

United Nations General Assembly | Sixth Committee
The scope and application of the principle of universal jurisdiction
(Agenda item 85)

(check again deli er)

Brazil welcomed the establishment of a Working Group within the Sixth Committee to deal with this item, and we should endeavor to find a definition of universal jurisdiction, as well as a shared understanding of the scope of its application, as a means to avoid the abuse or misuse of the principle.

The exercise of jurisdiction must be in accordance with the principles of sovereign equality among all States and non-intervention in domestic affairs, as laid down in the Charter of the United Nations. The exercise of universal jurisdiction cannot be arbitrary nor should it be used for the purposes of fulfilling other interests than those of justice.

In this context, domestic criminal jurisdiction based solely on the principle of universal justice is necessarily subsidiary in nature. It is an exception to the more consolidated principles of territoriality and nationality. Hence, we should give jurisdictional priority to States with the closest links to the crimes. Before invoking universal jurisdiction and

opening an investigation, judicial authorities should first ensure that there are no ongoing investigations in the affected country or countries.

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, in a manner that favours universality and avoids the selective application of international criminal law. Regarding

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 principle. Finally, one of the most contentious issues remains the application of universal jurisdiction while upholding the jurisdictional immunities of State officials.

The Brazilian Criminal Code only accepts the principle of universal jurisdiction in exceptional circumstances and under clear and objective conditions. Brazilian law applies to the crime of genocide even if committed abroad, as long as the perpetrator is a Brazilian national or someone that resides in the Brazilian territory. In certain conditions, Brazil may also exercise its jurisdiction over crimes that it has obliged itself to repress through international treaties, such as torture, even when they are perpetrated abroad.

Mr. Chair,

Brazil believes universal jurisdiction should not be applied except in a