



Statement by H.E. Archbishop Gabriele Caccia
Permanent Observer of the Holy See to the United Nations
UNGA 76 – Sixth Committee

**Agenda item 86:
The scope and application of the principle of universal
jurisdiction**

Madam Chair,

Each year we examine the question of the scope and application of universal jurisdiction in line with “*the purposes and principles of the Charter of the United Nations, ... international law and... an international order based on the rule of law.*”¹ We examine this issue because we are all convinced that those who commit heinous crimes should be held accountable by means that restore order and achieve justice.

The guidance this body develops on the proper ways to exercise universal jurisdiction must foster public trust in the legitimacy of any resulting trials and prevent any claims of bias. Our efforts to end impunity must be coherent with core tenets of international law; incorporate protections necessary for fair trials; and reflect a shared understanding of under what circumstances it is appropriate for States to invoke universal jurisdiction. We would like to examine each of these in turn.

The relation between universal jurisdiction and international law

First, any attempt at exercising universal jurisdiction to hold accountable those responsible for grave violations of international law must respect the principles of subsidiarity, sovereign equality among States, and functional immunity of public officials. A State with close links to a perpetrator or his victims typically has stronger claims to jurisdiction, better access to witnesses, victims, and evidence, and a responsibility to its nationals to hold wrongdoers accountable. Where a State can prosecute such cases, it should, since it is its responsibility to do so. Forum shopping and interference in the internal affairs of States, including through trials held *in absentia*, are unacceptable. The question of immunity likewise requires a deft hand, preserving it for public officials, yet recognizing that it cannot be invoked for crimes against humanity, war crimes, and genocide, which can never be deemed acts of State.

¹ A/Res/75/142, adopted 15 December 2020.

The necessity of fair trial protections

Second, the severity of the crimes committed undergirds the principle of universal jurisdiction. Yet, we must ensure that the desire to hold wrongdoers accountable does not erode practices that protect the integrity of courts and public trust in trial outcomes. For that reason, the Holy See believes that fundamental norms of criminal justice must be in place in all cases where the severity of the crime serves as the basis for jurisdiction. The presumption of innocence, the principle of legality, and the right to due process, *inter alia*, must be respected, in line with the obligation to preserve the rule of law.

When universal jurisdiction ought to be invoked

Finally, my Delegation thanks those Member States that have contributed information regarding universal jurisdiction in their national laws, including in the most recent report (A/76/203), and thanks the Secretary-General for compiling it. This and prior reports reflect significant unity related to the most serious offenses, such as genocide, crimes against humanity and war crimes. Many also require that there be some connection between the country and the accused or the act, an element that the Holy See considers essential for fair trials and the just application of the principle.

These reports have also revealed, however, significant divergences in scope. This should give us pause when considering any expansion of the scope of the principle beyond those grave crimes for which it is well established and regarding which States share a common view. Universal jurisdiction should be applied on an exceptional basis and it should be limited to crimes of the gravest concern — genocide, crimes against humanity and war crimes. Applying it too broadly will undermine not only the ability to invoke the principle legitimately but also the distinction between particularly serious offenses and other criminal activity. The Holy See believes that any further development of this principle must retain the understanding that it applies to acts that fall within a particularly severe category of internationally recognized crimes.

Madam Chair,

Victims of the gravest crimes deserve justice, and that requires that we end impunity for these acts. Consequently, we must persevere in the delicate and difficult task of finding a balance between sovereign concerns and the need to hold accountable the perpetrators of the most heinous crimes and to ensure justice for the victims. Working together we can forge a united way forward. I assure you of the Holy See's continued commitment to achieving this goal.

Thank you.