



ICRC

The Delegation of the International Committee of the Red Cross (ICRC) to the United Nations in New York has the honour to refer to the letter (ref. LA/COD/59/2) dated 11 December 2024, regarding General Assembly Resolution 79/127 of 4 December 2024, entitled “The scope and application of the principle of universal jurisdiction.”

The ICRC is pleased to provide its contribution, enclosed, in its capacity as a Permanent Observer of the UN General Assembly for the report of the Secretary-General as requested in operative paragraph 4 of the above-mentioned Resolution.

Please accept the assurances of our highest consideration.

New York, 25 April 2025
NYC 25/036 EMOS/bma

Encl: ICRC Submission

Information and Observations
on the Scope and Application of the Principle of Universal Jurisdiction
Contribution of the International Committee of the Red Cross

1. General Overview

The International Committee of the Red Cross (ICRC) makes this submission to share its observations on the principle of universal jurisdiction as it relates to both treaty and customary international humanitarian law (IHL). This submission also records some of the recent developments in State practice and initiatives taken by the ICRC to support the efforts of States to implement IHL in their domestic legal regimes. To this end, the ICRC also refers to its previous submissions to the Secretary-General on this subject.

2. Universal Jurisdiction and IHL

Based on the notion that certain crimes are so grave that they affect the international community as a whole, the principle of universal jurisdiction, which entitles a State to prosecute offenders even in the absence of a link between the crime committed and the prosecuting State, is one means of facilitating and securing the repression of such crimes. The rationale of universal jurisdiction is to avoid impunity and to prevent those who committed serious crimes from finding a safe haven in third countries. When it comes to IHL, universal jurisdiction enables all States to fulfil their duty to prosecute and punish the perpetrators of war crimes. In order to make this principle effective, States are required to establish universal jurisdiction in their national legislation for certain violations of treaty law (mandatory universal jurisdiction), and States additionally have the right to establish universal jurisdiction for all other war crimes (permissive universal jurisdiction). In IHL, the principle of universal jurisdiction is therefore closely linked to the obligations of States to respect and ensure respect for IHL and to repress serious violations of IHL.

2.1. Treaty law

As noted in previous submissions, the principle of universal jurisdiction is one of the key tools for ensuring the prevention and repression of serious violations of IHL and ending impunity. In particular, the grave breaches regime laid down in the four Geneva Conventions of 1949 and further developed in Protocol I of 8 June 1977 additional to the Geneva Conventions ("Additional Protocol I") stipulates that State Parties have a legal obligation to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches as defined in the Conventions and the Protocol; to search for persons alleged to have committed, or to have ordered to be committed such breaches; and to bring such persons before their own courts, regardless of the nationality of these persons, or to hand them over for trial by another State Party concerned.¹

The value placed on this objective is evident in the universal acceptance of the Geneva Conventions. It is also evidenced by the large acceptance of Additional Protocol I (174 States Parties).² The Geneva Conventions have been fundamental in protecting persons affected by armed conflict for more than 75 years and IHL remains highly relevant for all contemporary armed conflicts. States' compliance with the four Geneva Conventions of 1949, including

¹ As defined in Article 49 of Geneva Convention I, Article 50 of Geneva Convention II, Article 129 of Geneva Convention III, Article 146 of Geneva Convention IV, and Article 85 of Additional Protocol I.

² A list of signatories and parties to the Geneva Conventions and their Additional Protocols is available at <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

respective articles relating to universal jurisdiction, has a key role in limiting suffering in conflicts and preserving our shared humanity. The ICRC therefore calls on all States who have not yet done so, to consider ratifying the Additional Protocols to the Geneva Conventions.

Other international instruments place a similar obligation on State Parties to vest some form of universal jurisdiction in their courts over the serious violations of the rules they contain. These include, for example, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (“The Hague Convention”), its Second Protocol of 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 (“ICPPED”).

2.2. Customary International Law

State practice and *opinio juris* have helped to consolidate a customary rule whereby States have the right to vest their courts with universal jurisdiction over other serious violations of IHL committed in both international and non-international armed conflict.³ This would include, in particular, serious violations of Article 3 common to the four Geneva Conventions of 1949 and Protocol II of 8 June 1977 additional to the Geneva Conventions, as well as other serious violations of IHL, including those enumerated in Article 8 of the Rome Statute of the International Criminal Court.

The right of States to vest universal jurisdiction in their national courts for war crimes is supported extensively by national legislation and many States have additionally created specialised units to deal exclusively with the substantive and procedural specificities of international crimes.⁴ There have also been a number of cases of suspected war criminals being tried by national courts on the basis of universal jurisdiction not linked with grave breaches of the Geneva Conventions⁵. Several military manuals further support the customary rule that war crimes jurisdiction may be established on the basis of the principle of universal jurisdiction.⁶

3. Recent developments

Over the last year, States have continued to draft and adopt universal jurisdiction legislation, reflecting its importance as a means to end impunity for serious violations of IHL and other international crimes. Furthermore, according to TRIAL, 2024 saw 83 war crimes prosecutions brought under universal jurisdiction statutes.⁷ These efforts can send an important message to victims and survivors that accountability is not just an aspirational goal, but a tangible commitment.

While the Geneva Conventions are already universally ratified and there have been no new accessions to their Additional Protocol I since the ICRC’s last submission to the Secretary-General, there have been other developments that should be highlighted. Malta acceded to the Hague Convention in July 2024 and to its Protocols in February 2025;⁸ the Second Protocol of the Hague Convention was ratified by the Democratic Republic of the Congo in

³ See the ICRC study on customary international humanitarian law (2005), rule 157, at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule157>.

⁴ A compilation of national practice is available at <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule157>.

⁵ Ibid.

⁶ Ibid.

⁷ TRIAL, 2025 Universal Jurisdiction Annual Report. Available at https://trialinternational.org/wp-content/uploads/2025/04/03_TRIAL_UJAR_2025_FINAL_DIGITAL.pdf

⁸ A list of signatories and parties to the treaty can be found at <https://www.unesco.org/en/heritage-armed-conflicts/convention-and-protocols/states-parties>.

August 2024 and by San Marino in December 2024.⁹ Furthermore, in 2024 Bangladesh, South Africa, Poland and Thailand became State Parties to the ICCPD.¹⁰

Bolstering the principle of universal jurisdiction is the Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes, which was adopted in May 2023. International support for the treaty has continued to grow over the last year as more than 40 governments have now signed the treaty.¹¹

4. The ICRC and Universal Jurisdiction

The ICRC continues to support States in their implementation of IHL, including the obligation to repress serious violations of IHL through, among other things, the exercise of universal jurisdiction.

At the request of States, the ICRC Advisory Service on IHL offers legal advice and technical assistance to government experts on the national implementation of IHL. Among the topics on which it provides advice and assistance are the incorporation of serious violations of IHL and other international crimes into domestic criminal law and procedure, and the application of the principle of universal jurisdiction. The ICRC is cognisant of efforts being made by States as well as the challenges they face in prosecuting serious violations of IHL. The ICRC continues to develop specialised tools to assist States to understand and implement their obligations under IHL. These tools take the form of databases, reports and technical documents – all of which are made available to States and to the general public.

In August 2022, the ICRC also published an explainer on universal jurisdiction for war crimes committed during non-international armed conflicts, highlighting relevant treaty and customary law provisions.¹²

The ICRC also continues to promote its Manual on Domestic Implementation of IHL, which as noted in previous reports provides policymakers, legislators and other stakeholders a practical tool to implement IHL, including the repression of serious violations of IHL and the application of universal jurisdiction.

In its various national, regional and multilateral engagements on IHL throughout the world, the ICRC continues to address issues relating to the prevention and repression of serious IHL violations, promotes the application of universal jurisdiction over these violations, and works toward a universal culture of compliance with IHL. As underscored in the 2024 ICRC challenges report, in order to end impunity, states should use their right to assert universal jurisdiction over war crimes.¹³

5. Conclusion

The ICRC reiterates its support to States to establish appropriate national legislation to respond to serious IHL violations on the basis of all grounds of jurisdiction, including universal

⁹ A list of signatories and parties to the treaty can be found at <https://www.unesco.org/en/legal-affairs/second-protocol-hague-convention-1954-protection-cultural-property-event-armed-conflict#item-4>.

¹⁰ A list of signatories and parties to the treaty can be found at <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280058a5a>.

¹¹ See Slovenia, Ministry of Foreign Affairs <https://www.gov.si/en/registries/projects/mla-initiative/>.

¹² International Committee of the Red Cross, ICRC Explainer: What Does International Law Say About Universal Jurisdiction for War Crimes Committed in Non-International Armed Conflicts? August 22, available at <https://www.icrc.org/en/document/icrc-explainer-what-does-international-law-say-about-universal-jurisdiction-war-crimes>.

¹³ [2024 ICRC IHL Challenges Report | ICRC](#), page 79.

jurisdiction. The ICRC nonetheless recognises the judicial, procedural and practical challenges that States face regarding the efficient exercise of the principle of universal jurisdiction.

In view of the importance of the principle of universal jurisdiction, the ICRC reiterates its willingness to continue to contribute to future reports of the Secretary-General on this subject.

25 April 2025
International Committee of the Red Cross