

Statement by  
H.E. Mr. Abbas Bagherpour Ardekani  
Representative of the Islamic Republic of Iran  
Before  
The Sixth Committee of the  
72<sup>st</sup> Session of the United Nations General Assembly  
On:  
**"The scope and application of the principle of universal jurisdiction"**  
(Agenda Item 85)

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*In the Name of God, the Compassionate, the Merciful*

We take note of the report of the Secretary General on this item.

The rationale underlying universal jurisdiction seems to be that the gravity of certain crimes is such that they cannot be considered as being committed against a specific State, rather against the community of nations as a whole. Thus, regardless of *locus delicti* (the place of commission of the offence), the accused is prosecuted in the country of arrest in order to avoid impunity as the main objective of the concept. Yet, in any scheme to implement universal jurisdiction from criminalization up to trial, laws should be in place so that the principle of State sovereignty, as the hallmark of international relations, be duly respected and prerequisites of immunity of State officials, a significant manifestation thereof, be met accordingly.

Due to the sensitivity and complexity of the issue, Member States do not have a common understanding on the legal and conceptual framework of universal jurisdiction and its scope of application. Even crimes for which universal jurisdiction is incorporated in national legislations are varied and as such should any interpretation thereof remain subject to the discretion of national judiciaries. Therefore, the limits and conditions of implementation of universal jurisdiction will be even more fragmented and further diversified. International Court of Justice in "Arrest Warrant" case of 11 April 2000 (Democratic Republic of the Congo v. Belgium) did not review the question of Universal Jurisdiction, however several judges raised concern in their separate opinions as to the judicial chaos likely to be created if jurisdiction should be conferred upon the courts of every state

in the world to prosecute such crimes, whoever their authors and victims and irrespective of the place where the offender is to be found. Moreover, the president Guillaume as well as majority of judges indicated that universal jurisdiction *in absentia* is unknown to international conventional law.

Furthermore, whatever the source of universal jurisdiction, what remains to be of concern is its selective application which can prejudice such cardinal principles of international law as equal sovereignty of States and immunity of State officials from foreign criminal jurisdiction.

**Mr. Chairman,**

In Iran, there is legislative source for universal jurisdiction. Under article 9 of the new Iranian Penal Code "Perpetrators of crimes who are prosecuted, under a special law or international treaties, in any country in which they are found, shall be prosecuted and punished in accordance with the criminal laws of the Islamic Republic of Iran, if such perpetrators are found in Iran " Under this provision, it is necessary that the crime is, first and foremost, recognized as an international crime by a special law or an international treaty. and second, the perpetrators are found in Iran. "A special law" under the said article refers to a domestic statute which applies to one or more crimes and provides for prosecution of the perpetrators thereof in Iran regardless of the offender's nationality or that of the victim, or place of commission of the crime.

Besides, under article 9 of the Iranian civil code, treaties concluded between Iran and other States in accordance with the Constitution shall have the force of domestic law. Thus, any stipulation in treaties concerning grant of the right to implement universal jurisdiction is considered part of the Iranian law, once adopted and incorporated within the national legal corpus. As a case in point, under article 5 of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid to which Iran is a party "Persons charged with the acts enumerated in article II of the present Convention (i.e. those pertaining to the commission of apartheid) may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused [...]." All other treaties containing similar clauses on universal jurisdiction accepted by Iran constitute part of Iranian national law and may be applied accordingly.

Let me conclude by saying that the Islamic Republic of Iran views universal jurisdiction as a treaty-based exception in exercising national criminal jurisdiction. In other words, the principle of territorial jurisdiction is the key to sovereign equality of States and therefore universal jurisdiction shall not replace other jurisdictional bases and only asserted for the most serious crimes. Expansion of the principle to include any less than most heinous crimes could call its legitimacy into question. Moreover, it cannot be exercised in isolation or to the exclusion of other relevant rules and principles of international law, including state sovereignty and territorial integrity of states and immunity of state officials from foreign criminal jurisdiction.

**Thank you Mr. Chairman**