



SIXTH COMMITTEE

CHECK AGAINST DELIVERY

Statement by

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The Scope and Application of the Principle of Universal Jurisdiction

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Topic: The Scope and Application of the Principle of Universal Jurisdiction
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Madame Chair,

Israel welcomes this opportunity to continue to engage in the discussion on the Scope and Application of Universal Jurisdiction.

At the outset, the Government of Israel would like to thank the Secretary General for his recent report on this matter, and for his ongoing contribution to this complex and multifaceted topic. We also wish to commend the efforts made by the Sixth Committee and the Working Group, headed, in the previous session, by His Excellency, Ambassador Rodrigo A. Carazo of Costa Rica. Their important work helped facilitate the ongoing discussions regarding the principle of universal jurisdiction.

In the interest of time, and due to the circumstances imposed on the work of the Sixth Committee because of the COVID-19 pandemic, I would like to keep my remarks brief, and reference, for the record, my Government's statements made on this issue in previous sessions of the Sixth Committee.

Madame Chair,

Israel shares the view held by most States regarding the importance of combatting impunity and ensuring that perpetrators of the most serious crimes of international concern are brought to justice.

While the Government of Israel recognizes the importance of the struggle against impunity, we also share the concern expressed by many other States that, all too often, actors attempting to advance political agendas file spurious complaints based on this principle, in jurisdictions that have no nexus -- or a tenuous connection at best -- to the alleged incident. Such complaints not only undermine the principles of sovereignty, subsidiarity and comity, but also are detrimental to the shared interest of combating impunity. Moreover, such extraneous complaints, at times, also adversely impact diplomatic relations. To maintain the integrity of domestic judicial procedures, it is crucial to ensure -- alongside legislation that enables the use of universal jurisdiction -- that States enact legislative, regulatory and/or policy **safeguards** in order to prevent such abuse.

Madame Chair

There continue to be divergent views among States with regard to issues such as the definition, legal status, scope, and conditions for the application of the principle of universal jurisdiction. The Government of Israel believes that it is still premature for any decisions to be reached regarding core issues, including the elaboration of a list of crimes over which universal jurisdiction could be exercised; the legal status of the principle; or the conditions for its application. In this regard, Israel would like to repeat its position that the decision of the International Law Commission to include this topic in its long-term programme of work was -- and is -- premature and counterproductive. Moreover, the said decision lacked the requisite consensus, and, in past sessions, close to 20 Member States -- representing a variety of views and political outlooks -- as well as a major regional group, actively objected to that decision in this forum.

Madame Chair,

Universal jurisdiction is a particularly complex topic, and identifying sufficient relevant state practice in this area continues to present significant challenges. One of the central challenges is the lack of publicly available data regarding State practice, which creates a misleading and inaccurate picture in this regard. In particular, when national prosecutors reach a conclusion to refrain from pursuing a case after they determine that immunity applies based on relevant state practice, such decisions are generally **not** published on the public record, and accordingly, would not be able to inform the Commission's work.

Madame Chair,

It is essential that the principle of Universal Jurisdiction be applied in a manner consistent with other principles of international law, including the principles of state sovereignty, reciprocity, and immunity. In this regard, Israel is of the view – similar to that expressed by many other states -- that, to date, in international law, there is no exception or limitation to immunity in criminal proceedings against state officials in foreign courts when a State official asserts immunity. It should also be emphasized that determinations on the applicability of immunity must be taken by the highest levels in the forum State, and only after consultation with the State of citizenship of the official in question. Indeed, the decision regarding whether to institute a criminal investigation carries with it the risk of violating the foreign official's immunity under customary international law. This also underlines the need to curb attempts to abuse the principle of universal jurisdiction in order to advance political goals, and highlights just how delicate situations in which State officials are subjected to foreign criminal jurisdiction are. The misuse and abuse of the principle of universal jurisdiction threatens the stability of international relations, as well as the sovereign equality of States, key elements in international law and international relations.

Madame Chair,

As a final note on this topic, we would like to repeat our position that it would be preferable for States to continue to deliberate this matter in the framework of the Sixth Committee, which operates on the basis of consensus, rather than in other forums, given the complexity and sensitivity of this topic and the potential for misinterpretation or abuse.

I thank you Madame Chair.

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