



SIXTH COMMITTEE

CHECK AGAINST DELIVERY

Statement by

Ms. Sarah Weiss Ma'udi
Legal Advisor
Permanent Mission of Israel to the United Nations

The Scope and Application of the Principle of Universal Jurisdiction

Agenda Item 87

9 October 2018

United Nations, New York

The Scope and Application of the Principle of Universal Jurisdiction

Mr. Chairperson,

Israel welcomes this opportunity to continue to engage in the discussion on the Scope and Application of Universal Jurisdiction.

At the outset, the Government of Israel would like to thank the Secretary General for his recent report entitled, "The Scope and Application of the Principle of Universal Jurisdiction" (A/73/123), and for his ongoing contribution to this sensitive and complex topic. We also wish to commend the efforts made by the Sixth Committee and its Working Group, to facilitate and advance the discussion regarding the principle of universal jurisdiction over the course of the last nine years.

Mr. Chairperson,

Israel takes note of the recent decision of the International Law Commission to include this topic in its long-term programme of work. We consider this decision to be premature and counterproductive and believe that this subject should continue to be addressed within the Sixth Committee for several reasons.

First, it is important to emphasize that Israel shares the view held by most countries regarding the importance of combating impunity and ensuring that perpetrators of the most serious crimes of international concern are brought to justice.

Nevertheless, as we and other states have pointed out over the past few years, all too often the principle of universal jurisdiction is used primarily to advance a political agenda or to attract media attention, rather than to genuinely promote the rule of law. It is therefore, in our opinion, better for States to continue to deliberate about this in the framework of the 6th Committee, which operates on the basis of consensus.

Second, from a practical point of view, the topic of universal jurisdiction is extremely complex and identifying state practice in this area presents a significant challenge. This is mainly due to the fact that the vast majority of the relevant legal data is confidential. Examples of such confidential information include, among others, the types of complaints that are filed; the identity of the States that receive such complaints; and the manner in which those States handle and categorize the complaints. As a result, it seems that only a marginal number of the relevant complaints in this field are addressed formally and are publicly available. Most complaints and the manner in which they are handled remains confidential. As a result, there is a significant risk that reliance on publicly available material only - which is really the only available material available to the ILC - will present a distorted picture of State practice and a poor basis for proper legal analysis.

Finally, the International Law Commission is currently working on several separate issues which are closely linked to, and may potentially overlap and influence the ILC's consideration of universal jurisdiction, namely "Crimes against humanity", "Peremptory norms of general international law (*jus cogens*)" and "Immunity of State officials from foreign criminal jurisdiction". We believe that only after the work on these issues is completed, will it be appropriate and beneficial to revisit the question of the proper forum to study the issue of universal jurisdiction.

Mr. Chairperson,

Having said that, the Government of Israel wishes to briefly reiterate its position on this topic, as conveyed last year in the seventy-second session of the Sixth Committee, and to highlight a few important principles, which should guide the discussion on this topic. In this regard, it is important for us to be sure that the principle of subsidiarity is honored and that universal jurisdiction mechanisms are used only as a last resort. Moreover, we would like to warn against the potential for political abuse of universal jurisdiction mechanisms and stress the importance of adopting safeguards against such unacceptable abuses.

Thank you, Mr. Chairperson.