



**PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS
NEW YORK**

NEW YORK, 12 OCTOBER 2017

CHECK AGAINST DELIVERY

GENERAL ASSEMBLY, SIXTH COMMITTEE

STATEMENT BY MR. JÖRN EIERMANN, LEGAL ADVISER

THE SCOPE AND APPLICATION OF THE PRINCIPLE OF UNIVERSAL JURISDICTION

Mr. Chairman,

The previous Secretary-General, Ban Ki-moon, famously stated in 2010 that the era of impunity is over and that we are witnessing the new age of accountability. And indeed, progress in the fight against impunity for the most serious crimes under international law has been significant. Most importantly, 124 States have joined the Rome Statute of the International Criminal Court (ICC). This is almost two-thirds of the UN membership. But there remains a significant impunity gap with a large number of perpetrators operating beyond the Court's jurisdictional reach. Thus, universality of the Rome Statute continues to be an important goal, while it is not one that is easy to achieve. The impunity gap is all the more dramatic as the Security Council is largely unable to fill the void by referring relevant situations of mass atrocities to the ICC, in particular due to the use or threat of the use of the veto. We recall, in this context, that it is the primary responsibility of the State itself to investigate and prosecute the worst crimes under international law. However, in situations where the State itself is unwilling or unable to do so and where international efforts fail, other States may wish to exercise universal jurisdiction in order close the impunity gap.

Mr. Chairman,

The principle of universal jurisdiction allows States to pursue alleged perpetrators for grave international crimes such as genocide, war crimes, crimes against humanity, torture, slavery and piracy – as outlined in the Princeton Principles on Universal Jurisdiction. This is irrespective of the nationality of the perpetrator or victim or the territory of the State on which the crimes were committed. Such prosecutions are an increasingly important part of international efforts to hold perpetrators of atrocities accountable and show that there is broad agreement on the importance and the objective of the principle of universal jurisdiction: to provide justice to victims, to deter future crimes and to eradicate safe havens for human rights abusers.

While there is agreement on the principle of universal jurisdiction as such, States continue to disagree on its modes of implementation. The report before the Committee shows that States have different assessments as to which offenses and crimes they consider so grave that they harm the entire international community and over which they consequently wish to exercise universal jurisdiction. Equally, the State may only wish to exercise jurisdiction, if it has custody over the alleged perpetrator or it may want to do so regardless of where the individual resides. In the past, this has led to disputes, but also successes, as illustrated in the recently concluded case against Hissène Habré. We look forward to continuing our discussion on this matter in this and others formats in order to exchange and build on the experience and good practices of States.

Mr. Chairman,

The importance of universal jurisdiction has also become evident in the recent past as a response to the crimes committed in the context of the armed conflict in Syria. The Syrian national judiciary has the primary responsibility to investigate and prosecute the crimes committed on its territory, but it is unwilling and unable to do so, as stated by the Commission of Inquiry established by the Human Rights Council.¹ This would be an obvious situation for the International Criminal Court to step in, but as is well known, a resolution referring the situation

¹ A/HRC/28/69, paragraph 103

to the Court was vetoed in the Security Council in 2014. Consequently, universal jurisdiction constitutes one of the few opportunities for States to show that there are at least cracks in the impunity wall. As a result, there is an increasing number of prosecutions in various European courts against Syrian perpetrators. Liechtenstein welcomes all efforts of Member States to this end.² In this context, we wish to recall the important role that the International, Impartial and Independent Mechanism (IIIM) for Syria can play and encourage all States to cooperate with it and to support it politically and financially. With respect to the topic under discussion, we would like to recall that the Mechanism will generally not share information in circumstances in which a trial may be held in absentia on the basis of universal jurisdiction.³

While the application and the scope of the principle of universal jurisdiction remain limited, States should be encouraged to continue making use of it in cases of atrocities crimes and where all other efforts, national or international, have failed.

I thank you.

² Human Rights Watch: "These are the crimes we are fleeing. Justice for Syria in Swedish and German Courts" - 3 October 2017.

³ A/71/755, paragraph 20