



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

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STATEMENT

by

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To the Sixth Committee
Seventy-Third Session of the United Nations General Assembly

Agenda Item 87:

**“Scope and Application of the
Principle of Universal Jurisdiction”**

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[Please Check Against Delivery]

Mr. Chairman,

The Republic of Sierra Leone respectively aligns itself with the statements delivered by the distinguished representatives of the Islamic Republic of Iran speaking on behalf of the Non-Aligned Movement and The Gambia on behalf of the African Group.

As you know, during the Sixty-Third Session of the General Assembly, the United Republic of Tanzania, on behalf of the Group of African States, requested inclusion on our agenda of the topic "Scope and Application of the Principle of Universal Jurisdiction" in A/63/237/Rev.1. Tanzania proposed this issue for Sixth Committee deliberation following an African Union decision because while many African States recognize universal jurisdiction as a vital legal tool to combat impunity for core international crimes, there was serious concern about the potential for abuse of the principle by the courts of non-African States against African officials. This could endanger international law as well as international peace and security.

For our part, in Sierra Leone, our domestic law recognizes universal jurisdiction for grave breaches of the Geneva Conventions and Additional Protocol I, which are war crimes, irrespective of the nationality of the perpetrator or the place of commission of the crimes under Part II of the *Geneva Conventions Act* of 20 December 2012. Sierra Leone is also associated with the fight against impunity for atrocity crimes. We collaborated with the United Nations through a bilateral treaty signed in January 2002 to establish the Special Court for Sierra Leone ("Special Court") to prosecute those bearing greatest responsibility for war crimes, crimes against humanity and other serious violations of international humanitarian law committed between November 1996 and January 2002. This led to the conviction of eight persons, including former Liberian President Charles Taylor, who is today serving his 50-year sentence in the United Kingdom. Sierra Leone is proud to be part of the international community's ongoing efforts to curb impunity for grave crimes, whether through provision for universal jurisdiction at the national level or the prosecutions of atrocity crimes in a hybrid court such as the Special Court.

Mr. Chairman,

Since the Sixth Committee took up the issue of universal jurisdiction in 2009, in successive annual sessions, we have debated this item. We have sought to forge a common understanding of the universality principle and to distinguish it from related concepts such as the jurisdiction of international criminal tribunals and the extraterritorial application of national laws. Our debates have also attempted to clarify the scope of application of universal jurisdiction. This includes identification of the "core crimes" to which universal jurisdiction would apply, the conditions or criteria for the application of the principle, and the procedural and other limitations that should govern the exercise of this important jurisdictional ground under international law.

We have made some progress on these issues over the years. In addition, the Secretary-General has catalogued helpful evidence of state practice on universal jurisdiction. His rich reports have demonstrated that this principle is recognized and embraced by the domestic legislation of countries from all regions of the world. Indeed, for its part, in Decision EX.CL/731(XXI) adopted in Addis Ababa on 13 July 2012, the African Union Assembly of Heads of State and Government endorsed the African Union Model National Law on Universal Jurisdiction over International Crimes. The AU Assembly commended the model law to all AU member states. The core goal of the model law is - and remains - to strengthen the domestic capacity of African states to investigate, prosecute and punish the perpetrators of a short list of crimes especially war crimes, crimes against humanity and the crime of genocide.

But, as must by now be self-evident to anyone who has followed our debate on universal jurisdiction, the Sixth Committee appears to have reached the point of inertia. Indeed, the Assembly of Heads of State and Government of the African Union in their January 2018 Decision (EX. CL/1068/XXXII) described as an “apparent impasse” the Sixth Committee’s lack of consensus despite the good faith efforts of many delegations. We therefore must now find an expedient way forward without inhibiting the potential role that this important principle could play in the ongoing fight against impunity.

Mr. Chairman,

After years of debate without substantial progress towards a consensus outcome, Sierra Leone welcomes the decision of the International Law Commission to place this topic on its long-term programme of work during its 70th session which concluded at Geneva in August 2018. This, by all intent and purpose, is a direct response to the invitation of States, which have called for the Commission to assist the Sixth Committee by taking up a study of this important topic. This is consistent with our resolution on this topic, last adopted on 18 December 2017, in which the General Assembly decided at paragraph 2 that consideration of the issue here “is without prejudice to the consideration of this topic and related issues in other forums of the United Nations”. The decision of the Commission to add this topic to its long-term programme of work, at this stage, may seem logical for three main reasons:

Firstly, the ILC is in a position to bring to bear its known technical rigor to the key question of the ‘extent of application’ of universal jurisdiction, as noted in the explanatory memorandum to the request letter A/63/237/Rev.1, since inherently it is a technical question of public international law.

Secondly, the Secretary-General has compiled a treasure trove of material on state practice regarding universal jurisdiction. This helpful collection of national legislations, judicial decisions and other state practice would appear to offer a sound basis for the ILC to reach a legal conclusion on the issue.

Thirdly, Sierra Leone participated in the informal dialogue convened by Costa Rica with ILC members from all regions on this topic in May 2018. A key question at that and other commemoration events concerned the relationship between our Committee and the ILC. Some delegations suggested that the ILC, rather than addressing theoretical issues, should address issues that are of practical relevance to States. Universal jurisdiction is indeed one such topic with great practical relevance for States.

Mr. Chairman,

The question now arises: what should be the outcome of the ILC's future work on this topic? In Sierra Leone's view, the ILC may assist us with draft guidelines or draft conclusions on universal criminal jurisdiction. The ILC should also use the space that seems to have been created in its work programme with the completion of several of its current topics to move this item on to its active agenda.

Sierra Leone, however, believes that the consideration of this topic and related issues in other forums of the United Nations should not negate the continuous engagement on the topic by the Sixth Committee. Our Committee can continue to seek consensus, striking the right balance between the original proposal of the United Republic of Tanzania, on behalf of the African Group, the rich contents of the Secretary General's report, and deliberations of the Committee after almost a decade of debates, and respecting other international law norms including the sovereign equality of States in the process. This topic has been especially sensitive for many African and other States from different regions. It is our hope that, with our work here and that pending from the ILC, the agenda item will progress from its present state of inertia.

Sierra Leone, in conclusion, calls for meaningful progress on this crucial issue, condemning the selective and arbitrary application of universal jurisdiction for a consensus position on the 'extent of its application' in this Sixth Committee.

I thank you for your kind attention.