



UN/1/3/177-O-NYC-480-2022

The Permanent Mission of the Kingdom of Bahrain to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations, and with reference to the latter's note verbale LA/COD/59/1 dated 10 January 2022 regarding General Assembly resolution 76/118 of 9 December 2021 entitled "The scope and application of the principle of universal jurisdiction", the Permanent Mission of the Kingdom of Bahrain has the honour to enclose herewith observations by the Kingdom of Bahrain pursuant to the above-mentioned resolution.

The Permanent Mission of the Kingdom of Bahrain to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.

29 April 2022

Office of Legal Affairs of the United Nations
New York

Comments of the Kingdom of Bahrain on The Scope and Application of The Principle of Universal Jurisdiction Following General Assembly Resolution No. 76/118

Recalling United Nations General Assembly Resolution 76/118 of 9 December 2021 regarding “The scope and application of the principle of universal jurisdiction”.

The Kingdom of Bahrain affirms that the principle of universal jurisdiction constitutes an essential element for the rule of law to ensure justice and end impunity for international crimes and grave violations of international law, to strengthen international peace and security based on rules of international order enshrined in the Charter of the United Nations.

Bahrain considers the principle of universal jurisdiction over serious crimes in violation of international law as a mechanism complementing the jurisdiction of the competent national courts, which have primary jurisdiction over crimes that occur within its territory.

Bahrain considers that the application of the principle of universal jurisdiction should be limited to cases in which the State with primary jurisdiction is unwilling or unable to exercise jurisdiction. Furthermore, applying the principle must be without prejudice to the right of the State with primary jurisdiction to exercise independent and impartial jurisdiction, without interference in the internal affairs of that State, and without prejudice to the principles of international law, customary international law, and special rules relating to sovereign and diplomatic immunity.

Based on its firm belief in strengthening international law, Bahrain applies the principle of universal jurisdiction whenever stipulated by national law or provided for by an agreement ratified by Bahrain and which has become part of its national legislative system. Accordingly, the sources for the application of universal jurisdiction in Bahrain is divided, into national legislation and international conventions:

A- International agreements: According to the provisions of the Constitution of the Bahrain, Article (37) of the Constitution of Bahrain clarifies the constitutional procedures for concluding international treaties and their application in the national legal system. Therefore, when an international agreement has been ratified or acceded to and published in the Official Gazette, it has become, pursuant to the constitution, part of the national legislation, which could create, amend, or exclude valid legal provisions stipulated in the national law, in addition, international

agreements can be invoked before national courts. Appendix (1) illustrates the international agreements and treaties that refer to universal jurisdiction ratified by Bahrain.

B- National Legislation: The primary principle for criminal jurisdiction in Bahrain is the principle of territorial jurisdiction, according to which the Penal Code applies to all crimes that occur within Bahrain's territory regardless of the nationality and status of the perpetrators; as such, it does not extend to crimes that occur outside Bahrain's territory, even if the perpetrator is a national of Bahrain. However, the Bahraini Penal Code extends criminal jurisdiction beyond national territory in exceptional cases. For example, article (9) of the Penal Code states that: "the provisions of this law shall apply to every foreigner in the State of Bahrain who had committed a crime abroad ... of this law, and the request for his extradition had not been accepted." Accordingly, if an extradition request was submitted to the authorities and was rejected, the authorities may try the perpetrator in its territory, under national laws, regardless of the place of the crime and his/her nationality.

Bahrain has taken national legislative measures to prosecute perpetrators of international crimes and expand the application of universal jurisdiction. Decree-Law No. 44 of (2018) on International Crimes establishes national jurisdiction over four categories of international crimes, (a) The crime of genocide, (b) Crimes against humanity, (c) War crimes, (d) The crime of aggression. In addition, since the nature of these crimes is international and harms international public order, the legislator expanded the jurisdiction of the national courts to consider the crimes mentioned above for those who are present in Bahrain's territory if such crimes have been committed outside its territory, in conformity with the provisions of international agreements ratified by Bahrain. According to Article (3) of Decree No. 44 of (2018), the competent court shall seek the assistance of the relevant treaties and principles of international law in interpreting and applying the provisions of this law.

On the other hand, given the complexities of transnational organized crimes related to terrorism, terrorist financing and money laundering. The national laws in Bahrain, such as Law No.58 (2006) on the Protection of Society from Terrorist Acts, and the Decree-Law No.4 of (2001) on the Prohibition and Combating of Money Laundering and Terrorist Financing, applies on every national or foreigner who commits an act outside Bahrain that makes him/her a perpetrator or accomplice in one of the crimes stipulated in these two laws mentioned above

Appendix (1): International Agreements

The Agreement	Ratified by	The Article
The Four Geneva Conventions of 1949	Law No. 7 of (1971)	Para. (2) of Article (49) of the First Geneva Convention Para. (2) of Article (50) of the Second Geneva Convention Para. (2) of Article (129) of the Third Geneva Convention Para. (2) of Article (146) of the Fourth Geneva Convention
United Nations Convention on the Law of the Sea	Law No. 8 of (1985)	Article (105)
Convention on the Prevention and Punishment of the Crime of Genocide	Law No. 4 of (1990)	Article (6)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Law No. 4 of (1998)	Article (5)
The Arab Convention for the Suppression of Terrorism	Law No. 15 of (1998)	Article (14)
United Nations Convention against Transnational Organized Crime and its two Protocols	Law No. 4 of (2004)	Article (15)
International Convention for the Suppression of the Financing of Terrorism	Law No. 8 of (2004)	Article (7)
International Convention for the Suppression of Terrorist Bombings	Law No. 9 of (2004)	Article (7)
Optional Protocols on the involvement of children in armed conflict, the sale of children, child prostitution and child pornography to the United Nations Convention on the Rights of the Child	Law No. 19 of (2004)	Para. (4) of Article (4) of the Second Protocol
International Convention against the Taking of Hostages	Law No. 16 of (2005)	Article (8)
The Cooperation Council for the Arab States of the Gulf Agreement to Combat Terrorism	Law No. 43 of (2005)	Article (31)
The Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols	Law No. 18 of (2008)	Article (32)
International Convention for the Suppression of Acts of Nuclear Terrorism	Law No. 10 of (2010)	Article (5) (2)