

Statement by
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Before
The Sixth Committee of the
73st Session of the United Nations General Assembly
On:
"The scope and application of the principle of universal jurisdiction"
(Agenda Item 87)

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In the Name of God, the Compassionate, the Merciful

Mr. Chairman,

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 and there is a common interest and responsibility of the international community in combating these crimes. Thus, regardless of the place of their commission, the accused is prosecuted in the country of arrest in order to avoid impunity as the main objective of the concept.

Although the existence of the principle of universal jurisdiction is undisputed, Member States do not have a common understanding on the legal and conceptual framework of the universal jurisdiction and its scope of application, in particular, the intersection between universal jurisdiction and immunities of certain high ranking officials. In addition, crimes for which universal jurisdiction is incorporated in national legislations are varied. However, Expansion of the crimes under universal jurisdiction is a matter of concern and would not be compatible with the objectives and purposes of this concept.

The 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. Moreover, majority of judges indicated that universal jurisdiction *in absentia* is unknown to the 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

We have noted that the International Law Commission (ILC) has placed the topic of universal jurisdiction on its long-term programme of work. However, as it seems to be evident in the observations of Member States, we have yet to develop a common understanding of the concept of universal jurisdiction, including its definition and its distinction from related concepts. Our deliberations in the sixth committee will provide an opportunity to Member States to reflect on this issue and consider its various aspects with a view to identifying its scope and limits of application, and to prevent any inappropriate resort to it. Given the differences between Member States, the involvement of ILC, would not be advisable at this stage.

Let me conclude by saying that the Islamic Republic of Iran views universal jurisdiction as a treaty-based exception in exercising national criminal jurisdiction. It shall be complementary to the other basis of criminal jurisdiction including territoriality and nationality principle and mainly provides a tool to prosecute the perpetrators of certain serious crimes under international treaties. 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 basis 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, the universal jurisdiction, cannot be exercised in isolation or to the exclusion of other relevant rules and principles of international law.

Thank you, Mr. Chairman.