

**Report of the Republic of El Salvador in response to General Assembly resolution 68/117
entitled “The scope and application of the principle of universal jurisdiction”**

The Republic of El Salvador is submitting the present report in response to resolution 68/117, which invites Member States to submit, before 30 April 2014, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties and their national legal rules and judicial practice.

With regard to this important topic, as indicated in previous sessions of the General Assembly, the domestic penal law of El Salvador expressly recognizes the principle of universal jurisdiction on the premise that some crimes must be condemned internationally.

This principle has been incorporated in the Penal Code in force since 1998, as one of the rules determining the application of Salvadoran penal law. The Code permits the prosecution of individuals for the commission of especially serious crimes against another individual where there are consequences that extend beyond the violation of that individual’s rights to unlawfully affect the community at large.

The law in question is set out below:

Penal Code

Principle of universality

Article 10. - Salvadoran penal law shall further apply to crimes committed by anyone in a place not subject to Salvadoran jurisdiction, where such crimes could affect rights protected by specific international agreements or rules of international law or seriously impair universally recognized human rights.

In accordance with this article, domestic penal law recognizes the specific characteristics of universal jurisdiction in that it involves a principle which sanctions the prosecution of serious crimes and can be applied without territorial or personal links to the perpetrator or the victim.

In Salvadoran legislation, the seriousness of a crime for the purposes of applying universal jurisdiction is determined by the extent to which it harms legal rights protected by specific international agreements or rules of international law or has the potential to seriously impair universally recognized human rights. Unlike the legislation of other countries, Salvadoran law does not specifically enumerate crimes in respect of which universal jurisdiction might be applied; rather,

such application would depend on whether the acts committed were sufficiently harmful to the international community as a whole based on the above criteria.

While thus far, no specific cases that would give rise to the application of this principle have come before the Salvadoran courts, it is crucial to recognize the important role of universal jurisdiction as a tool for preventing impunity in connection with serious international crimes such as genocide, torture, war crimes and other crimes which are not prosecuted owing to a lack of capacity or will on the part of the States in which they were committed.

In view of the foregoing, El Salvador will continue to support the consideration of this topic within the framework of the United Nations, since only with the establishment of general guidelines on its implementation in practice will States be prevented from misapplying the principle of universal jurisdiction or distorting it by introducing obstacles to its genuine implementation in cases of extreme importance.
