

**The scope and application of the principle of Universal
Jurisdiction Agenda item 85
(12 October 2022)**

Mr. Chair,

My delegation aligns itself with the statement delivered by the distinguished representative of Iran on behalf of the NAM.

2. We thank the Secretary General for his report A/77/186.

3. Pakistan fully acknowledges the importance of preventing impunity for the gravest of international crimes. While the imperative underlying the principle of universal jurisdiction is to uphold the ideals of accountability and justice by bringing to account perpetrators of certain egregious crimes, fundamental divergences in its nature, scope and application, have continued to cast a shadow over our efforts to evolve a common understanding on the issue.

Mr. Chair,

4. Indeed, the selective use and manipulation of this principle by some states do not serve the principles of justice, but on the contrary affects the credibility of international law.

5. Pakistan is of the view that it is critical to close the legal gap in order to end impunity, protect the rights of victims, and

uphold justice. To that end, the scope and application of the principle of universal jurisdiction must be addressed cautiously and in an objective manner that considers the customary international law and *opinio juris*. My delegation's views on this issue continue to be guided by the following principles:

- **First**, the principle of universal jurisdiction is not a primary jurisdiction but instead, is to be exercised in exceptional circumstances. It is subordinate to the territorial and national jurisdictions and not a substitute for them. Domestic legal remedies must be given priority. This means that the State in whose territory the crime is alleged to have been committed should have priority to prosecute over other States given that the territorial State is ultimately most affected by the crime, evidence is easier to be gathered and victims are close to witness the trial. In this regard, it is only in cases where the territorial State is either “unwilling and/or unable” to prosecute that another State can proceed with prosecution. This approach is in line with the international principle of complementarity which has been duly recognized by various international courts and tribunals.
- **Second**, the principle of universal jurisdiction should only be applied in respect of grave crimes such as **war crimes, crimes against humanity and genocide** which affect the international community as a whole and which the

international community has generally agreed are crimes for which the application of the principle of universal jurisdiction would be appropriate. Against this backdrop, calls for accountability would lack credibility and imputation of double standards and selectivity, especially when egregious crimes, being committed in full view of the international community are deliberately and studiously ignored or addressed steadily. What is therefore, needed, is to apply the **moral and legal standards consistently and uniformly.**

Third, universal jurisdiction should arise in the case of crimes committed in regions that are under foreign occupations bearing in mind the obligations arising under the Fourth Geneva Convention.

- **Fourth,** treaty obligations to extradite or prosecute persons should not be conceived as, or used to infer, Treaty based universal jurisdiction. These are conceptually and legally distinct from universal jurisdiction. Detailed analysis of state practice and *opinio juris* is needed to identify the existence of a customary rule of universal jurisdiction over a particular crime.
- **Fifth,** in line with position of the NAM group, universal jurisdiction cannot be exercised in isolation from, or to the

exclusion of, other applicable principles of international law, including the principles of State sovereignty and territorial integrity.

6. In conclusion, **Mr. Chair**, the principle of universal jurisdiction is not a license to undermine state sovereignty, but, instead, a call for ending impunity; a means to ensure that jurisdictional gaps do not serve as an escape route to evade justice, in full conformity with principles of international law and the UN Charter.

I thank you.
