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STATEMENT

BY

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TO THE
SIXTH COMMITTEE

ON
AGENDA ITEM 87:
"THE SCOPE AND APPLICATION
OF THE PRINCIPLE OF UNIVERSAL JURISDICTION"

DURING

THE 73rd SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY.

TUESDAY, OCTOBER 9, 2018
UNITED NATIONS, NEW YORK

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1. **SHUKRAN SAYYID RAIS.** Kenya aligns herself with the Statements delivered by the Islamic Republic of Iran on behalf of the Non-Aligned Movement and by The Gambia on behalf of the African Group. We welcome the report of the Secretary General contained in document A/73/123 which provides useful insights on state practice and shall enrich these deliberations. .
2. **Mr. Chairman, Kenya** reaffirms her unwavering commitment to the rule of law; the fight against impunity, as well as the principles enshrined in the United Nations Charter that guarantee the sovereign equality of States. We also believe that the challenges posed by heinous crimes must be addressed at both national and international levels and that universal jurisdiction must be considered together with other deterrent mechanisms.
3. **Mr. Chairman,** the principle of universal jurisdiction for grave international crimes is not new. It is however clear that the scope and application of the universal jurisdiction principle, on the basis of domestic legal rules and emerging judicial practices is controversial and a source of legitimate concern for many. Universal jurisdiction must not be allowed to become a wildfire, uncontrolled in its spread and destructive of orderly legal processes. We must avoid creating jurisdictional conflicts between states that could subject individuals to abuses of judicial processes and to politically motivated harassment.
4. The divergence of views and opinions is a clear sign that if not carefully defined and regulated within the acceptable norms and other principles of international law, the unilateral application of universal jurisdiction by States can be abused and may become a threat to international peace and security.
5. Extra-territorial jurisdiction should be invoked only as a secondary means in cases where national jurisdiction is unwilling or unable to address a matter. It is, after all, a complementary mechanism to hold perpetrators to account for the most serious crimes under international law.
6. **Mr. Chairman,** where the principle of Universal Jurisdiction should apply, my delegation wishes to emphasize that there should be fairness, uniformity and consistency in the application of this principle. The basic concepts, definitional and foundational aspects relating to universal jurisdiction must be clearly set out and the conceptual framework comprehensively outlined for a full and proper understanding of the principle and its application.
7. Kenya's concern lies in the likely abuse of universal jurisdiction which can undermine the stability of states and endanger international law, peace and security. We must therefore continue to seek acceptable means of applying the principle ,being fully cognizant of the destabilizing effects and repercussions of

misusing the doctrine ,on the political, social and economic progress of countries from Africa and their ability to conduct international relations.

8. **Mr. Chairman**, we are convinced that the UN provides the best venue with the broadest legitimacy for addressing the divergent views on the type and range of crimes for which the doctrine could be invoked. It is therefore the right time for us in this committee to inject fresh impetus into our deliberations by ascertaining the principle's exact parameters, its scope and limitations.
9. We reiterate the position of the African Group that international law immunities must be accorded to Heads of States and government officials wherever universal jurisdiction is invoked. We must all collectively be willing to interrogate the principle and make adjustments as necessary in order to respond to the complexities and circumstances of global democracies and social realities.
10. **Mr. Chairman**, Kenya as a proud member of the community of nations which has contributed immensely with limited resources to the achievement of peace, security and multilateralism. We shall continue to engage actively in the Working Group established under Resolution 69/124 in order to indent the scope and limits of application of universal jurisdiction. We look forward to deliberations that are aimed towards some forward progress this Session.

SHUKRAN SAYYID RAIS.