

Islamic Republic of I R A N

Permanent Mission to the United Nations

Statement

By

**The Representative of the Islamic Republic of Iran
Before the Sixth Committee
67th Session of the United Nations General Assembly**

On

Agenda item 84:

**"The scope and application of the principle of universal
jurisdiction"**

New York, 17 October 2012

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Mr. Chairman,

The delegation of the Islamic Republic of Iran endorses the statement delivered on behalf of the Non-Aligned Movement. My delegation would like to make a the following remarks in its national capacity.

My delegation appreciates the compilation by the Secretary-General of the comments received from States and relevant observers, as appears in document A/67/116.

Mr. Chairman,

As it also seems to be evident in the observations and information provided by States, we have yet to develop a common understanding of the concept of universal jurisdiction as there are different and sometimes rather divergent views on this concept. However, there is no short way to fix the differences, and the only way to come up with consensually agreed criteria both for the scope and the proper application of this jurisdiction is to follow a step by step approach. Nevertheless, we should not lose sight of the original reasons this item was introduced to the Sixth Committee. The key question would be whether the Committee shall in fact engage in a sort of codification or development of international law concerning this notion and that how far the Committee should go in that direction. The Working Group to be established in accordance with paragraph 2 of resolution A/66/103 provides a useful discussion platform to consider

these questions.

Mr. Chairman,

My delegation has outlined our views and observations concerning this item on previous occasions. Under Iran's legal system, Iranian courts shall exercise jurisdiction in respect of any offence committed within the Iranian territory, its territorial waters and air space. Moreover, as Article 4 of the Penal Code stipulates, "If the crime is partly committed inside Iran and the result occurs outside the Iranian territory, or if the crime is partly committed inside or outside of Iran and the result occurs inside Iran, it will be regarded as being committed inside Iran."

In the same line, any person (Iranian or foreigner) who commits any of the offences listed in Article 5 of the Penal Code, outside the Iranian territory and is found inside Iran or is extradited to Iran, shall be prosecuted in accordance with the criminal laws of the Islamic Republic of Iran.

In addition (to the cases referred to in Articles 5 and 6 of the Penal Code), any Iranian national who commits an offence outside Iran shall be prosecuted by the Iranian courts, if found in or extradited to Iran, provided that the act is a crime under the laws of the Islamic Republic of Iran and the accused person has not been prosecuted in the State where the crime was committed (Article 7 of the Penal Code).

I may also refer to Article 30 of the Civil Aviation Act which authorizes the Iranian courts to exercise jurisdiction over the offences committed on board Iranian aircrafts outside Iran if the alleged offender is arrested in Iran and is not extradited to another State for prosecution, in case the alleged offender is a foreign national, or if the alleged offender is extradited to Iran.

Mr. Chairman,

Under the Iranian legal system, there is no express legislation concerning universal jurisdiction. We do not seem to have any precedent applying this jurisdiction in our judicial practice. According to Article 8 of the Iranian Penal Code, "With regard to crimes which the perpetrators shall be prosecuted, under a special law or international treaties, in any country where they are found, the crime will be prosecuted and punished according to criminal laws of the Islamic Republic of Iran, if the perpetrator is found in Iran." In other words, the Iranian courts are entitled to exercise criminal jurisdiction over certain crimes, irrespective of location of the crimes or nationality of the alleged offender, provided that: 1) the crimes have been established under an international treaty to which Iran is party; 2) the alleged offender is present in the Iranian territory.

Mr. Chairman,

Iran is a party to a good number of international instruments, including a number of multilateral treaties on suppression of international terrorism, such as 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, 1971 Convention for the Suppression of

Unlawful Acts against the Safety of Civil Aviation and the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1979 International Convention Against the Taking of Hostages, 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, as well as the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 2003 United Nations Convention against Corruption, almost all including, in one way or the other, the *extradite or prosecute* provision. This shall not, however, be construed or imply as to be tantamount to universal jurisdiction. The two notions should not be confused.

As far as bilateral agreements are concerned, there is no track of this kind of jurisdiction in our bilateral agreements on extradition/mutual legal assistance either.

Mr. Chairman,

The main concern raised with regard to the concept of universal jurisdiction is that its application in certain cases may contravene some of the fundamental principles of international law, in particular the principle of immunity of State officials from foreign criminal jurisdiction, which emanates from the principle of sovereign equality of States. Moreover, it is said that this doctrine has been used selectively. These have provoked continuing debate over the nature of crimes for which the universal jurisdiction may be exercised and the conditions and limitations for such exercise, as well as the question of connecting link between the suspect with the prosecuting State, and the presence of the alleged offender in the forum State.

We are of the view that exercise of criminal jurisdiction over foreign nationals should be unbiased and in good faith. And it should not violate the immunity granted under international law to Heads of State and Government, diplomatic personnel and other incumbent high-ranking officials.

That said, it is imperative that the scope of universal jurisdiction as a judicial tool envisaged in a number of international treaties as well as the conditions for its application be identified in accordance with the relevant provisions of those treaties, taking into account the relevant fundamental principles of international law. In this context the opinion of some of the ICJ judges, including then President Guillaume (and judges Rezek, Ranjeva, and Judge ad hoc Bula Bula), in the *Case Concerning the Arrest Warrant of 11 April 2000*, who underscored that “universal jurisdiction *in absentia* is unknown to international law”, provides a key guide. In their view, the exceptional cases where international treaties provides for universal jurisdiction apply only if the alleged offender is present on the territory.

Thank you, Mr. Chairman.