



**Statement by the Delegation of Indonesia
at the Sixth Committee of the United Nations
Agenda item 87: The Scope and Application of the Principle of Universal Jurisdiction
New York, 11 October 2018**

Mr. Chairman,

Let me begin by expressing to the Secretariat the deep appreciation of my delegation for the report before us, to adequately inform us of the relevant legislations and practices in Member States.

The delegation of Indonesia would also like to align its remarks with the statement delivered by the delegate from the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

Mr. Chairman,

This agenda item continues to be a very important one for us, and it is our hope that our consideration of it will contribute to promoting the rule of law and justice, ending impunity and denying safe haven to individuals who commit heinous crimes, and to substantial overall progress during the current session.

This discussion is becoming even more critical on account of some existing humanitarian crises, with no viable sign of a way out.

In our view, it is critical to close the legal gap in order to end impunity, protect the rights of victims and uphold justice. To that end, the scope and application of the principle of universal jurisdiction must be addressed cautiously.

The absence of clarity as to the scope and application will lead to inappropriate, even abusive application of domestic law toward foreign nationals that could undermine many other fundamental principles of international law.

It is our position that there should be clear guidance on the scope and application of the principle of universal jurisdiction, otherwise it would have negative impacts and trigger conflict between states of nationality and states applying universal jurisdiction.

The implementation of universal jurisdiction depends on the cooperation of other states. Without cooperation, no investigation and trial will take place. Defendants will not be surrendered, and collection of evidence, such as documents or from witnesses, will be extremely difficult. A strong cooperation regime is crucial, but this will only be possible if there is agreement on the scope and application of the principle of jurisdiction among states.

Mr. Chairman,

Indonesia continues to hold the view that universal jurisdiction is not the primary jurisdiction for combating impunity, and shall only be exercised in exceptional cases. In that regard, it is complementary to territoriality and nationality jurisdiction, but not a substitute for it. It serves to close the legal gaps when no states are able or willing to exercise the jurisdiction.

Fighting impunity is urgent and imperative, but we need to be fully aware that this undertaking must also respect the principle of sovereign equality, territorial integrity, due process, principle of good faith and the principle of immunity of the Head of State and high ranking officials, as well as in conformity with the principles and purposes of the Charter of the United Nations.

The basic nature of complementary jurisdictions regime, such as universal jurisdiction or jurisdiction of international tribunals, is to put primacy on the state where the crime is committed, or the state of nationality.

Therefore, in parallel with our effort to close the legal gap, it is equally important to improve the capacity of member states, in terms of legislation and human resources, in investigating and prosecuting the gravest crimes.

Mr. Chairman,

Due to its exceptional nature, we are of the view that the scope of application must be limited to only the most heinous crimes. This exceptional character is important to prevent abusive applications, in order to ensure the credibility and legitimacy of its implementation.

We wish also to stress that the principle of universal jurisdiction is different from the obligation to prosecute or extradite, which in many instances has a broader scope, as agreed between states in treaties.

Mr. Chairman,

Universal jurisdiction has been long recognized and particularly applied in piracy offence as one of the oldest crimes, under customary international law.

Apart from piracy, we have seen that only few countries have established universal jurisdiction in their domestic laws or have cases involving application of universal jurisdiction.

According to the reports, state practices also show differences in the scope and list of crimes. This varying and insignificant number of practices demonstrates that there is still long way to go.

Knowing that this is an evolving process, we are following the discussion and development in the Sixth Committee with great interest, and support the continuation of the discussion. We also support the efforts of the secretariat to gather information on state's practices. Uniformed State's practices and *opinio juris* shall be the basis for the development of this regime and we welcome reports from the Secretariat on legislation and practices of member states.

With this also in mind, we are of the view that it is premature to bring this issue to the International Law Commission.

I thank you.