



## BANGLADESH

### **Statement under Agenda Item 85: *The Scope and Principles of Universal Jurisdiction* at the Sixth Committee of the 72<sup>nd</sup> Session of the UN General Assembly**

**Statement by:** Mr. Mohammad Humayun Kabir, First Secretary

**Date and venue:** Wednesday, 11 October 2017, Trusteeship Council Chamber

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**Thank you, Mr. Chairman.**

The Bangladesh delegation continues to follow with interest the discussions on universal jurisdiction under the purview of this Committee.

We see some valid arguments on both the potential strengths and limitations of universal jurisdiction vis-à-vis national or territorial jurisdictions. From our vantage point, we would be inclined to favour an approach that is pragmatic and constructive to the extent that universal jurisdiction and national jurisdictions are legally understood to be complementing each other, particularly in prosecuting cases of grave violations of international humanitarian law and human rights law.

We see such a pragmatic approach enshrined in the Rome Statute on the International Criminal Court (ICC), where the ICC is conceived as a 'court of the last resort' in case of unwillingness or inability of national jurisdictions to ensure accountability and justice for mass atrocity crimes such as genocides, war crimes and crimes against humanity. The existence of, and authority vested in ICC should create an obligation for national jurisdictions of State Parties to the Statute to decidedly address any risk of impunity for mass atrocity crimes committed within their respective territories by whomsoever or whenever.

As certain prosecutorial initiatives in ICC, have demonstrated, the Court's efforts to transcend national jurisdictions and thus exercise its mandate can be susceptible to the vagaries of international and domestic politics. There may be efforts by State Parties to address such susceptibilities, but in the interest of upholding the authority and credibility of the Court, it would remain critical to continue exercising prosecutorial discretion in pursuance of the Court's complementarity role vis-à-vis national jurisdictions. The ongoing deliberations on the activation of the Court's jurisdiction over the crime of aggression may also be indicative of the inherent challenges in this regard.

On the other hand, as seen in several instances, any broad, extra-territorial application of the notion of universal jurisdiction by a national court is also likely to get embroiled in the dynamics of both international and domestic politics. This is bound to pose challenges for the sound interface between Executive and Judiciary organs of States at both international and national levels.

This is evident from the inputs from different states and international communities compiled in the Secretary General's report that, there are differences in opinions on this topic. Under such divergence, we cannot overlook the possibility of arbitrary value judgments being passed in relation to the competence of different national judicial processes in the application of universal jurisdiction. There would perhaps be a certain set of national jurisdictions that would be treated as more equal than others in the application of universal jurisdiction. Any such selective approach to be continued would, in fact, undermine the overriding objectives of justice and fairness that the notion of universal jurisdiction is purported to serve.

After six years of work by the working group, it may be advisable for this Committee to seriously consider the future course of actions in the regard. As the Working Group chair has aptly observed, it may not serve our interest in having the discussions *ad infinitum*, mostly characterized by repetition between the Plenary debate and the Working Group discussions. Bangladesh would wish to see further constructive deliberations in this regard.

I thank you.