



INDIA
भारत

STATEMENT BY

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ON

AGENDA ITEM 86

**"THE SCOPE AND APPLICATION OF THE PRINCIPLE OF
UNIVERSAL JURISDICTION "**

AT THE

SIXTH COMMITTEE OF THE 76th SESSION OF THE

UNITED NATIONS GENERAL ASSEMBLY

NEW YORK

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We thank the Secretary-General for his report A/76/203 on “The scope and application of the principle of universal jurisdiction’, which provides information about the laws and practice of certain States concerning the universal jurisdiction. My delegation aligns with the statement made by the distinguished representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement (NAM), and offers the following comments in our national capacity.

India has its principled position that those who commit crimes should not go scot free because of procedural technicalities, including lack of jurisdiction. The term “jurisdiction” connotes the power or the right of a State, which in legal parlance refers to two aspects: first, the rule-making; and second, the rule-enforcing. However, the fact remains that the exercise of jurisdiction is a unique legal subject in itself.

Madam Chairperson

The principle of universal jurisdiction is a legal principle allowing a state to bring penal proceedings in respect of certain crimes irrespective of the place of the commission of crime and the nationality of the perpetrator or the victim.

This principle is an exception to general criminal law principle of requiring territorial or nationality link with the crime, the perpetrator or the victim. This exception is justified due to the grave nature of the crime which affects the international community as a whole and thereby no safe havens are established for those who commit these grave crimes and escape the criminal proceedings using the loopholes in general criminal law.

The crime of piracy is a classic example over which claims of universal jurisdiction are undisputed under general international law. For centuries, international community has treated the pirate as a *hostis humani generis*—an enemy of mankind.

The principle of universal jurisdiction is invoked for the prosecution and punishment of the crime of piracy and forms part of customary international law. This universal jurisdiction status of the crime of piracy is codified in the treaty law, namely United Nations Convention on the Law of the Sea (UNCLOS).

Our position is very clear in this regard that universal jurisdiction is applicable in the limited set of crimes, like piracy on High seas and a careful analysis of state practice and *opinio juris* is needed in order to identify the existence of a customary rule of universal jurisdiction over a particular crime. Treaty obligations to extradite or prosecute should not be conceptualized as, or used to infer the existence of, universal jurisdiction.

Treaty based jurisdiction is conceptually and legally distinct from universal jurisdiction proper. The need is to ensure avoidance of the misuse of the principle of universal jurisdiction

in respect of acts that do not legally enjoy such jurisdiction, and we are of the view that much needed conceptual and legal clarity on crimes having universal jurisdiction is yet to emerge.

Madam Chairperson,

Finally, we stress the need of ensuring avoidance of the misuse of the principle of universal jurisdiction, in respect of acts that do not legally enjoy such jurisdiction.

Thank you, Mr. Chairman.