



# REPUBLIC OF ZAMBIA



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## STATEMENT

BY

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FIRST SECRETARY (LEGAL AFFAIRS)  
OF THE REPUBLIC OF ZAMBIA TO THE UNITED NATIONS

ON

AGENDA ITEM 87  
THE SCOPE AND APPLICATION OF THE PRINCIPLE  
OF UNIVERSAL JURISDICTION

AT THE SIXTH COMMITTEE

DURING THE

SEVENTY-THIRD SESSION OF THE  
UNITED NATIONS GENERAL ASSEMBLY

New York  
October 2018

**CHAIRPERSON,**

My delegation aligns itself with the statement delivered by the distinguished representative of Republic of The Gambia on behalf of the African Group as well as that of the Non-Aligned Movement as delivered by the distinguished representative of the Islamic Republic of Iran.

**CHAIRPERSON,**

The principle of universal jurisdiction has been competently defined by several delegations. Although the definitions may vary and the scope of application still be under consideration, it is generally agreed that where specific criteria are satisfied, serious crimes that are clearly prohibited by international law ought to attract universal jurisdiction under customary international law. Universal Jurisdiction seeks to promote global accountability by bringing perpetrators to justice. It places an obligation on countries, as well as the latitude, to punish or repress serious violations, and avoid their respective territories from being used as *de facto* safe havens for the perpetrators of serious crimes. This obligation is particularly important where countries with closer links to the crime are either unable or unwilling to genuinely carry out investigations and prosecute the perpetrators.

**CHAIRPERSON,**

Zambia recognises that the international community cannot rely on the mere goodwill of states to guarantee the prosecution of perpetrators of such atrocious crimes as genocide, crimes against humanity, war crimes, slavery and torture. These are of such exceptional gravity that it requires an appropriate legal framework that compels or empowers countries to "either extradite or prosecute". There is no question, therefore, that all Member States should ensure the domestication of relevant treaties, and/or the enactment or expansion of universal jurisdiction statutes.

To this extent, Zambia has ratified and domesticated a number of Treaties, such as the SADC Treaty on Mutual Legal Assistance, the SADC Treaty of Extradition and the United Nations Convention Against Transnational Organised Crimes, among others.

Zambia is also making strides in ensuring that national laws incorporate the principle of universal jurisdiction. With regard to terrorism, Zambia has enacted the Anti-Terrorism Proliferation Bill of 2018, which repeals the Anti-Terrorism Act of 2007. Section 68 (1) of the Act grants the Attorney-General discretionary power to have regard to international law, practice and comity, even where there is no extradition agreement in force between the Government of Zambia and another concerned State. Zambia is also willing to enter into and facilitate cooperation agreements with foreign authorities and law enforcement agencies in ensuring perpetrators of terrorism are brought to justice.

Furthermore, Zambia recognises and acknowledges the important role that universal jurisdiction plays, and has commenced the process of drafting the International Criminal Court Draft Bill to domesticate the Rome Statute, not only as an affirmation of Zambia's confidence in the International Criminal Court but also to ensure universal cooperation in curbing crimes that have universal implications.

Zambia urges States to enhance the application of the principle of universal jurisdiction as complementary to national criminal jurisdictions and encourages further cooperation between the United Nations and the International Criminal Court.

## **CHAIRPERSON,**

While these ideological considerations demand that States are entitled to and obliged to bring to justice the perpetrators of serious crimes, the constraints of realpolitik and the restrictions of diplomacy appear to make the concept of universal jurisdiction rather difficult to fully implement.

Zambia is concerned that the inconsistent and sometimes unpredictable manner in which universal jurisdiction has been applied has caused friction among several

Member States—mainly when it appears to be politically motivated, such as where particular countries or types of countries are the target of Universal Jurisdiction or where there is an apparent abuse of legal processes and the subjective interpretation of customary international law. The continuous selective prosecution of individuals for alleged Universal Jurisdiction crimes may prove counter-productive and has the potential to undermine the overall fight against impunity.

Furthermore, the question whether sitting heads of state and government or high-level officials may be subject to prosecution in the International Criminal Court, in special tribunals or in the courts of other countries or territories remains unresolved, primarily where the country affected is not a State Party to the Rome Statute. The African Union's decision in January 2018 to request for an advisory opinion from the International Court of Justice, through the UN General Assembly, on the question of the relationship between Articles 27 and 98 of the Rome Statute is therefore timely. It is Zambia's hope that a final resolution will be found to the question of the immunity of heads of state of non-state parties from arrest by state parties to the Rome Statute.

**CHAIRPERSON,**

In conclusion, Zambia notes the recommendation to include the Agenda Item: "*the Scope and Application of the Principle of Universal Jurisdiction*" on the long-term programme of work of the International Law Commission. While this may have its merits, we wish to reiterate the position of the African Group that the Sixth Committee should not derogate from its duty to address and resolve this challenging question.

Let us, as the legal expert of our respective countries, resist the temptation of tossing the hampers of today's unresolved questions down the virgin pathways of the next generation. We call on all Member States, therefore, to ensure the Sixth Committee remains seized of this agenda item.

**I thank you.**