



INDIA
भारत

STATEMENT BY

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ON

AGENDA ITEM 87

“THE SCOPE AND APPLICATION OF THE PRINCIPLE OF THE
UNIVERSAL JURISDICTION”

AT THE

SIXTH COMMITTEE OF THE 73rd SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

NEW YORK

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Mr. Chairman,

We thank the Secretary General for his Report A/72/112 providing information about the laws and practice of certain States on issues relating to Universal Jurisdiction in their domestic legal setup and about their understanding of the concept of Universal Jurisdiction.

2. Those who commit crimes must be brought to justice and punished. Procedural technicalities including the lack of jurisdiction should not come in the way of a State to prosecute offences which all nations have condemned.

3. The legal principle of universal jurisdiction allows a state to bring penal proceedings in respect of certain crimes, irrespective of the place of the commission of crime and the nationality of the perpetrator or the victim. This principle is an exception to the general criminal law principle of requiring territorial or nationality link with the crime, the perpetrator or the victim. This exception seeks justification in the grave nature of the crime which affects the international community as a whole and so that no safe havens are provided for those who commit grave crimes and escape the criminal proceedings using the loopholes in the general criminal laws.

Mr. Chairman,

4. Crime of piracy is a classic example of universal jurisdiction. For centuries, international community has treated the pirate as a *hostis humani generis*—an enemy of all mankind. The principle of universal jurisdiction is invoked for the prosecution and punishment of the crime of piracy and form part of customary international law. The crime of piracy is now codified in the treaty law, namely United Nations Convention on the Law of the Sea (UNCLOS).

5. India strongly believes that careful analysis of state practice and opinio juris is needed in order to identify the existence of a customary rule of universal jurisdiction over a particular crime. Treaty obligations to extradite or prosecute should not be conceptualized as, or used to infer the existence of, universal jurisdiction. Treaty based jurisdiction is conceptually and legally distinct from universal jurisdiction.

Mr. Chairman,

6. We note with the decision of the General Assembly asking Sixth Committee to continue its considerations on the topic- “The scope and application of the Universal Jurisdiction” by establishing a Working Group in this session and continuing a thorough discussion on this subject. We look forward to participating in the discussions.

7. We need to ensure avoidance of the misuse of the principle of universal jurisdiction in respect of acts that do not legally enjoy such jurisdiction, as we know that the conceptual and legal clarification to the meaning of universal jurisdiction is yet to emerge.

8. We also note that the topic “Universal Criminal Jurisdiction” has, this year, been included in the Programme of work of the International Law Commission.

I thank you Mr. Chairman.
