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Sixth Committee

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

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Mr Chairman,

The topic of universal jurisdiction has been on the agenda of the Sixth Committee since 2009. It is Norway's view that the discussions have helped to clarify the subject matter and have created a broader understanding of the various positions and needs of Member States. The General Assembly debates have revealed a united front against impunity for the most serious crimes of concern to the international community as a whole. This unity represents a unique opportunity to collectively advance our work on the principle of universal jurisdiction.

Universal jurisdiction has gained solid ground as a fundamental principle of criminal law, both within national jurisdictions and at the international level. It is applied in the domestic criminal law of numerous national jurisdictions, which reflects its fundamental, practical function in initiating criminal proceedings against individuals trying to escape prosecution for serious crimes.

The primary responsibility for the investigation and prosecution of crimes lies with the territorial State or with the State or States with personal jurisdiction. In most cases, the territorial State will be best placed to gather evidence, secure witnesses and ensure that those affected by the crime receive accurate information on the criminal case and its development. The application of universal jurisdiction should, in principle, only be an option when States are unable or unwilling to apply other types of criminal jurisdiction.

(Check against delivery)

Mr Chairman,

We commend Ambassador Ulibarri of Costa Rica for the skilful way he has chaired this Committee's working group on universal jurisdiction. We welcome the working group's identification of a working concept of universal jurisdiction, which will help to bring even more clarity to the coming deliberations.

Mr Chairman,

We look forward to contributing to the discussions in the working group. I will therefore restrict my remarks in this Committee to some general comments on the topic and the way forward.

We continue to caution against trying to develop an exhaustive list of crimes for which universal jurisdiction applies. We are concerned that this approach would entail lengthy and possibly fruitless discussions. Further, we would also have to engage in the unprecedented exercise of trying to harmonise Member States' interpretation of their treaty obligations. We do not consider this to be the task of the General Assembly.

Mr Chairman,

We fully agree that universal jurisdiction must not be misused and that it should only be applied in the interest of justice. This is at the core of the principle of the rule of law. We should therefore explore ways and means of limiting the possibility of universal jurisdiction being misused for political purposes.

We would therefore encourage discussions in the Sixth Committee on organisational and procedural measures to ensure checks and balances in the application of universal jurisdiction. Learning from best practices in independent prosecutorial offices will help us to ensure that the principle is only applied after thorough consideration, and that situations of misuse of universal jurisdiction do not arise.

A priority issue to consider is how to ensure prosecutors' independence from political and other external influence and pressure. We note that the UN has developed a series of documents that could help to enlighten this discussion, such as the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in Havana, Cuba, in 1990.

Other relevant questions are whether and how prosecutorial discretion applies to cases based on universal jurisdiction in various states. Under this heading, questions also arise as to where and to whom the competency to decide on the matter is bestowed within states, whether the decision is collegial or not, and to what extent a prosecutorial decision on universal jurisdiction may be appealed.

Mr Chairman,

Norway would also like to reiterate its position that the Committee should refrain from pursuing a discussion on immunity for state officials under this agenda item, as this topic does not have particular relevance to universal jurisdiction. Immunity from criminal prosecution may, along with other preconditions for criminal liability, be relevant in cases based on all forms of jurisdiction. The question is furthermore under consideration by the ILC, and deliberations in the Sixth Committee are not likely to be fruitful in this context.

Mr Chairman,

Let me assure you of Norway's continued interest in this topic. We look forward to the further discussions under this agenda item, and trust that the work of this Committee will be guided by our common goal to fight impunity.

Thank you.

