

SIXTH COMMITTEE

CHECK AGAINST DELIVERY

Statement by
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The Scope and Application of the Principle of Universal Jurisdiction

Agenda Item 85

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Mr. Chairman,

Israel welcomes this opportunity to continue to engage in the discussion on the Scope and Application of Universal Jurisdiction.

At the outset, the Government of Israel would like to thank the Secretary General for his recent report entitled "The Scope and Application of the Principle of Universal Jurisdiction" (A/71/111), and for his ongoing contribution to this sensitive and complex topic. We also wish to commend the efforts made by the Sixth Committee and its Working Group, currently headed by H.E. Ms. Georgina Guillen-Grillo to facilitate and advance the discussion regarding the principle of universal jurisdiction over the course of the last seven years.

Mr. Chairman,

Israel shares the view held by most countries regarding the importance of combating impunity and ensuring that perpetrators of the most serious crimes of international concern are brought to justice.

Nevertheless, as demonstrated by the Secretary-General's annual reports, as well as national reports submitted on the topic, there are diverging views among members of the international community with regard to issues such as the definition, legal status, scope and conditions for the application of the universal jurisdiction principle.

We would like to repeat our view, that in order to achieve the aspirational goal of combating impunity, and at the same time prevent any misapplication or improper resort to universal jurisdiction, it is essential for States to agree upon a proper definition of universal jurisdiction and a shared understanding of the scope and manner of its application. We, therefore, encourage this Committee to carry on its work, including the further exploration of the practical application of universal jurisdiction.

In this regard, we would like to emphasize a few important principles which arise from the reports of States and from our Government's perspective:

First, criminal jurisdiction should be asserted by states with close jurisdictional links. When comparing the interests of states with close relevant jurisdictional links in asserting criminal jurisdiction to those of the international community as a whole, these interests are not equivalent. There is a hierarchy of interests, and there are clearly weightier interests for the states which have a clear basis for jurisdiction based on traditional criteria, than for states with no jurisdictional links or limited links that seek to assert universal jurisdiction. Clear jurisdictional

links are important not only to facilitate effective prosecution, but are also relevant to the interests of justice and reconciliation. These interests can be best served by the prosecution of the alleged offender in his community or in the jurisdiction with the closest links.

Furthermore, the exercise of universal jurisdiction is subject to the principle of subsidiarity. Universal jurisdiction both in principle and in practice was never intended as its own independent system of justice as a system of first resort, but rather as a mechanism of last resort. In fact, the very nature of the principle of universal jurisdiction is that it is to be applied in exceptional circumstances, if necessary, when the State with closer jurisdiction links e refuses to act.

All too often universal jurisdiction is being used primarily to advance a political agenda or to attract media attention, rather than to genuinely advance the rule of law. Israel therefore believes that appropriate safeguards should be established in national legal systems and in other relevant entities which gather information or transmit such requests to ensure the responsible exercise of universal jurisdiction in appropriate exceptional cases. These include, for example, a requirement that prosecution based on universal jurisdiction be conducted by public prosecution officials, rather than triggered, resourced or promoted by private actors; a requirement to seek approval from high-level legal officials at the earliest stages of legal proceedings and before a decision is made with regard to whether to open a case; a requirement that the accused be present in the territory, and that there be additional relevant jurisdictional links to the forum State.

In conclusion Mr. Chairman, in light of existing uncertainties with respect to its scope and application, it would be useful for the working group to obtain information from additional States about their practice with respect to this important issue, and we look forward to working closely with the Committee on this agenda item in the future.

Thank you Mr. Chairman.