
Response of the Republic of Cuba to note LA/COD/59/1 of the Secretary-General concerning United Nations General Assembly resolution 67/98 entitled "The scope and application of the principle of universal jurisdiction"

Cuba attaches great importance to the work of defining the scope and application of the principle of universal jurisdiction, which should be discussed by all Member States in the framework of the General Assembly of the United Nations.

In that regard, we support the work of the open-ended Working Group established by the Sixth Committee of the General Assembly to examine the topic transparently and with the participation of all countries.

We reiterate our concern at the unwarranted use of this principle in the unilateral, selective and politically motivated exercise of jurisdiction by the courts of developed countries against natural or juridical persons from developing countries, which has no basis in international norms or treaties. We condemn the adoption at the national level of politically motivated laws targeting other States.

Cuba is of the view that the work of the United Nations General Assembly on the topic must primarily focus on establishing international regulations or guidelines to prevent unwarranted use of the principle of universal jurisdiction and safeguard international peace and security.

In the application of the principle of universal jurisdiction by national courts, utmost respect for the principles enshrined in the Charter of the United Nations, in particular the principles of sovereign equality, political independence and non-interference in the internal affairs of States, is of vital importance.

Universal jurisdiction must not be used to disparage the integrity and values of different legal systems, which is why it is exceptional and supplementary in nature.

Cuba is of the view that the application of the principle of universal jurisdiction should be limited by absolute respect for the sovereignty and national jurisdiction of States, the application of said principle always being supplementary to the actions and national jurisdiction of each State. In addition, universal jurisdiction should be applied only under exceptional circumstances when there is no other way to prevent impunity.

The principle of universal jurisdiction should not be applied in order to diminish respect for a country's national jurisdiction or disparage the integrity and values of its legal system, nor should it be applied selectively to pursue political objectives in violation of the norms and principles of international law.

The absolute immunity granted under international law to Heads of State, diplomatic personnel and other incumbent high-ranking officials must not be called into question; using the principle of universal jurisdiction to violate long-standing and universally accepted international principles and norms is contrary to international law.

Cuba supports the drafting of an international norm or guidelines to establish clearly under what conditions or within what limits the principle of universal jurisdiction may be invoked, as well as the crimes that are subject to the principle, if there is international consensus in that regard. Criteria should also be established for the regulation and application of the principle, as well as its compatibility with the Charter of the United Nations, and it should be defined as exceptional and supplementary in nature.

Given the nature of the principle, the crimes that are subject to universal jurisdiction should be restricted to crimes against humanity and universal jurisdiction should be invoked only when it has been accepted that there is no other way to bring criminal proceedings against the perpetrators. Similarly, it must be established that in such cases the approval of the State in which the crime was committed or of the countries of which the accused is a national must be obtained.