



# REPUBLIC OF ZAMBIA



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## STATEMENT BY

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PERMANENT MISSION OF THE REPUBLIC OF ZAMBIA  
TO THE UNITED NATIONS

BEFORE THE SIXTH COMMITTEE DURING THE  
SEVENTY-SIXTH SESSION OF THE UNITED NATIONS  
GENERAL ASSEMBLY

UNDER AGENDA ITEM 86:

THE SCOPE AND APPLICATION OF THE  
PRINCIPLE OF UNIVERSAL JURISDICTION

New York  
October 22, 2021

**Chairperson,**

My delegation aligns itself with the statement delivered by the distinguished representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement, as well as that of the African Group as delivered by the distinguished representative of the Kingdom of Morocco.

**Chairperson,**

This Committee has grappled with the principle of universal jurisdiction for a dozen years. At each session of the General Assembly various delegations have provided important perspectives of this principle, presenting valuable methodological approaches and best practices which, if implemented in good faith, would guarantee the prosecution of perpetrators of atrocious crimes and the strengthening of the fight against impunity.

During this period the Committee has successfully reached consensus on certain fundamentals. For instance, we largely agree that the principle of universal jurisdiction is well established in international law, and that certain crimes—such as war crimes, crimes against humanity and genocide—are so detrimental to the international order and interests, that States are not only entitled but also obligated to bring proceedings against perpetrators of the crimes. There is some level of unanimity on the idea that countries with a closer link to the crime have an obligation to “extradite or prosecute” the perpetrators, in line with the principle *aut dedere aut judicare*, and that this should be done without regard 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 such jurisdiction.

Delegations by and large acknowledge that universal jurisdiction is a complementary tool. It aims to ensure that where the territorial State is unable or unwilling to exercise jurisdiction, accused persons will not achieve impunity.

**Chairperson,**

We must keep in mind that international criminal law is still budding, and while the Committee is preoccupied with the fundamentals, new areas of debate have in recent times been brewing among legal scholars. For instance, the question whether the principle of universal jurisdiction only applies “*within the context of an ... armed conflict*”. To what extent, scholars ask, does universal jurisdiction apply over more covert criminal acts committed outside the context of war? Citing the Geneva Conventions of 12<sup>th</sup> August 1949 and related codes and conventions, which include, among other crimes, biological experiments on human beings, and the wilful or intentional causing of great suffering or “serious injury to body or to mental or physical health”, questions are emerging whether these should be considered as appropriate candidates of universal jurisdiction; more so where evidence shows that the acts are committed as part of a widespread or systematic assault directed against civilian populations at home or abroad. While these questions appear remote today, they are gaining traction. There is a need, therefore, to make tangible progress on the basics of universal jurisdiction, so that this Committee could devote time to tackling these and other evolving concerns.

**Chairperson,**

We cannot overemphasise that if we are to end impunity, maintain global peace and security, and ensure sustainable development, all Member States must ensure they domesticate applicable treaties and enact relevant laws that incorporate the principles of universal jurisdiction.

To this end, Zambia remains committed to upholding the principles and values enshrined in conventions and treaties to which it is a signatory. This includes our determination to cooperate with and preserve the integrity of the international criminal justice system, including the International Criminal Court and the International Residual Mechanism for Criminal Tribunals.

The newly elected Government of President Hakainde Hichilema is committed to promoting global peace and security and has since triggered a reform process in the criminal justice system. The Government has engaged all relevant institutions: the judiciary, the legislature, law enforcement agencies, the Zambia Law Development Commission, among others. One of the primary goals is to work toward a more comprehensive legal framework that adequately incorporates key principles of law, including universal jurisdiction.

**Chairperson,**

We must never lose sight of what has brought us to this juncture: This item was introduced to the agenda of the sixty-fourth session of the General Assembly in 2009, at the request of the United Republic of Tanzania on behalf of the African Group, and subsequently assigned to the Sixth Committee. Driven by a justifiable concern that the principle of universal jurisdiction appeared politically motivated or overtly targeted at specific countries or regions, the African Group deemed it necessary to bring the matter to the Committee's attention.

But how much progress have we made since then? The question whether sitting heads of state and government, and other high-ranking officials, can be prosecuted in foreign and national courts remains unresolved. The Committee is yet to reach consensus on the extent of the territorial jurisdiction of international criminal courts. We are yet to resolve how to prevent any misapplication of universal jurisdiction and similar principles of international or customary law.

**Chairperson,**

We may have debated this matter for over a decade with little progress, but we urge delegates to withstand the temptation of passing this matter to any other international body. We strongly encourage the Committee to remain seized of this agenda item.

**I thank you.**