



Statement

by

NanduniHasinthaGovinnage, Assistant Director, Ministry of External Affairs
of
the Democratic Socialist Republic of Sri Lanka

Sixth Committee
68th Session of the United Nations General Assembly

***Agenda Item 86: “The Scope and Application of the Principle of
Universal Jurisdiction”***

17th October, 2013

United Nations, New York

Mr. Chairman,

My delegation aligns itself with the statement made by Iran on behalf of the Non-Aligned Movement. We thank the Secretary-General for the report on this agenda item.

The principle and application of universal jurisdiction involve complex issues of a legal, political and diplomatic nature which are still to be fully defined. There is controversy surrounding the principle, especially its application and scope. In previous years’ Sixth Committee deliberations we have heard a range of different views on the scope of universal jurisdiction and its application, highlighting the concerns that exist about these areas. As the law in this area evolves, it is important to take cognizance of the different perspectives.

The principle of universal jurisdiction is an institution which evolved over the years, is designed to address specific challenges in the application of the law. First used to deal with piracy, the principle has been cautiously expanded to cover other areas. As a precondition, embedded in customary international law, local remedies must be exhausted prior to the application of this principle.

The principle of universal jurisdiction should not be exercised in another jurisdiction while the judicial mechanisms of a country are in the process of addressing an infraction. It is disturbing that in certain instances, judicial officers of countries investigating such cases have proceeded on a unilateral basis, and have ignored decisions of national courts. When a state chooses to exercise universal jurisdiction *in absentia*, it must also ensure that certain safeguards are in place to prevent the abuse of the principle.

The abuse of the principle of universal jurisdiction will ultimately result in weakening the principle itself as well as the principles applicable to inter-state relations. Perhaps the most damaging aspect of the application of the principle of universal jurisdiction is its encroachment on the sovereign equality of States enshrined in the UN Charter itself.

It is observed that several cases invoking the principle of universal jurisdiction in the past have deliberately targeted high officials. We welcome the fact that certain States have begun to recognize the need to prevent such abuses and have introduced constraints such as requiring the prior approval of senior state authorities before claims can be instituted. We are also concerned about targeting of diplomatic agents who enjoy full immunity in bilateral and multi-lateral fora in an attempt to test the scope of diplomatic privileges and immunities.

The practical application of the development of the principle of universal jurisdiction should be guided by international consensus. It is important that the framework for the application of the principle have substantial input from the widest possible sections of the international community. The 6th Committee should seek to clarify issues such as the difference between universal jurisdiction and the treaty-based obligation to extradite or prosecute. The Working Group on this matter should seek to delineate between these two related but distinct concepts.

Thank You, Mr. Chairman.