

79th Session of the UNGA

Sixth Committee,

Statement by India

on

Agenda Item 85

15th October 2024

"The Scope and Application of the Universal Jurisdiction"

Mr. Chairman,

We thank the Secretary-General for the report A/79/269 on this agenda item. Over the course of the Committee's consideration of the item, the Indian delegation has participated and submitted its observations in national capacity as well as with NAM.

2. India maintains its principled stance that those who commit crimes must face justice and accountability. Though the matter of jurisdiction is complex, no criminal should escape justice due to procedural technicalities, such as a lack of jurisdiction.

3. "Jurisdiction" encompasses both the creation of rules and their enforcement. Main theories of jurisdiction include: 'Territorial,' based on where an offense occurs; 'Nationality,' based on the nationality of the accused or victim; and 'Protective,' which considers national interests that are impacted.

Mr. Chairman,

4. We reiterate that universal jurisdiction, in contrast to traditional bases such as territoriality, nationality, or the protective principle, presupposes that every state has a vested interest in prosecuting offenses condemned globally, as they affect the interests of all nations even when unrelated to the state exercising jurisdiction.

5. In this agenda item, we are examining a different jurisdictional theory that currently lacks adequate legal framework at both national and international levels. A state invoking universal jurisdiction asserts its right to prosecute regardless of the nationality of the offender or where the crime occurred, claiming an interest in addressing offenses condemned universally.

6. We must consider whether the jurisdiction for specific serious international crimes under certain treaties can be expanded to cover a broader range of offenses. Several

treaties mandate that states either prosecute accused individuals or extradite them to a state willing to do so, adhering to the principle of “aut dedere, aut judicare”—to either extradite or prosecute. However, this should not be combined with universal jurisdiction.

Mr. Chairman,

7. Additionally, we must address the interplay with laws regarding immunity, pardons, and amnesty, as well as the need to harmonize with domestic legal frameworks when discussing universal jurisdiction.

8. We believe piracy on the high seas is the only crime where universal jurisdiction is universally acknowledged under international law (per the 1982 UN Convention on the Law of the Sea). Certain crimes, such as genocide, war crimes, crimes against humanity, and torture, are also covered under international treaties, including the Geneva Conventions and the Apartheid Convention, providing a basis for universal jurisdiction. This constitutes treaty-based jurisdiction rather than customary law applicable to all states.

9. Furthermore, we assert that universal jurisdiction should be viewed as a state's authority to prosecute its nationals, regardless of their location. In this context, nationality serves as the rationale for a state to safeguard and prosecute individuals. It is crucial to prevent the misuse of universal jurisdiction in both criminal and civil contexts, and we seek to clarify the concept and definition of universal jurisdiction within the working group.

Thank you Mr. Chairman.