



**INDIA**  
**भारत**

**STATEMENT BY**

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**ON**

**AGENDA ITEM 85**  
**“THE SCOPE AND APPLICATION OF THE PRINCIPLE OF**  
**UNIVERSAL JURISDICTION”**

**AT THE**  
**SIXTH COMMITTEE OF THE 72<sup>ND</sup> SESSION OF THE**  
**UNITED NATIONS GENERAL ASSEMBLY**

**NEW YORK**

**12 OCTOBER 2017**

**Thank you Mr. Chairman,**

We thank the Secretary-General for his report A/72/112 on "The scope and application of the principle of universal jurisdiction". The information provided in the Report on the laws and practice of certain States concerning the exercise of universal jurisdiction in their domestic legal systems and their understanding of the concept of universal jurisdiction, is useful.

**Mr. Chairman,**

India's position on this matter is governed by our firm belief that those who commit crimes must be brought to justice and punished. A fugitive criminal should not be allowed to go unpunished because of procedural technicalities, including lack of jurisdiction.

However, the exercise of 'universal jurisdiction', in itself, remains a unique and complex legal subject.

**Mr. Chairman,**

The exercise of criminal jurisdiction is widely based on: 'territoriality', and 'nationality', which are based on the place of the commission of offence, and the nationality of the accused. Moreover, some States also recognise the nationality of victim, as a basis for exercising jurisdiction based on the 'protective principle'.

These concepts of state jurisdiction are based on the link between the State asserting jurisdiction and the crime committed.

However, under the concept of universal jurisdiction, a State claims jurisdiction over an offence irrespective of the place of its commission or nationality of the offender or victim, and thus without any link whatsoever between that State and the offence/offender.

The justification for such universal jurisdiction is the nature of certain offences that affects the interests of all States even when they are unrelated to the State assuming jurisdiction.

**Mr. Chairman,**

The principle of universal jurisdiction in relation to piracy has been codified in the UN Convention on the Law of the Sea, 1982, making piracy on the high seas the only one crime, over which claims of universal jurisdiction are undisputed under general international law.

In respect of certain serious crimes like genocide, war crimes, crimes against humanity and torture, etc., international treaties have provided basis for the exercise of universal jurisdiction, which is applicable as between the States parties to those treaties. They include, among others, the Four Geneva Conventions of 1949 and the Convention on the Suppression and Punishment of the Crime of Apartheid, 1973.

The question that arises is whether the jurisdiction provided for specific serious international crimes under certain treaties could be converted into a commonly exercisable jurisdiction, irrespective of the fact whether or not the other State or States are a party to those treaties.

**Mr. Chairman,**

In this regard, several issues remain unanswered, including those related to the basis of extending such jurisdiction, the relationship with the laws relating to immunity, pardoning and amnesty, and harmonization with the domestic laws.

As we have pointed out earlier, several treaties oblige the States parties either to try a criminal or handover for trial to a party willing to do so. This is the obligation of *aut dedere, aut judicare* ('either extradite or prosecute'). This widely recognised principle, applied by the International Court of Justice in its decision in the *Belgium v. Senegal* case, 2012 should not be confused with the principle of universal jurisdiction.

**Mr. Chairman,**

We would like to reiterate that universal jurisdiction is applicable in the case of limited set of crimes, like piracy on high seas and other specific serious crimes under the relevant treaties/ conventions that have been adopted and agreed to by the States.

Therefore, we stress the need to avoid any misuse of the principle of universal jurisdiction in both the criminal and civil matters, the concept and definition of which are not yet clear and agreed to.

I thank you.

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