



**United Nations General Assembly I Sixth Committee**  
**The scope and application of the principle of universal jurisdiction**  
**(Agenda item 85)**  
11 October 2022

*(check against delivery)*

Mr. Chair,

Brazil would like to thank the Secretary-General for the report on the scope and application of the principle of universal jurisdiction. The document compiles further comments and observations from Governments and relevant observers on the topic and confirms that state practice is not uniform. It varies on both the range of crimes that trigger universal jurisdiction and the limits to its application. At the same time, universal jurisdiction may be a tool for the prosecution of individuals allegedly responsible for serious crimes defined by international law, and Brazil believes that there is common ground from which we can work to gradually build consensus.

Brazil welcomed the establishment of a Working Group within the Sixth Committee to deal with this item, and we should endeavor to find a definition of universal jurisdiction, as well as a shared understanding of the scope of its application, as a means to avoid the abuse or misuse of the principle.

The exercise of jurisdiction must be in accordance with the principles of sovereign equality among all States and non-intervention in domestic affairs, as laid down in the Charter of the United Nations. The exercise of universal jurisdiction cannot be arbitrary nor should it be used for the purposes of fulfilling other interests than those of justice.

In this context, domestic criminal jurisdiction based solely on the principle of universal justice is necessarily subsidiary in nature. It is an exception to the more consolidated principles of territoriality and nationality. Hence, we should give jurisdictional priority to States with the closest links to the crimes. Before invoking universal jurisdiction and

opening an investigation, judicial authorities should first ensure that there are no ongoing investigations in the affected country or countries.

Although there is a difference between universal jurisdiction and the exercise of criminal jurisdiction by international tribunals, we must acknowledge that these two tools share a common objective: to deny impunity to the perpetrators of serious international crimes. Hence, they should be complementary, in a manner that favours universality and avoids the selective application of international criminal law. Regarding the crimes of genocide, crimes against humanity, war crimes and aggression, we should prioritize the jurisdiction of the International Criminal Court when the custody State has no relation with the *locus delicti*, the suspects or the victims.

Mr Chair,

Member States should further discuss which crimes would trigger the universality principle, the need for formal consent on the part of the

State with primary jurisdiction, and the need for the alleged criminal to be in the territory of the State wishing to exercise universal jurisdiction. There are also pending questions regarding the relation between universal jurisdiction and other norms, such as the *aut dedere aut judicare* principle. Finally, one of the most contentious issues remains the application of universal jurisdiction while upholding the jurisdictional immunities of State officials.

The Brazilian Criminal Code only accepts the principle of universal jurisdiction in exceptional circumstances and under clear and objective conditions. Brazilian law applies to the crime of genocide even if committed abroad, as long as the perpetrator is a Brazilian national or someone that resides in the Brazilian territory. In certain conditions, Brazil may also exercise its jurisdiction over crimes that it has obliged itself to repress through international treaties, such as torture, even when they are perpetrated abroad.

Mr. Chair,

Brazil believes universal jurisdiction should not be applied except in a responsible and judicious manner, based on clear and objective parameters, in order to prevent its abuse and misuse. First, the exercise of state jurisdiction based on the universal principle should be limited to serious crimes, prescribed in international treaties, and only by states parties. Second, the principle should be subsidiary to more direct connecting factors, such as territoriality and nationality. Third, the accused should be necessarily present on the territory of the forum State. Last but not least, universal jurisdiction should always respect basic principles of criminal law, such as the prohibition of double jeopardy.

I thank you.