

THE SCOPE AND APPLICATION OF THE PRINCIPLE UNIVERSAL JURISDICTION: ZIMBABWE

1. Introduction

- 1.1 Universal jurisdiction is a principle of international law which enables criminal jurisdiction solely on the nature of the crime, without regards to where the crime was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim or any other connection to the state exercising jurisdiction.
- 1.2 The basis of this principle is anchored on the grounds that the crime committed is considered a crime against all, which any State is authorized to punish, as it is too serious to tolerate jurisdictional arbitrage.
- 1.3 To ensure credibility, the principle of universal jurisdiction should complement and not substitute national jurisdictions and it should not be abused for political ends. This is the African Union and indeed Zimbabwe's borne of contention with the International Criminal Court (ICC).

2. Scope and Application

- 2.1 Universal jurisdiction should be exercised in good faith and with due respect for the basic principles of international law, including the sovereign equality of States, non-interference in their internal affairs, and political independence. To this end, the principle should be considered a complementary

mechanism and a measure of last resort which should not replace the jurisdiction of national courts over crimes committed in their territories. The scope and application of the principle should be consistent with the territorial jurisdiction of States and the immunity granted to Heads of State and Government and other senior officials under customary international law.

2.2 Zimbabwe has long held the view that universal jurisdiction is a useful means of combating impunity and holding to account the perpetrators of serious crimes. This is demonstrated by the fact that at the international level, Zimbabwe is party to the Geneva Conventions which *inter-alia*, seek to protect victims of war.

2.3 At Continental level, Zimbabwe's position on universal jurisdiction is informed by Article 4(h) of the Constitutive Act of the African Union:

“the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity”.

2.4 Zimbabwe is also Party to the African Commission on Human and People's Rights. This Commission gives effect to the foundational principles of universal jurisdiction.

2.5 While at national level, Zimbabwe does not have legislation that expressly speak to universal jurisdiction, it is not averse to promoting judicial cooperation in respect of crimes to which the principle applies. This has mainly been done under the auspices of different Extradition Treaties to which Zimbabwe is party.