



United Nations General Assembly | Sixth Committee
The scope and application of the principle of universal jurisdiction
(Agenda item 87)
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(check against delivery)

Mr. Chairman,

Brazil thanks the Secretary-General for compiling the information referred to in document A/75/151 on the scope and application of universal jurisdiction. The report confirms that state practice on this matter is not uniform: it varies on both the range of crimes that trigger universal jurisdiction and the limits to its application. On the flip side, an analysis of the information provided so far suggests that there are common grounds from which we can work to gradually build consensus.

Brazil welcomed the establishment of a Working Group within the Sixth Committee to deal with this item, and we take this opportunity to reiterate our view favoring an incremental approach with respect to the discussions on universal jurisdiction. As a first step, we should endeavor to find a consensual definition of universal jurisdiction, as well as a shared understanding of the scope of its application, as a means to prevent its misapplication and avoid selectivity.

Universal jurisdiction may be a tool for the prosecution of individuals allegedly responsible for serious crimes defined by

international law that, by their gravity, violate peremptory norms of international law. For Brazil, the exercise of jurisdiction irrespective of the link between the crime and the prosecuting State is an exception to the more consolidated principles of territoriality and nationality. Hence, universal jurisdiction should be subsidiary to that of states with primary jurisdiction and limited to specific crimes. The exercise of universal jurisdiction cannot be arbitrary nor should be used for the purposes of fulfilling other interests than those of justice.

Mr. Chairman,

Besides definition, there are other aspects that also need to be duly considered, such as the crimes that would trigger the universality principle, the need for formal consent on the part of the State with primary jurisdiction, and the need for the alleged criminal to be in the territory of the State wishing to exercise universal jurisdiction. There are also pending questions regarding the relation between universal jurisdiction and other norms, such as the "aut dedere aut judicare" principle. Finally, one of the most contentious issues remains the application of universal jurisdiction while upholding the jurisdictional immunities of State officials. This is a serious issue and Member States should show flexibility to allow us to move forward and agree on core elements in that respect when the time comes.

Brazilian criminal legislation adopts the principle of territoriality as the basis for exercising criminal jurisdiction, but also takes into account the principles of active nationality and passive personality. Under our system, universal jurisdiction can be exerted by the national tribunals in relation to the crime of genocide and the crimes to which

Brazil has obliged itself to repress through treaties or conventions, such as torture. Under Brazilian legal framework, it is necessary to enact national legislation to enable the exercise of universal jurisdiction or to persecute and judge an action or omission, which is considered a crime under international law. It is not possible, thus, to exercise universal jurisdiction over a crime under customary international law alone, because the lack of specific legislation would result in a violation of the principle of legality.

Mr. Chairman,

Although there is a difference between universal jurisdiction and the exercise of criminal jurisdiction by international tribunals, we must acknowledge that these two tools share a common objective: to deny impunity to the perpetrators of serious international crimes. Hence, they should be complementary to each other, in a manner that favors universality and avoids the selective application of international criminal law.

Thank you.