



ICRC

United Nations General Assembly, 77th session, Sixth Committee

The scope and application of the principle of universal jurisdiction

Statement by the International Committee of the Red Cross

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12 October 2022

Chair,

The International Committee of the Red Cross (ICRC) welcomes the continued interest of the United Nations General Assembly in the principle of universal jurisdiction and takes note of the Secretary-General's most recent report on this issue, to which we contributed.

The principle of universal jurisdiction is one of the key tools for ensuring that serious violations of international humanitarian law (IHL) are deterred and – when they do occur – are investigated and, if appropriate, prosecuted.

States Parties to the 1949 Geneva Conventions are obligated to search for suspected perpetrators of grave breaches – which are serious IHL violations – regardless of their nationality, and to either prosecute or extradite them. Additional Protocol I of 1977 to the Geneva Conventions extends this obligation to the grave breaches defined in AP I. States Parties are required to establish in their national legislation the universal jurisdiction sufficient to prosecute or extradite for grave breaches of the Geneva Conventions.

Other international instruments place a similar obligation on States Parties to vest some form of universal jurisdiction in their courts over serious violations of the rules contained in those instruments. These include, for example, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol (1999), the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance.

In addition, State practice and *opinio juris* have concretized into a rule in customary international law whereby States have the right, should they so choose, to extend universal jurisdiction to other serious violations of IHL. These include, in particular, serious violations of Article 3 common to the four Geneva Conventions of 1949 and of

Additional Protocol II of 1977, as well as those listed in Article 8 of the 1998 Rome Statute of the International Criminal Court.

Chair,

States have a responsibility to investigate war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects. In addition to jurisdiction over crimes committed on a state's own territory or by its own nationals, the exercise of universal jurisdiction over war crimes, no matter the perpetrator or location, can serve as an effective mechanism to ensure accountability and limit impunity.

States are using universal jurisdiction to effectively address prevailing impunity gaps and move towards accountability for serious violations of IHL perpetrated beyond their borders, in past or ongoing armed conflicts. These efforts also send an important message to victims and survivors that accountability is not just an aspirational goal, but a tangible commitment made by the international community.

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As mentioned in previous statements, the ICRC continues to address the issues of preventing and repressing serious IHL violations, by supporting States both in their efforts to strengthen their national criminal legislation and those to establish universal jurisdiction over serious violations of IHL. We also produce technical documents and practical tools on the application of universal jurisdiction. In August, the ICRC published [an explainer on universal jurisdiction for war crimes committed in non-international armed conflict](#). The ICRC encourages all States who have not done so to establish mechanisms in their domestic legal systems for universal jurisdiction for grave breaches of the Geneva Conventions and, if applicable, grave breaches of Additional Protocol I, as required by IHL.

The ICRC recognizes that States may attach conditions to the application of universal jurisdiction to grave breaches or other serious violations of IHL but those conditions must be intended to increase the effectiveness and predictability of universal jurisdiction and not to unnecessarily restrict the prospects for international justice.

The ICRC reiterates its readiness to continue engaging with and supporting States' efforts to ensure greater respect for IHL, in the area of universal jurisdiction and all other areas.

Thank you very much, Chair.