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UNITED NATIONS GENERAL ASSEMBLY
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The scope and application of the principle of universal jurisdiction [84]

Statement by Mr Cary Scott-Kemmis
Legal Adviser, Permanent Mission
of Australia to the United Nations

(As delivered)

Mr President,

I have the honour of speaking today on behalf of Canada and New Zealand, as well as my own country, Australia.

CANZ welcomes the opportunity to engage in a dialogue on the scope and application of universal jurisdiction. We thank Member States for their contributions to the Secretary-General's report on this important topic.

CANZ recognises universal jurisdiction as a well-established principle of international law. Universal jurisdiction vests in every State the competence to exercise criminal jurisdiction over individuals responsible for the most serious crimes of international concern, regardless of where the conduct occurs and the nationality of the perpetrator. It offers a complementary

framework to ensure that perpetrators are held to account in circumstances where the territorial State is unwilling or unable to exercise jurisdiction.

Australia, Canada and New Zealand have recognised universal jurisdiction over the most serious international crimes: genocide, crimes against humanity, war crimes, slavery, torture and piracy. Impunity for such crimes is unacceptable.

Given the complementary nature of the framework, CANZ reiterates that, as a general rule, primary responsibility for investigating and prosecuting these international crimes rests with the State in which the conduct occurs and the State of nationality of the perpetrator. Those States are often in the best position to achieve justice, given their access to evidence, witnesses and victims, and their ability to enforce sentences. They are also likely to be best placed to deliver the “justice message” to perpetrators, victims, and affected communities.

CANZ wishes to emphasise the paramount importance of exercising universal jurisdiction in good faith and consistently with all principles and rules of international law, including laws related to diplomatic relations and privileges and immunities. This is essential to ensure that the goal of ending impunity does not in itself generate abuses of the human rights of the accused or conflict with other existing rules of international law. It is also important that judicial independence and impartiality is maintained to ensure that the principle of universal jurisdiction is not manipulated for political ends.

Canada, Australia and New Zealand all have legislation establishing universal jurisdiction in respect of the most serious international crimes. Such crimes attack the interests of all States; and as such it is in the interests of all States to ensure they are prosecuted. We applaud the work of those States that have

incorporated into their domestic legislation universal jurisdiction over serious international crimes, and encourage others to do the same.

We look forward to continuing the valuable discussion on the scope and application of the principle of universal jurisdiction and reiterate our willingness to work constructively with other States on this important issue. By working cooperatively and collaboratively we can ensure that perpetrators of such grave crimes do not receive safe haven anywhere in the world.

Thank you.