



SIXTH COMMITTEE

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Statement by

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The Scope and Application of the Principle of Universal Jurisdiction

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Mr. Chairperson,

Israel welcomes this opportunity to continue to engage in the discussion of the topic of “The Scope and Application of the Principle of Universal Jurisdiction”.

At the outset, the Government of Israel would like to thank the Secretary General for his recent report entitled “The Scope and Application of the Principle of Universal Jurisdiction” (A/74/144), and for his ongoing contribution to this sensitive and complex topic. We also wish to commend the efforts made by the Sixth Committee and its Working Group, currently headed by H.E. Mr. Christian Guillermet-Fernandez to facilitate the ongoing discussion regarding the principle of universal jurisdiction.

Mr. Chairperson,

Israel shares the view -- held by most States -- that is of great and critical importance to combat impunity and to ensure that the perpetrators of the most serious crimes of international concern are brought to justice.

In order to achieve the aspirational goal of combating impunity, it is, first and foremost, essential that States agree upon a proper definition of universal jurisdiction and a shared understanding of the scope and manner of its application. The Secretary-General’s annual reports, and the reports submitted by States on this topic, including the most recent report last year, clearly reflect the broad range of diverging views among States and other members with regard to key issues, such as the definition, legal status, scope and conditions for the application of the universal jurisdiction principle.

It is therefore, in our opinion, preferable and more appropriate for States to continue to deliberate about this in the framework of the Sixth Committee, which operates on the basis of consensus, rather than in the International Law Commission. In this regard, Israel would like to reiterate its position, that the decision of the International Law Commission to include this topic in its long-term programme of work is both premature and counterproductive. Furthermore, we note that doing so would be ill-

advised at this juncture, given that the International Law Commission is currently deliberating several separate issues which are closely linked, and may potentially influence or overlap with the ILC's consideration of universal jurisdiction, namely the topics of "Peremptory norms of general international law (*jus cogens*)" and the "Immunity of State officials from foreign criminal jurisdiction". We believe that only after the completion of the work on these related issues by the ILC -- as well as the thorough study of the scope and application of universal jurisdiction by States -- would it be proper to revisit the question of the appropriateness of the ILC taking up universal jurisdiction.

Mr. Chairperson,

The topic of universal jurisdiction is extremely complex, and identifying sufficient relevant state practice in this area presents a significant challenge. This is mainly due to the fact that the vast majority of pertinent legal data in this area is, as a rule, confidential and inaccessible to the public. For example, there may be no publicly accessible information as to whether complaints were filed in the State with closer jurisdictional links, or to information concerning the current disposition of such complaints. Indeed, only a marginal number of complaints in this field reach the formal stages of deliberations and are publicly available. Therefore, relevant legal data regarding many of the complaints that were filed, their current status, and their outcome remains out of reach to the public. As the ILC relies upon unclassified, open source, publicly available material only, this risks limiting a full, proper and nuanced understanding of actual state practice on the issue of universal jurisdiction, painting a misleading and distorted picture that cannot, and should not, serve as the basis for a proper legal analysis.

In this regard, the Government of Israel remains adamant that the deliberations should remain within the purview of the Sixth Committee, and wishes to highlight briefly a few key principles, which should guide the discussion on this topic:

- First, criminal jurisdiction should be asserted by States with the closest jurisdictional links. Clear jurisdictional links are crucial not only to facilitate effective prosecution, including the ability to gather sufficient, admissible and reliable evidence, but are also relevant to the interests of justice.
- Furthermore, the exercise of universal jurisdiction is subject to the principle of subsidiarity. Universal jurisdiction both in principle and in practice was intended to be a mechanism of last resort, to be applied in exceptional circumstances, if necessary, when the State with closer jurisdictional links refuses to act.
- All too often, universal jurisdiction is used primarily to advance a political agenda or to attract media attention, rather than to advance the rule of law in a meaningful and genuine manner. Israel, therefore, believes that appropriate safeguards should be established in national legal systems and in other relevant entities in order to prevent political abuse. These could include, for example, a requirement that prosecution be conducted only by public prosecution officials in the State with the closest jurisdictional link, or a requirement that the prosecutorial authorities inquire at the most preliminary stages of investigation whether the complaint has been filed in another jurisdiction, and the outcome of such a complaint.

Thank you Mr. Chairperson.