



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

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STATEMENT

by

H.E. DR. MICHAEL IMRAN KANU
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at the 76th Session of the United Nations General Assembly

Agenda Item 86:
**“The scope and application of the principle of universal
jurisdiction”**

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Madam Chair,

1. The delegation of Sierra Leone aligns this statement to the statement delivered by the Distinguished Representative of the **Kingdom of Morocco** on behalf of the **African Group**.
2. Sierra Leone, once again, thanks the Secretary-General of the United Nations. This time for his 11th Report on the agenda item "The scope and application of the principle of universal jurisdiction", **A/76/203**, in fulfillment of paragraph 3 of General Assembly Resolution 75/142 adopted on 15 December 2020. Sierra Leone remains concerned that, after more than a decade of discussions, the present agenda item has not progressed substantially in the Sixth Committee. This despite the annual reports of the Secretary-General which, as in this year's report, confirm an increasing State practice based on the universality principle.
3. On the important aspect of State practice, Sierra Leone did not make a further submission for this session's report following our previous submission contained in document **A/74/144**. We, however, note a member State in A/76/203 is reported as "*currently hearing a case on war crimes, aggravated crimes against humanity and murders committed outside*" of its territory. We note that the case concerns a Sierra Leone national undergoing trial for the alleged crimes committed outside of Sierra Leone.

4. Although Sierra Leone has cooperated with the court, in the form of a request for mutual legal assistance for witness depositions in Sierra Leone, which we consented to despite the peculiar procedure adopted, my delegation deems it appropriate to make the following clarifications relating to our position on the application of universal jurisdiction: **First**, Sierra Leone only embraces a form of universal jurisdiction for grave breaches of the 1949 Geneva Conventions and their 1977 Additional Protocols through the Geneva Conventions Act, of 3rd December 2012. The Act also provides for offences and penalties for other violations of the Geneva Conventions and their Additional Protocols.
5. In this vein, concerning grave breaches, the Act covers not only offences committed by citizens of Sierra Leone or criminal conduct carried out on our territory; it also extends to persons of “whatever nationality” committing those enumerated offences whether “*within or outside [of] Sierra Leone*”. Furthermore, section 2(5) of the Act permits our national courts to prosecute violations of international humanitarian law by providing for such “*[w]here a person commits an offence under this section outside Sierra Leone that person may be tried and punished as if the offence was committed in Sierra Leone*”.
6. **Second**, the consent to the request for mutual legal assistance for witness depositions in Sierra Leone was and remains highly exceptional. It does not set a precedent for the exercise of universal jurisdiction over a national of Sierra Leone, and the assistance the competent authority in

Sierra Leone may provide without the necessary clarity and safeguards.

7. **Third**, the process leading to the exercise of universal jurisdiction over a national of Sierra Leone has been less than satisfactory, and even as we remain committed to accountability for atrocity crimes. It is evident to us, more than ever, that there is need for clarity on the “scope and application of the principle of universal jurisdiction”. We will, therefore, reinforce our concrete submission to ensure both the Sixth Committee and the International Law Commission can work together to provide the much needed guidance on this important but often unclear legal principle in a manner that is consistent with the rules and principles of international law.

Madam Chair,

8. As prospects for substantial progress appear to get slimmer, as each year passes, we are of the view that incremental steps could be taken in carrying out substantive discussions on the legal and policy questions in the topic. There is need to instil new life in the annual debate and the working group open to all States. The working group remains an excellent idea, and although its previous chairs have confirmed over the years the level of participation for busy delegates is low, an informal intersessional element could be built into its work to facilitate further discussions and consensus building particularly on the policy aspects.

9. Sierra Leone reiterates the view that we see great merit in separating the legal issues from the policy issues in order for the Sixth Committee to make more progress on this topic. It is for this reason that we have welcomed the interest the International Law Commission has shown in assisting the Sixth Committee with the technical legal aspects when it added, during its 70th session, an identical topic entitled “Universal Criminal Jurisdiction” on to its Long-Term Programme of Work. Like many other delegations, which since 2010 have either expressed a preference that we refer the issue to the Commission or called on it to address the topic under its own mandate, Sierra Leone remains convinced that the Sixth Committee can benefit from a comprehensive study of the legal issues by the independent experts in the Commission. They simply have more time to dedicate to this challenging topic.

Madam Chair,

10. My delegation has previously explained our belief that, as an added bonus on this topic, we also have an unusual opportunity to strengthen the cooperative relationship between the Commission and the Sixth Committee. Both bodies work, albeit from two different vantage points, towards the same goal of helping the General Assembly discharge its responsibility under Article 13(1)(a) of the *Charter of the United Nations* to initiate studies and make recommendations for the purpose of promoting international cooperation in the political field and

encouraging the progressive development of international law and its codification. Sierra Leone, therefore, renews its call on the Commission to inscribe this topic to its current programme of work.

11. The alternative is a return to the status quo or a loss of interest in this topic in the Sixth Committee. In this vein, we have noted that the ILC proposal will not address policy issues that are the purview of States. The syllabus proposed to “concentrate on a more limited set of legal concerns on which it can, through its work and engagement with the Sixth Committee, provide further guidance.” We welcome this approach. For it is faithful to both the independent expert body role of the Commission and the competence of the Sixth Committee as delegates of States. It is also consistent, as we have stressed in the past, with the letter and spirit of Resolution A/75/203, in which the General Assembly decided, at paragraph 2, that consideration of the scope of universal jurisdiction shall continue in the Sixth Committee “without prejudice to the consideration of this topic and related issues in other forums of the United Nations.”

Madam Chair,

12. Sierra Leone continues to seek a pragmatic way forward. We have thus carefully studied the informal working paper and annex prepared by the previous chairs of the working group on this topic, otherwise known as the road map. While not binding, it does represent a shared

understanding of the issues of interest to all delegations in relation to this topic. Based on the roadmap, we offered three practical suggestions for consideration by the Sixth Committee in the last session, which we reiterate this session given that the modalities for the last session adversely impacted our work:

13. **Firstly**, we call on the Sixth Committee to agree to take up at least one policy question regarding the topic in the context of our working group this year. For example, Sierra Leone considers that it might be useful for delegations to discuss under item 1 of the annex to the roadmap what *should be* the role and purpose of universal jurisdiction. A coordinator, for each region, could assist the chair of the working group to compile views on that question within his or her regional group. We could then use the answers to that question, which would be without prejudice, as the bases for further discussions.
14. **Secondly**, Sierra Leone finds quite helpful the detailed reports and materials collected by the Secretary-General on State practice on universal jurisdiction. In this regard, we propose that the Sixth Committee specifically mandate the Secretary-General to carry out a thorough study of those materials and a review of the whole debate on this topic in the General Assembly over the past ten years. The purpose would be a stocktaking exercise, in light of the issues flagged in the road map and its annex, both to identify a) the specific topics on which there was broad agreement and the b) specific issues where there were

gaps in agreement. The Secretary-General could also identify the general trends in the debate, without reaching firm conclusions.

15. **Thirdly**, Sierra Leone believes that it might be useful for delegations and the Sixth Committee if the Commission, whether in the context of an ad hoc working group established for that purpose or through another means of its own choosing, provide a report that could assist in guiding next year's discussions in the Sixth Committee by addressing the following question stated in the informal paper: "what is meant by the concept of universal jurisdiction, what it includes and what it does not include. Is it considered to be a principle under international law?" The ILC response could help to focus the substantive discussions in our plenary debate and in the working group without, of course, prejudging the outcome that is a matter for States.

16. In closing, **Madam Chair**, our hope is that these three specific suggestions might help build confidence, among delegations, and encourage more substantive discussions. Perhaps the incremental steps might even offer a potentially useful model for a more dynamic interaction with the Commission, while at all times, respecting each of our respective spheres of competence. We look forward to a discussion of these suggestions during the informal consultations.

17. **I thank you.**