



**PERMANENT MISSION OF THAILAND
TO THE UNITED NATIONS**

351 EAST 52ND STREET • NEW YORK, NY 10022
TEL (212) 754-2230 • FAX (212) 688-3029

Please check against delivery

Statement

by

Delegation of Thailand to the United Nations

before the Sixth Committee

of the 68th Session of the United Nations General Assembly

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

New York, 18 October 2013



*Building Bridges for Partnership
THAILAND*

ASEAN Candidate for the UN Security Council 2017 – 2018

Mr. Chair,

Thailand aligns itself with the statements delivered by Viet Nam on behalf of ASEAN as well as that of Iran on behalf of the Non-Aligned Movement.

At the outset, the Thai delegation commends the efforts made by the 6th Committee to facilitate and advance the discussion on the principle of universal jurisdiction for four consecutive years. We would like also to thank the Secretary General for his annual report which contains appraisal on the current state of the law and useful information about national legislations. We also take note with appreciation of the establishment of the working group at this session to deliberate on the scope and application of universal jurisdiction. The working group will no doubt provide valuable contribution towards our discussion in the Sixth Committee.

Establishing universal jurisdiction over grave crimes of international concern can indeed be a valuable means to eliminate impunity, as the application of this principle provides a legal platform for States to go beyond their treaty obligations. Apart from piracy, there is still no emerging consensus on what is the *ratione materiae* of the crimes subject to universal jurisdiction. This leaves room for States to define and apply universal jurisdiction based on their domestic law. Thus, ambiguity of the definition and scope of universal jurisdiction in international law allow the perpetrators of certain serious crimes to enjoy safe haven.

With this in mind, my delegation is of the view that perpetrators of serious crimes, which do not fall within the scope of universal jurisdiction, must be prosecuted in the States on whose territory the crimes were committed or in the States where the perpetrators are present.

Mr. Chair,

In order to better understand the concept of universal jurisdiction, a distinction should be drawn between jurisdiction of the international tribunals over treaty crimes, such as genocide, torture and slavery and the jurisdiction of national courts over the crimes which customary international law categorizes as falling within the application of the principle of universal jurisdiction. Moreover, distinction must also be made between obligation to extradite or prosecute as required by international treaties and obligation to extradite or prosecute as required by the application of the principle of universal jurisdiction. The Thai delegation thus welcomes the report of the International Law Commission working group on *aut dedere aut judicare* (extradite or prosecute) which promotes a better understanding for the legal community.

In this connection, my delegation would like to highlight the decision of the International Court of Justice in the Arrest Warrant case where judges Higgins, Kooijmans and Buergenthal. The said case have raised concerns and called for the international legal community's reconsideration on the scope and application of immunity of State officials and its exception while establishing jurisdiction over foreign state officials. This question also needs to be carefully considered and discussed in both legal and political aspects.

Mr. Chair,

Thailand would like to reaffirm our commitment to end impunity. In addition to applying the principle of universal jurisdiction for piracy, Thai national courts also exercise extraterritorial jurisdiction over a number of crimes indicated in treaties to which Thailand is a Party. We also comply with the obligations to extradite or prosecute as required by those treaties.

Mr. Chair,

While we also strongly believe in ensuring that the perpetrators of such crimes must be prosecuted, the application of the principle of universal jurisdiction should be based on sound legal basis, not by political motivation. The legitimacy and credibility of the use of principle of universal jurisdiction depends on its application that is consistent with other principles and rules of international law.

Before ending my remarks, I wish to reiterate our support for the work of the Committee, especially the working group at this session, as mandated to address and resolve the issue of ambiguity regarding the scope and application of the principle of universal jurisdiction. We look forward to working closely with the Committee on this agenda.

Thank you. Mr. Chair