



STATEMENT OF THE REPUBLIC OF THE PHILIPPINES

delivered by
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Item 87: The scope and application of the principle of universal jurisdiction
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Thank you, Madame Chair. The Philippines aligns itself with the statement delivered by the Islamic Republic of Iran on behalf of the Non-Aligned Movement.

We thank the Secretary General for his report and note Section IV which contains a synopsis of issues raised by Governments for possible discussion. The report, together with the discussions in the Working Group, show the divergence and lack of consensus among Member States on the definition, scope and application of the principle of universal jurisdiction; and therefore the need for further examination by the Sixth Committee of this issue.

Universal jurisdiction, as a generally accepted principle of international law, is considered part of Philippine law, both through the incorporation clause of our Constitution and through the enactment in 2009 of the Philippine Act on Crimes against International Humanitarian Law, Genocide and Other Crimes Against Humanity.

We wish to reiterate three (3) points:

First, for the Philippines the general rule is that jurisdiction is territorial. Therefore universal jurisdiction is an exception, grounded on the imperative need to preserve international order. It allows any State to assert criminal

jurisdiction over certain offenses, even if the act occurred outside its territory or was committed by a person not its national, or inflicted no injury to its nationals.

Second, because it is exceptional, its scope and application must be limited and clearly defined. Immunity of state officials, in particular, must be preserved and respected. Unrestrained invocation and abuse of the exercise of universal jurisdiction only undermines the principle.

Third, these “certain offenses” must be limited to *jus cogens* crimes that have been deemed so fundamental to the existence of a just international legal order that states cannot derogate from them, even by agreement. The rationale behind this principle is that the crime committed is so egregious that it is considered to be committed against all members of the international community and thus granting every State jurisdiction over the crime.¹

The continuing challenge is defining its scope and application. We encourage the Committee and the Working Group to continue its work. The process of defining the scope and application of the principle should be State-led and discussions should remain in the Sixth Committee, rather than being referred to the International Law Commission.

Thank you.

¹ Bayan Muna vs. Romulo, G.R. No. 159618, February 1, 2011.