

Islamic Republic of

I R A N

Permanent Mission to the United Nations

Statement by

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before the Sixth Committee

69th Session of the United Nations General Assembly

On Agenda item 83:

"The scope and application of the principle of universal jurisdiction"

New York, 15 October 2014

In the name of God, the Compassionate the Merciful

Mr. Chairman,

My delegation fully endorses the statement delivered on behalf of the Non-Aligned Movement and would like to make the following remarks in its national capacity.

Mr. Chairman,

As it also seems to be evident in the observations and information provided by Member States both in the form of statements and comments as well as the written submissions, we have yet to develop a common understanding of the concept of universal jurisdiction as there are different and sometimes rather divergent views on this concept. In our joint effort to exchange views on this item, we should not lose sight of the original reasons this item was introduced to the Sixth Committee. The key question would be whether the Committee shall in fact engage in a sort of codification or development of international law concerning this notion and that how far the Committee should go in that direction.

For many legal systems, extraterritorial jurisdictions should necessarily come from a multilateral treaty, meaning that only those acts which are criminalized under treaties to which the concerned State is a party could be prosecuted. Furthermore when referring to crimes, it needs to be unambiguous in line with the main intention as to end impunity in regard to certain crimes specified in the treaties. Leaving interpretation of international crimes to national courts would have adverse affects on the stability and integrity of international law.

Iran views universal jurisdiction as a treaty-based exception in exercising criminal jurisdiction. The prevailing principle is, however, the principle of territorial jurisdiction

which bars states from exercising criminal jurisdiction beyond borders and is key to the principle of sovereign equality of states. However, there is no express legislation concerning universal jurisdiction in our legal system. We do not seem to have any precedent applying this jurisdiction in our judicial practice either.

According to Article 8 of the Iranian Penal Code, "With regard to crimes which the perpetrators shall be prosecuted, under a special law or international treaties, in any country where they are found, they shall be prosecuted and punished according to criminal laws of the Islamic Republic of Iran, if the perpetrator is present in Iran." In other words, the Iranian courts are entitled to exercise criminal jurisdiction over certain crimes, irrespective of location of the crimes or nationality of the alleged offender, provided that: 1) the crimes have been established under an international treaty to which Iran is a party; and 2) the alleged offender is present on the Iranian territory.

Iran is a party to a good number of international instruments, including a number of multilateral treaties on suppression of international terrorism. Almost all include, in one way or the other, *extradite or prosecute* provision. This shall not, however, be construed, or imply as, to be equivalent with universal jurisdiction. The two notions should not be confused. And as far as bilateral agreements are concerned, there is no track of this kind of jurisdiction in our bilateral agreements on extradition/mutual legal assistance, either.

Mr. Chairman,

The main concern raised with regard to the notion of universal jurisdiction is that its application in certain cases may contravene some of the fundamental principles of international law, in particular the principle of immunity of State officials from foreign criminal jurisdiction, which emanates from the principle of sovereign equality of States. Moreover, it is said that this doctrine has been used selectively. These have provoked continuing debate over the nature of crimes for which the universal jurisdiction may be exercised and the conditions and limitations for such exercise, as well as the question of connecting link between the suspect with the prosecuting State, and the presence of the alleged offender in the forum state.

We are of the view that exercise of criminal jurisdiction over foreign nationals should be unbiased and in good faith, and it should not be applied in an arbitrary manner and/or violate the immunity granted under international law to Heads of State and Government, diplomatic personnel and other incumbent high-ranking officials. Leaving interpretation of international crimes to national courts would have adverse affects on the stability and integrity of international law.

Let me conclude by commending the able leadership of former Ambassador of Costa Rica as the previous Chair of the working group and reiterate that we stand ready to cooperate with the new Chair on this subject within the relevant working group of the Sixth Committee in the coming days.

I thank you.