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Seventy-fourth session
Sixth Committee
Agenda item 84

The scope and application of the principle of universal jurisdiction
Oral report of the Chair of the Working Group

Chair: Mr. Christian Guillermet-Fernández (Costa Rica)

I. Introduction

1. Pursuant to General Assembly resolution 73/208 of 20 December 2018, the Sixth Committee decided, at its first meeting, on 7 October 2019, to establish a Working Group to continue to undertake a thorough discussion of the scope and application of universal jurisdiction. Pursuant to the same resolution, the General Assembly decided that the Working Group should be open to all Member States and that relevant observers to the Assembly would be invited to participate in the work of the Working Group.

2. At the same meeting, the Sixth Committee elected Mr. Christian Guillermet-Fernández (Costa Rica) to serve as Chair of the Working Group, replacing Ms. Shara Duncan-Villalobos Villa (Costa Rica) who

was no longer available to serve in that capacity. The Working Group pays tribute to Ms. Duncan-Villalobos Villa for her contribution to its work.

3. The Working Group had before it the various reports of the Secretary-General on the scope and application of the principle of universal jurisdiction dating back to 2010 (A/74/144, A/73/123 and Add. 1, A/72/112, A/71/111, A/70/125, A/69/174, A/68/113, A/67/116, A/66/93 and Add.1 and A/65/181). The Working Group also had before it the non-paper previously submitted by Chile (A/C.6/66/WG.3/DP.1), the Informal Paper of the Working Group (A/C.6/66/WG.3/1), which contains a roadmap on the methodology and issues for discussion, as well as the 2016 Informal Working Paper prepared by the Chair, which has been discussed in previous sessions of the Working Group.

II. Proceedings of the Working Group

4. The Working Group held two meetings on 18 and 24 October 2019. It conducted its work in the framework of informal consultations. Like last year, the Working Group proceeded to exchange views on the practice of States relating to the scope and application of universal jurisdiction. It also held a discussion on the way forward, particularly given that next year will mark the tenth anniversary of the Working Group. The Working Group was convened

against the backdrop of the plenary debate at the 14th, 15th, 16th and 17th meetings of the Sixth Committee, held on 15, 16 and 17 October 2019.

III. Informal summary

5. The present informal summary is for reference purposes only and is not an official record of the proceedings. At its first meeting, on 18 October, in my capacity as Chair, I presented an overview of past proceedings, including the discussions that had led to the Informal Working Paper, reiterating that the issues raised in the Informal Working Paper were intended to be illustrative and are without prejudice to future proposals made by delegations or to their positions. The Informal Working Paper did not reflect consensus among delegations and was expected to be subject to further deliberation. I reminded delegations that no modifications to the Informal Working Paper had been introduced to the text since 2016. No further modifications were made at the current session to the Informal Working Paper.

6. To promote an exchange of views during both meetings of the Working Group, and to have a better appreciation of views of delegations on the item, delegations were invited to address the following three questions, which had been circulated to delegations in advance:

(a) "What crimes are subject to prosecution on the basis of universal jurisdiction under your country's national laws?";

(b) "What are the conditions, if any, to the applicability of universal jurisdiction for such crimes?"; and

(c) "What are the instances, if any, in which universal jurisdiction has been the basis of jurisdiction in the prosecution of crimes in your country?"

7. In response to each of these questions, several delegations provided information on the crimes to which universal jurisdiction would apply under their national laws, as well as on the conditions to such application. Information was also provided on judicial practice, by which a national court recognized universal jurisdiction as being applicable to the crime of genocide and extradition was granted on that basis. On the whole, the information provided tracked the information that Governments have submitted over the years to the Secretary-General in response to the various General Assembly resolutions on the item. Also, some delegations highlighted the view that there was no consensus on the principle of universal jurisdiction under international law. While delegations generally reiterated their commitment to the fight against impunity, a number of delegations further highlighted concerns regarding the potential abuse or misuse of universal jurisdiction and the need to avoid its politicization. The exchange of information on the practice of States helped delegations have a better appreciation of the positions of others. It is my hope that such an exchange will assist to further advance work on the subject.

8. Following the exchange of views on the scope and application of universal jurisdiction, I invited delegations to share their views on how to better achieve the mandate entrusted to the Working Group, seeking the best way to proceed. Several delegations reiterated the importance and usefulness of the dialogue in the Working Group, expressing their willingness to continue the discussion on universal jurisdiction within the current framework. In this regard, some delegations welcomed the continued practice of reflecting State practice in the annual report of the Secretary-General. At the same time, there were suggestions to broaden the scope of discussion and focus on the concerns of delegations, making best use of the time available to the Working Group. In addition, support for consideration of the topic by the International Law Commission was reiterated.

9. As Chair of the Working Group, I observed that the discussion reflected diverse views among States on this complex and sensitive topic, but progress can be achieved by further deliberations, focusing on certain points of convergence or divergence, with the aim that an open and honest debate may lead to increased understanding of the various issues raised by the subject. That being said, it was clear to me that this item raises serious issues of importance to States and it is incumbent on the Sixth Committee to provide the necessary guidance. With that in mind, I expressed my readiness and availability to consult with delegations during the intersessional period and urged

delegations to engage with each other to pave the way forward for the Working Group in light of the significance of the topic.

10. I remain committed to working closely with all delegations and I look forward to receiving their ideas and input in the coming intersessional period.

This concludes my oral report. Thank you.