



Statement by H.E. Archbishop Bernardito Auza
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Sixth Committee, Agenda Item 85:

The scope and application of the Principle of universal jurisdiction

New York, 10-11 October 2017

Mr. Chair,

My Delegation would like to thank once again the Committee for the important work it is doing to further the cause of justice in the world, particularly as it relates to the issue of redress for genocide, war crimes and crimes against humanity. Solidarity compels unified and resolute action in the face of impunity, especially when its consequences are suffered mostly by those who live at the margins of society, such as the poor and ethnic or religious minorities. Hence, the creation of universally agreed jurisdictional norms to ensure that the worst violations of fundamental human rights are able to be prosecuted and thus deterred is a laudable goal.

Mr. Chair,

It is necessary that the international community construct a set of jurisdictional norms to resolve the complex tension between States' time-honored right to preserve and defend their sovereignty and holding civil and military authorities accountable for the occurrence of mankind's most horrific abuses.

It is our belief, Mr. Chair, that any set of norms that this body develops to overcome this tension must be consistent with both the fundamental principles of criminal justice (such as *nullum crimen, nulla poena sine lege*, the right to due process, the presumption of innocence, *non-refoulement*, etc.) and customary international law, and firmly rooted in subsidiarity; to the extent that States are willing and able to prosecute these crimes, the community of nations ought to defer to them. Particular attention must therefore be given to the jurisdictional immunities of public officials and to the procedural conditions that must be met to set aside such immunities. While universal jurisdiction might be an effective method for punishing genocide, war crimes and crimes against humanity in cases where States are simply unable or unwilling to do so, mechanisms for preventing abuses of such jurisdiction

must also be created, lest the tensions between prosecuting States and target States themselves create conflict.

Mr. Chair,

It is clear that much work remains to be done if this Committee is to meet the praiseworthy goal of creating a rule-based system for the application of universal jurisdiction. My Delegation supports further work on this topic, including through the Working Group, established by resolution 70/119, for further study and concrete recommendations. The work of the International Law Commission, namely on the *draft articles on crimes against humanity* and on the *immunity of State officials from foreign criminal jurisdiction*, might contribute to the development of the law on this issue.

Finally, my Delegation would like to highlight the increasing need to consider extending the application of universal jurisdiction in the context of the migration and refugee crises. The use of threats of atrocity crimes against populations or the actual commission thereof as a strategy forcibly to displace them must be condemned, prevented and stopped.

Over and above every consideration, our common humanity impels us all to assist the victims of atrocity crimes in the most humane and fraternal way possible. When the international community fails to exercise adequately the responsibility to protect, we all have a great and urgent responsibility, as Pope Francis has proposed, *to welcome, to protect, to promote and to integrate* the victims of those failures.¹

Thank you, Mr. Chair.

¹ Pope Francis, Message for the 104th Day of Migrants and Refugees (14 January 2018).