against humanity.
2. On Article 5, , my delegation had previously noted the importance of the article to indirectly prevent crimes against humanity. We support the absolute nature of this rule and commend the Commission in not introducing any exception to the principle of non-*refoulement* under customary international law. We also commend the Commission for addressing concerns we had raised in our written comments, with reference to the text of the provision adopted by the Commission upon its first reading.
3. Regarding Article 11, fair treatment of the alleged offender, Sierra Leone welcomes the provision on fair treatment of persons. Far too often, in international criminal law, the rights of suspects and defendants are not emphasized.
4. For a future convention on crimes against humanity, inspiration may be drawn from Rome Statute of the International Criminal Court ("Rome Statute"), in which we note that the distinction between the rights of suspects, and those of accused persons, which has been recognized in international criminal law for

7. Over the course of a decade of brutal war, nearly two-thirds of our population of 5 million people were displaced from their homes. Many lost lives, limbs and all their property. Hundreds

10. As we suggest further consideration of the Commission's work, and the Rome Statute model and its evolutionary development of the International Criminal Court's jurisprudence, another suggestion will be to add a new paragraph 4 of Article 12, which may be loosely based on article 4, paragraph 1, of the International Covenant on Civil and Political Rights.

Chair,

11. It will be a missed opportunity to discuss crimes against humanity and the issue of reparation without addressing the gravest of crimes against humanity committed in human history, and for which reparation is still being resisted, that is, slavery and the Transatlantic Slave Trade.

12. This discussion must shine light on the need to "*achieve*

Among the most noticeable legal hurdles identified is the intertemporal principle in international law, incorporated

does not apply to present-day racially discriminatory effects of slavery and colonialism, which States are obligated to remediate, including through reparations. The intertemporal principle cannot be said, per se, to bar all claims for reparations for racial discrimination rooted in the events and structures of slavery and colonialism.

16. Special Rapporteur, Tendayi Achiume, called on "*Member States, and international lawyers involved in the interpretation and articulation of international law, [...to] do more to explore especially as a mechanism for overcoming overstated legal hurdles to the pursuit of racial justice*".

17. We agree with the need to do more, and certainly with the position that:

To the extent that the intertemporal principle is understood to bar reparations for colonialism and slavery, States must recognize that the very same international law that provides for the intertemporal principle has a long history of service to both slavery and colonialism. As mentioned above, international law itself played an important role in consolidating the structures of racial discrimination and subordination throughout the colonial period, including through customary international law, which was co-constitutive with colonialism.

18. Member States are now afforded another legal opportunity to articulate ways to overcome stated legal hurdles to the pursuit of slavery and racial justice.

19. Let me close, Chair, by noting that the study by the Commission of the topic "*Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law*" will be helpful to develop further understanding on this important issue.

20. Finally, allow me to extend t

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