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# UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE,  
SEVENTY-SECOND SESSION, AGENDA ITEM 85,  
THE SCOPE AND APPLICATION OF THE PRINCIPLE OF  
UNIVERSAL JURISDICTION

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Mr Chairman,

The United Kingdom of Great Britain and Northern Ireland considers the term “universal jurisdiction” to refer to national jurisdiction established over a crime irrespective of the nationality of the victim, the location of the alleged perpetration, or other links with the prosecuting State. We further consider it necessary to distinguish universal jurisdiction from other similar exercises of jurisdiction.

First, universal jurisdiction is distinct from the jurisdiction of international judicial mechanisms established by treaty, including that of the International Criminal Court.

Secondly, it is distinct from jurisdiction established under treaties in which the State parties establish an “extradite or prosecute” regime. Some States may establish universal jurisdiction as a matter of domestic law in order to implement such obligations, as the United Kingdom has done in relation to the offence of torture, in order to implement its obligations under the United Nations Convention against Torture.

Thirdly, universal jurisdiction is distinct from the extra-territorial jurisdiction enjoyed as a matter of domestic law by the courts of many States in relation to the extra-territorial conduct of their own citizens or residents. In the United Kingdom, the starting point is that the criminal courts enjoy jurisdiction in relation to crimes where a substantial measure of the conduct in question took place within our jurisdiction. However, there are exceptions, including

when our courts exercise the jurisdiction, granted to them by the International Criminal Courts Act 2001, over genocide, war crimes and crimes against humanity committed overseas by those who are resident in the UK; and when serious offences, such as murder or serious sexual offences, are committed by British citizens overseas.

Mr Chairman, the United Kingdom wishes to stress that it considers the scope of universal jurisdiction to be relatively narrow. It is only established for a small number of specific crimes.

The rationale for establishing such universal jurisdiction as a matter of international law is twofold.

First, the most serious international crimes affect the international legal order as a whole and, as such, should be subject to the jurisdiction of all States. Offences falling into this category include grave breaches of the Geneva Conventions.

Secondly, the unique nature of some other criminal offences attracts universal jurisdiction. Piracy is the prime example – it is considered appropriately subject to universal jurisdiction because, while not commensurate with grave breaches of the Geneva Conventions, if it were not subject to universal jurisdiction, there would be a significant risk that those engaged in piracy would fall outside the jurisdiction of any State and escape prosecution.

The United Kingdom acknowledges that there is a further, limited, group of crimes which some States consider to attract universal

jurisdiction, but in relation to which there is a lack of international consensus.

Mr Chairman, the territorial approach to jurisdiction reflects the general rule that the authorities of the State in whose territory an offence is committed are best placed to prosecute that offence. It also reflects the reality that evidence and witnesses are likely to be easier to secure in that State.

However, the exercise of territorial jurisdiction is not always possible or appropriate. In those cases, universal jurisdiction can be a necessary and important tool.

The United Kingdom considers that procedural safeguards must be in place to ensure that universal jurisdiction is exercised responsibly. For example, our prosecuting authorities would not usually seek to proceed against any suspect who was not present in the jurisdiction; and most offences of universal jurisdiction may not proceed without the prior permission of the Attorney General, who ensures that public interest considerations including international comity are taken into account before a decision to prosecute is made.

Our Parliament has legislated to confer universal jurisdiction on the courts in relation to certain offences, and so establishing universal jurisdiction before the courts of the United Kingdom is not legally complex. When considering whether to prosecute, the authorities will need to assess whether the accused person enjoys any immunities under international law, and may also need to navigate

other practical issues. The latter was the recent experience of the United Kingdom during a prosecution for torture alleged to have taken place outside the United Kingdom. While there were few legal difficulties with establishing universal jurisdiction pursuant to the domestic legislation implementing the United Kingdom's obligations under the Torture Convention, obtaining evidence and dealing with practical issues such as translation proved to be problematic.

Difficulties may also arise in relation to whether the principles of *autrefois convict* and *autrefois acquit* prevent criminal proceedings in the United Kingdom in circumstances where the same facts have been subject to criminal proceedings in another jurisdiction, albeit for a lesser offence.

The United Kingdom stands ready to contribute to further discussions on this topic in the Sixth Committee.

Thank you, Mr Chairman.