

**Comments of the Islamic Republic of Iran
concerning
“the Scope and Application of the Principle of Universal Jurisdiction”**

1. The views and observations of the Islamic Republic of Iran regarding the scope and application universal jurisdiction remain consistent and have been reflected in its national statements delivered in previous relevant meetings of the Sixth Committee whereby the Islamic Republic of Iran, among others, has highlighted the fact that Member States have not yet reached to a consensus or a common understanding as to the conceptual and legal framework of universal jurisdiction and its scope of application.
2. Universal jurisdiction requires that the accused be prosecuted in the country of arrest regardless of *locus delicti*; therefore, the main purpose of the concept is to avoid impunity. Yet, in application of universal jurisdiction, that is to be invoked on the basis of treaty frameworks to which the concerned states are parties, due regard shall be had to the fundamental principles of sovereign equality, non-intervention, and territorial integrity. Along the same lines, such applications should not encroach upon the principle of State sovereignty, as the hallmark of international relations and the principle of immunity of State officials, which is a significant manifestation thereof.
3. The Islamic Republic of Iran has on numerous occasions shared the concern raised by some judges of the International Court of Justice with regard to the creeping growth of the scope of the principle of universal jurisdiction, in particular, in the “Arrest Warrant” case of 11 April 2000 (Democratic Republic of the Congo v. Belgium). As such, we share the view that it would be judicial chaos should jurisdiction be conferred upon the courts of every State in the world to prosecute international crimes; we further share the view [raised by Judge Guillaume in his separate opinion] that “universal jurisdiction in absentia is unknown to international conventional law”.
4. The Islamic Republic of Iran recalls that in the deliberations within the Sixth Committee on the scope and application of universal jurisdiction caution was advised by a number of delegations against the unnecessary expansion of crimes under universal jurisdiction. In similar vein, the Islamic Republic of Iran would like to underline that the unwarranted expansion of crimes under universal jurisdiction runs afoul of the very purpose envisaged in exercising universal jurisdiction in the first place, as the ramifications resulting therefrom could lead to the potential application of such jurisdiction for politically-motivated purposes and also could undermine the role and the *raison d'être* of the said form of jurisdiction in combating the most egregious crimes of concern to the

international community as a whole. Therefore, resort to this complementary jurisdiction as well as consideration of its scope of application require prudent approach.

5. With regard to the Iranian legislation, Article 9 of the Iranian Penal Code permits the trial and punishment of those perpetrators of international crimes whose prosecution is envisaged by a special law or international treaties. Under this provision, it is necessary that the crime is, first and foremost, recognized as an international crime by a special law or an international treaty. “A special law” under the said article refers to a domestic statute which applies to one or more laws that provide for prosecution of the perpetrators of the said crimes regardless of the offender’s nationality or that of the victim, or locus delicti.
6. In addition, under Article 9 of the Iranian Civil Code, treaties concluded between Iran and other States in accordance with the Constitution ‘shall have the force of domestic law’. Thus, any stipulation in treaties concerning grant of the right to implement universal jurisdiction is considered part of the Iranian law once adopted and incorporated within the national legal corpus. As an example, under article 5 of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid to which Iran is a party, “Persons charged with the acts enumerated in article II of the present Convention (i.e. those pertaining to the commission of apartheid) may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused [...]” All other treaties containing similar clauses on universal jurisdiction accepted by Iran constitute part of the Iranian national law and may be applied accordingly.
7. The Islamic Republic of Iran expresses its concerns regarding the proclivity of few who tend to misuse universal jurisdiction as an arbitrary tool in pursuance of unjust political objectives in violation of the fundamental principles of international law. The Islamic Republic of Iran, rejecting such unacceptable approaches, reiterates that the selective and politically-motivated application of universal jurisdiction would be detrimental to the attainment of the objective sought in establishing such jurisdiction, namely, ending impunity.
8. In sum, the Islamic Republic of Iran views universal jurisdiction as a treaty-based exception in exercising national criminal jurisdiction. In other words, the prevailing principle remains to be the principle of territorial jurisdiction, as the key to sovereign equality of States.