



Statement by Mr. Naser Asiabipour
Representative of the Islamic Republic of Iran
before the
Sixth Committee of the
76th Session of the United Nations General Assembly
On Agenda item 86:
"The scope and application of the principle of universal jurisdiction"
New York, 21 October 2021

Madam Chairperson,

I would like to align myself with the statement delivered on behalf of the Non-Aligned Movement and present the following in my national capacity.

According to the widely accepted understanding regarding the principle of universal jurisdiction, the rationale underlying universal jurisdiction emanates from various conventions regarding the gravity of certain heinous crimes that are considered as crimes committed against the interests of all, not a specific State. Thus, regardless of the place in which such crimes are committed, the accused are prosecuted within the country of arrest in order to avoid impunity as the main objective of the concept.

Although the existence of the principle of universal jurisdiction is undisputed, Member States have yet to reach a common understanding on the conceptual and legal framework of universal jurisdiction and its scope of application, in particular, the intersection between universal jurisdiction and the immunities of certain high-ranking officials. In addition, there is no consensus among national legislations on the categories of crimes under universal jurisdiction. However, the matter of concern lies within the non-consensual expansion of crimes under universal jurisdiction that would not be compatible with the objectives and purposes of this concept.



Under the circumstances in which there is no international legal basis for the application of the universal jurisdiction, the broad interpretation and application of this principle in forum States shall not be taken as a valid precedent of universal jurisdiction.

While the International Court of Justice did not review the question of Universal Jurisdiction in the "Arrest Warrant" case of 11 April 2000 (Democratic Republic of the Congo v. Belgium), several of the Court's judges raised their concerns regarding the judicial chaos that would likely arise if jurisdiction should be conferred upon the courts of every State in the world to prosecute such crimes, which would be highly noteworthy. Furthermore, as also judge Guillaume has indicated in paragraph 10 of its separate opinion in this case "universal jurisdiction *in absentia* is unknown to international conventional law."

In addition, whatever the source of universal jurisdiction, what remains to be of concern is its selective as well as arbitrary application for the benefit of the certain specific States which can prejudice and undermine international legal order based on international law, particularly the cardinal principles of international law, such as the equal sovereignty of States and the immunity of State officials from foreign criminal jurisdiction.

Madam Chairperson,

Let me conclude by saying that the Islamic Republic of Iran views universal jurisdiction as a treaty-based exception in exercising its national criminal jurisdiction. It shall be complementary to other bases of criminal jurisdiction, such as territorial, protective and personal jurisdictions, and mainly provides a tool to prosecute the perpetrators of certain serious crimes under relevant international treaties.



In other words, we consider the principle of territorial jurisdiction as the key to sovereign equality of States. Therefore, universal jurisdiction shall not replace but is complementary to other jurisdictional bases and only asserted for the most serious crimes. Expansion of the jurisdiction to include any less than the most heinous crimes could call its legitimacy into question. Moreover, universal jurisdiction cannot be exercised in isolation or to the exclusion of other relevant rules and principles of international law mentioned earlier.

Given the divergence of views, incoherence, and lack of unanimous state practices, including accordingly non formation of relevant customary rules of international law, we are of the view that referring this matter to the ILC for further examination would not produce satisfactory results as we move forward.

Thank you, Madam Chairperson.