

Statement by Mr. Mohamad Ghorbanpour

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On behalf of the Non-Aligned Movement

Before the Sixth Committee

75th Session of the United Nations General Assembly

On Agenda Item 87:

“The Scope and Application of the Principle of Universal Jurisdiction”

New York, 3 November 2020

I have the honour to deliver this statement on behalf of the Non-Aligned Movement.

The Non-Aligned Movement continues to follow with high interest the agenda item 87 entitled “The scope and application of the principle of universal jurisdiction”. The Movement reiterates its call upon all States to take this opportunity to reflect on this issue and consider its various aspects with a view to identifying its scope and limits of application, and to prevent any inappropriate resort to it.

The Movement also takes note of the Secretary-General's report, contained in document A/75/151 prepared pursuant to the General Assembly resolution, 74/192 on the basis of information and observations received from Governments and relevant observers.

The Non-Aligned Movement firmly believes that the principles enshrined in the Charter of the United Nations, particularly the sovereign equality of States as well as their political independence and non-interference in internal affairs of other States, should be strictly observed in any judicial proceedings. In this regard, the involvement of incumbent high-ranking officials should be dealt with in conformity with international law. The exercise of criminal jurisdiction by national courts, by invoking universal jurisdiction, over high-ranking officials who enjoy immunity under international law, violates the sovereignty of States, which is one of the most fundamental principles of international law. The Movement submits, therefore, that the immunity of the States officials, which is deeply rooted in the Charter of the United Nations and firmly established in international law, should be fully respected.

In this regard, it is important for the Sixth Committee to be cognizant of the context in which this item was included to the agenda of the Sixth Committee. As you may recall the African Group requested the inclusion of this agenda item in the Sixth Committee to address the issue of the uncertain scope and application of this principle as well as its abuse in February 2009.

Universal jurisdiction provides a tool to prosecute the perpetrators of certain serious crimes under international treaties. Nonetheless, there are questions and controversies concerning universal jurisdiction, including the range of crimes falling under this jurisdiction as well as the

conditions for its application. The Non-Aligned Movement is alarmed about the implications of the application of universal jurisdiction on the immunity of States officials and, consequently, on the sovereignty of the States concerned. The invocation of universal jurisdiction against some Member Countries of the Non-Aligned Movement in violation of the principle of immunity of State officials before the courts of other States has generated concerns over its legal and political implications

Further clarification is also needed to prevent any misapplication or improper resort to universal jurisdiction. The decisions and judgments of the International Court of Justice and the work of the International Law Commission are among the sources which might be useful in our discussions in the Sixth Committee. The Non-Aligned Movement cautions against the unwarranted expansion of the crimes under universal jurisdiction.

The Non-Aligned Movement's Members will engage actively in the deliberations on this agenda item, including within the working group established in accordance with paragraph 2 of the General Assembly resolution 74/192. We encourage all Member States of the United Nations to be actively engaged in these discussions in order to identify the scope and limits of application of universal jurisdiction and to consider establishing a mechanism to monitor such application and to prevent its abuse in the future.

With respect to the discussions in the working group, the Movement reiterates that universal jurisdiction shall not replace other jurisdictional bases namely territoriality and nationality and only asserted for the most serious crimes. Expansion of the principle to include any less than most heinous crimes could call into question its legitimacy. Moreover, it cannot be exercised in isolation or to the exclusion of other relevant rules and principles of international law, including state sovereignty and territorial integrity of states and immunity of state officials from foreign criminal jurisdiction.

The Member Countries of the Movement remain open to sharing information and practices with other Member States in this regard. We also are of the view that it is premature at this stage of discussion to request the international law commission to undertake a study on different aspect of the universal jurisdiction. We look forward to reaching our common goal of mutual respect: the rule of law around the globe and proper application of universal jurisdiction without its abuse, reiterating that legitimacy and credibility of the use of universal jurisdiction would be ensured by its responsible and judicious application consistent with international law.

I thank you