



Statement
on behalf of the
Republic of South Africa
by
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Before the Sixth Committee of the
74th Session of the United Nations General Assembly
Under Agenda Item 84
“The scope and application of the principle of
universal jurisdiction”

16 October 2019

Chair

Allow me to thank you for affording us the floor.

South Africa takes note of the Secretary-General's report, which provides valuable insight into the manner in which universal jurisdiction is applied in various countries.

South Africa is particularly grateful to all the countries that have taken the time to provide written information on their interpretation and application of the principle of universal jurisdiction. Such clarity will aid in moving discussions on this item forward.

Chair

South Africa has previously presented statements wherein it has set out its domestic laws and practice on universal jurisdiction. We wish to reiterate once again that universal jurisdiction plays an important role in ensuring that perpetrators of the most serious crimes are not able to escape justice and underscore the importance of ensuring that accountability prevails.

However, South Africa acknowledges that whilst the principle of universal jurisdiction is in itself a powerful tool against impunity, it is not without flaws. From a practical perspective, challenges are often experienced, for instance, in relation to cooperation between states which is necessary to successfully prosecute alleged offenders. In this regard, South Africa is one of several states actively involved in the international initiative to develop a multilateral convention focused on mutual legal assistance and extradition for serious international crimes. Such a convention would prove to be

particularly beneficial in securing mutual legal assistance from states when carrying out prosecutions.

Challenges are equally encountered in the political sphere where universal jurisdiction is not uniformly applied and is often misused or abused.

Universal jurisdiction presents a challenge to state sovereignty and territorial integrity and should thus be approached with the necessary political sensitivity, particularly to avoid allegations of selective application, which could bring into question the credibility of an essential component in international criminal justice.

The question of immunities from criminal jurisdiction remains a heavily debated topic and the impact of universal jurisdiction on immunities is an aspect which must be approached prudently.

Chair

Universal jurisdiction is an important topic that must be explored; however, it appears that discussions in the sixth committee are reaching an impasse. It is thus important that states consider what would be the best approach to ensure forward movement on this matter.

South Africa would regret further stagnation on an important topic such as this one and has engaged in discussions with other African states to seek ways in which to overcome this impasse.

South Africa is of the view that it could prove to be very useful for the International Law Commission to conduct a study at a technical level which could aid in providing clarity on legal matters, particularly since it has already been placed on the Commission's long term programme of work. However, South Africa holds the view that at the same time, political discussions surrounding aspects such as the abuse or misuse of universal jurisdiction, are more suited for the sixth committee and should thus continue to be held in that forum. The two processes can thus run in parallel.

In conclusion, South Africa's position is that it accepts the principle of universal jurisdiction for specific international crimes of a serious nature, based on its support for the fight against impunity and the search for justice. South Africa recognises that the topic must be approached with the necessary sensitivity and that there is the potential for abuse. Nevertheless, universal jurisdiction is a powerful tool through which accountability can be achieved and it is thus necessary that efforts are made to ensure that discussions surrounding this important topic do not lose momentum.

I thank you for your attention.