

# Canada

**Sixth Committee, 78<sup>th</sup> Session**

**Item 84:**

**“Scope and Application of the Principle of Universal Jurisdiction”**

Statement delivered by

CANZ

October 12, 2023

I have the honour of speaking today on behalf of Australia and New Zealand, as well as my own country, Canada.

CANZ welcomes the opportunity to continue to engage in a dialogue on the scope and application of universal jurisdiction. We appreciate the contributions of Member States and observers to the Secretary-General's annual report on this topic.

As a fundamental principle of international law, universal jurisdiction empowers States to prosecute, on behalf of the international community, those responsible for the most serious international crimes. These serious international crimes are well established in customary international law, and include piracy, genocide, war crimes, crimes against humanity, slavery, and torture. These crimes undermine sustainable development and the achievement of the 2030 Agenda, as well as international peace, security and stability. It is therefore in the interests of the international community, as well as victims and survivors, to ensure that these abhorrent crimes are prevented and their perpetrators prosecuted.

Universal jurisdiction provides an essential tool in this regard. It applies regardless of where the conduct occurs and the nationality of the perpetrator or victim(s), or any other link between the crime and the prosecuting State.

CANZ reiterates, however, that universal jurisdiction must be exercised in good faith, and consistently with the rule of law and the right to a fair trial; it must be free from political motivation, discrimination and arbitrary application; and it must operate in accordance with laws relating to diplomatic relations and privileges and immunities.

Furthermore, CANZ recognizes that States with territorial jurisdiction are often in the best position to achieve justice, given their access to evidence, witnesses and victims. We reiterate that, as a general rule, primary responsibility for investigating and prosecuting serious international crimes rests with the State in the territory of which the criminal conduct was alleged to have occurred, or the State of nationality of the accused. Universal jurisdiction is, however, an important complementary mechanism that can fill a jurisdictional gap in

circumstances where the territorial State is unwilling or unable to exercise jurisdiction.

Canada, New Zealand and Australia have all incorporated universal jurisdiction into our respective domestic legislation, and we continue to encourage Member States that have not already done so to do the same, in accordance with international law. By doing so, States contribute to strengthening the international accountability framework and ensuring that perpetrators of grave international crimes do not receive safe haven anywhere in the world.

We welcome the updates on relevant judicial practice as set out in the Secretary-General's annual report. These efforts demonstrate that universal jurisdiction continues to be a critical tool in delivering justice and accountability where the territorial State is unwilling or unable to exercise jurisdiction.

We note, in particular, the recent judgments delivered by Austrian criminal courts against nationals of the Syrian Arab Republic for terrorism-related acts committed abroad. This demonstrates the importance of universal jurisdiction in advancing the fight against impunity where the International Criminal Court (ICC) does not have jurisdiction, including in the absence of referral by the Security Council, to complement the role of the ICC as a court of last resort.

We look forward to continuing collaborating with other States on this important issue, in particular through the Sixth Committee Working Group's consideration next session of the sub-topic on the 'relevant elements of a working concept of universal jurisdiction'. We encourage all delegations to engage constructively in those discussions. By working closely together, we can ensure that perpetrators of the most serious international crimes are deterred and held to account, in addition to bringing about justice for victims.