

Translated from Spanish

7-1-SG/35

The Permanent Mission of Peru to the United Nations presents its compliments to the Secretary-General and has the honour to refer to communication LA/COD/59 of 8 January 2010, in which States are invited, in accordance with General Assembly resolution 64/117, to submit information on the scope and application of the principle of universal jurisdiction.

Accordingly, the Mission wishes to transmit herewith the report of the Government of Peru, so that it may be taken into account by the Secretary-General in the preparation of the report to be submitted to the General Assembly at its sixty-fifth session.

The Permanent Mission of Peru to the United Nations takes this opportunity to convey to the Secretary-General the renewed assurances of its highest consideration.

New York, 18 May 2010

United Nations Secretariat
Office of Legal Affairs
New York

The scope and application of the principle of universal jurisdiction

In its resolution 64/117, the General Assembly requested the Secretary-General to invite Member States to submit “information and observations on the scope and application of the principle of universal jurisdiction, including information on the relevant applicable international treaties, their domestic legal rules and judicial practice, and to prepare and submit to the General Assembly, and its sixty-fifth session, a report based on such information and observations”.

In the light of the fact that universal jurisdiction can involve any State, it is of interest to all Member States. Given the legal complexities that may arise, as several delegations pointed out during the debates in the Sixth Committee at the sixty-fourth session of the General Assembly, Peru is in favour of beginning the discussion of the scope and application of universal jurisdiction forthwith.

(a) Work of the International Law Commission on the topic of universal jurisdiction

Universal jurisdiction is not a new topic for the Sixth Committee for it has been dealt with indirectly in connection with other matters. Therefore, when reviewing universal jurisdiction, it will be necessary to take into account the documents and reports in which the issue has been considered in order to avoid duplication of effort and enhance the Committee’s efficiency.

The International Law Commission has been considering the issue of universal jurisdiction in connection with the following:

Draft Code of Crimes Against the Peace and Security of Mankind

In its resolution 177 (II), of 21 November 1947, the General Assembly directed the International Law Commission, to formulate the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal, and also to prepare a draft code of offences against the peace and security of mankind.

The International Law Commission confirmed its recognition of the fact that a number of crimes, owing to their particular seriousness, should be regulated under a special legal regime in order to ensure their prevention and to punish those who committed such crimes.¹ The draft code set forth five crimes: aggression (art. 16); genocide (art. 17); crimes against humanity (art. 18); crimes against United Nations and associated personnel (art. 19); and war crimes (art. 20).²

The special rapporteur, Mr. Doudou Thiam, said that in the absence of an international jurisdiction, the system of universal jurisdiction must be accepted for offences against the peace and security of mankind which, because of their nature,

¹ Mr. Alain Pellet, speaking during the 2345th m

(c) The exercise of universal jurisdiction by national courts

There have been no cases in which universal jurisdiction has been exercised by national courts in Peru.

There have been no cases in Peru in which extradition (passive or active) has been requested on the basis of universal jurisdiction.

Nevertheless, the Constitutional Court of Peru has said, in a general reference to the exercise of universal jurisdiction, that "... it is a jurisdiction that does not take

– *Amnesty laws and the exercise of universal jurisdiction*

International law limits the establishment of amnesty laws that cover certain international crimes.¹² Peru believes that amnesties granted by a State for crimes subject to universal jurisdiction are not binding on other States.

(e) Future work on the topic

Bearing in mind the wide-ranging and substantive debate in the Sixth Committee during the sixty-fourth session of the General Assembly, when various views were expressed regarding future work on the topic and where best to pursue it, Peru believes that for the time being, universal jurisdiction should be discussed in the Sixth Committee. Therefore, consideration should be given to the establishment of a working group to identify the similarities in how States treat universal jurisdiction, based primarily on the information they provide in response to General Assembly resolution 64/117.

¹² Security Council resolution 1674 (2006); S/2004/616 and Commission on Human Rights resolution 2003/72.