



Statement by the Holy See
74th Session of the United Nations General Assembly
Sixth Committee consideration of item 84: The scope and application of the Principle of
universal jurisdiction
New York, 14-15 October 2019

Mr. Chair,

My Delegation is grateful that this Committee continues to play an important role in furthering the cause of justice in the world, particularly as it seeks to prevent impunity for the most egregious criminal acts.

There is no greater outrage to our common humanity and dignity than genocide, war crimes and crimes against humanity, and yet they strike hardest on the weak and the defenseless, the members of ethnic and religious minorities, and the citizens of fragile and failed States. My Delegation urges this Committee to continue working towards defining universally agreed jurisdictional norms that would ensure that the worst violations of fundamental human rights are investigated, prosecuted and punished wherever and whenever committed.

Mr. Chair,

The question of the scope and application of the Principle of universal jurisdiction is complex. The Sovereign equality among States, the principle of non-interference and the immunity of State officials are fundamental principles of international relations, which cannot be challenged. At the same time, we all share the duty to ensure that those responsible for the most serious crimes are held accountable. Indeed, the Preamble of the United Nations Charter affirms the founders' determination "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Indeed, ensuring accountability is critical to safeguarding the rule of law both at the national and international levels.

We must therefore continue this dialogue in order to identify principles and practices that will assure that there is no safe harbor for those guilty of the most heinous crimes against humanity, and that at the same time there is no abuse or misuse of the principle of universal jurisdiction. A balance of the concerns is indeed achievable, based on widely accepted principles already embodied in existing International Conventions and State practices, such as the principle "*aut dedere aut judicare*". Of course, that principle does not mean the alleged perpetrator's fate has already been determined, but rather that the matter has to be submitted to the appropriate law enforcement authorities, who should decide whether to pursue the prosecution in accordance with relevant procedures and policies.

Another long-standing principle that should be present in our discussions is the principle of subsidiarity, which requires that the international community and that third-party States defer to the State nationality of the alleged perpetrator and of the State in which the crime took place, given their nexus to the crime, to the extent that those States are willing and able to prosecute.

Moreover, any State seeking to exercise universal jurisdiction must have some concrete link to the facts or to the parties concerned in the case, such as the presence of the accused or of the victims in its territory. Universal jurisdiction should not justify prosecutions *in absentia*, “forum shopping” or the unwarranted interference in the internal affairs of other States.

Similarly, in light of the principle of the Sovereign equality among States, particular attention must be given to the procedural conditions that must be met in order to set aside the jurisdictional immunities of public officials. While universal jurisdiction might be an effective method for punishing crimes of international significance, it is indispensable to develop appropriate mechanisms to prevent that the exercise of such jurisdiction generate inter-State conflicts.

The principle of legality also guides us by mandating that any set of norms that this body may develop be consistent with the fundamental principles of criminal justice, such as *nullum crimen, nulla poena sine lege*, the right to due process, the presumption of innocence, non-refoulement, etc.

The crimes for which universal jurisdiction should be available include not only genocide, war crimes and crimes against humanity, but also the threat and the attempt to commit those crimes, particularly when that threat has caused the displacement of populations.

Mr. Chair,

Much work remains to be done if this Committee is to create a rule-based system for the application of universal jurisdiction. We appreciate the most recent report of the Secretary-General on this topic,¹ and the work of the Member States that contributed to the report, regarding crimes under their national laws which are subject to prosecution on the basis of universal jurisdiction and the instances, if any, in which universal jurisdiction has been exercised. Such a review of State practice can illuminate further principles and best practices. Thus, my Delegation urges all delegations who have not done so to report on their national legal rules and judicial practice.

Mr. Chair,

There can be no rule of law when crimes are rewarded with impunity. We must therefore persevere in the delicate and difficult task of finding a balance between sovereign concerns and the need to hold accountable the perpetrators of the most heinous crimes. With unified and resolute action, we can deter future atrocities and ensure justice for the victims.

Thank you, Mr. Chair.

¹ A/74/144