

# Preface

The concept of universal jurisdiction has evolved throughout modern times in the context of the quest for a viable and effective global criminal justice mechanism, capable of combating gross and widespread violations of human rights. Clearly, it is a key subject of doctrinal significance for international law scholars and practitioners, but its importance does not depend solely on the academic context. Of tremendous significance, too, are the all-encompassing practical facets and dimensions as an effective principle of accountability on the part of states and other public actors for egregious violations of international humanitarian law, human rights law and international criminal law. These are two general and compelling reasons for writing this book.

But a more specific and equally strong motivation for doing so is the lack of any scholarly work on the subject with regard to the law and practice in the West African State of Sierra Leone (a member of the international community and the United Nations) and a pioneer in the progressive application and development of international criminal law in the African Region. Despite this role, the country's profile leaves open the possibility of its municipal law system being exploited or manipulated, both in terms of incorporation and application of the doctrine of universal jurisdiction, by the use of legal technicalities to provide safe havens from justice for perpetrators of international crimes. Hence, a further compelling reason for writing this book is to provide a seminal scholarly work on the subject with useful insights on the existing state of the law in that country, paying particular attention to the defects in the law that help to inhibit the exercise of universal jurisdiction. A related objective is to propose necessary substantive and procedural reforms in the State's jurisprudence on the subject.

It is important to highlight these challenges since they illuminate the unique features of this work. First, writing a seminal book on a complex subject as universal jurisdiction, with its intricate conceptual underpinnings as the *jus cogens* and *obligatio erga omnes*, is a formidable scholarly task. Second, attempting to present a systematic account of the law of a developing nation—dominated by inherited legal concepts and doctrines imposed by colonial rule and compounded by the lack of settled and authoritative jurisprudence on the subject—is extremely

intellectually daunting. Third, on such an arcane area of international law, the problems confronting a research scholar in determining the existing state of the law are tremendous. Of significance, too, are such factors as the inaccessibility, uncertainty and lack of systematic arrangement of legislation and policies on the subject of universal jurisdiction.

Presently, there is no published scholarly work on the subject of universal jurisdiction in Sierra Leone. The only relevant study on the subject is that entitled “Sierra Leone, End Impunity Through Universal Jurisdiction”, a report published by Amnesty International in 2012, researched and drafted by Aminta Ossom, a 2009 J.D. graduate of Harvard Law School and a Satter Fellow of the Harvard Human Rights Programme under the supervision of the International Justice Project in the International Secretariat of Amnesty International. In my capacity as a Criminal Justice Professor and formerly a Judge of the High Court of Sierra Leone and also of the United Nations-backed Special Court for Sierra Leone, I served as legal expert to the project and offered, as acknowledged by Amnesty International, “thoughtful and helpful comments on the current state of Sierra Leonean law during the drafting stage” of the report. Although the report is extremely useful as a general source material, its major limitation is that it does not purport to be a scholarly treatise intended for academic and professional target audiences or an analytical presentation of the law on the subject. In effect, it only covers the key aspects of the subject in the form of a digest. However, much reliance has been placed upon the report as a major source for the exposition on the existing Sierra Leone law on the subject.

This book is about the law and practices governing the doctrine of universal jurisdiction and the extent to which it is applicable within the municipal law system of the West African State of Sierra Leone. Although Sierra Leone has been a pioneer in Africa concerning the progressive application and development of international law—as manifested by the mandate, work and legacy of the Special Court for Sierra Leone, an international war crimes tribunal—it has also been deficient in the processes of incorporation and application of international treaties, agreements and norms within its municipal law system. Generally, the book is written with these readerships in mind: jurists and scholars in international law, practitioners of international criminal law, law professors, graduate and undergraduate students taking courses in international law, attorneys specializing in the practice of international law, legislators, diplomats, international law institutes, non-governmental organisations, human rights’ agencies, and law enforcement professionals, and other stakeholders in the progressive development and practice of international law, international criminal law, international humanitarian law and international human rights law. In effect, the book will serve as invaluable resource material for the targeted readerships, especially at this stage in the intensification of the global advocacy for an end to impunity through universal jurisdiction, which is being championed by human rights organisations like Amnesty International and Human Rights Watch. The book will be a major contribution to knowledge and a very useful addition to the libraries of universities worldwide that offer courses in various branches of international law.

Thematically, the book begins with an overview of the sources of international law, followed by a discussion of the relationship between international law and municipal law. Next is an analysis of the process of incorporation of international law within the municipal law system of Sierra Leone. Further, a detailed description of the legal system of Sierra Leone is provided. Additionally, the author undertakes a comprehensive analysis of jurisdiction as a legal concept. An equally exhaustive analysis of the concept of universal jurisdiction is embarked upon. In the subsequent four chapters, the author explores the existing state of the law in Sierra Leone, providing for the exercise and application of universal jurisdiction in criminal and civil proceedings, including a comprehensive diagnostic examination of the law's inadequacies and deficiencies. The book concludes with a case for substantive and procedural reforms.

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