

United States Submission
Information and Observations on the Scope and Application of the
Principle of Universal Jurisdiction

The United States welcomes this opportunity to submit further information and observations on the scope and application of universal jurisdiction, including information on recent amendments to U.S. domestic legal rules and recent judicial practice. In this connection, the United States notes that its written submission providing information and observations on this topic was in 2010. The United States appends its 2010 submission and reaffirms the views set forth therein, as well as in oral submissions before the Security Council. The United States recalls that jurisdiction does not imply the application of customary international law.

War Crimes Act

In January 2023, President Biden signed into law the Justice for Victims of War Crimes Act, which amended the 1996 War Crimes Act, codified at 18 U.S.C. 2441. This amendment to the act includes any offender who is present in the United States, regardless of the nationality of the victim or offender. Before prosecuting an offense under the War Crimes Act, Department of Justice officials must certify that such a prosecution is in the national interest.

¹ See., e.g. Remarks at the 78th General Assembly Sixth Committee, Agenda Item 86: Scope and Application of the Principle of Universal Jurisdiction, Elizabeth Grosso (Acting Deputy Legal Adviser), October 12, 2023, available at https://www.un.org/en/ga/sixth/78/pdfs/statements/universal_jurisdiction/12mtg_us.pdf

UNITED STATES MISSION TO THE UNITED NATIONS
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The United States Mission to the United Nations
United Nations and the Security Council
January 2, 2019, regarding the Security Council
on certain issues regarding the Security Council
General Assembly

The United States Mission to the United Nations
Nations the assurance of its

Enclosure

United States Submission
Information and Observations on the Scope and Application of the
Principle of Universal Jurisdiction

The United States welcomes this opportunity to submit further information and observations on the scope and application of universal jurisdiction, including information on relevant applicable international

For purposes of this discussion, the United States understands universal jurisdiction to refer to the assertion of criminal jurisdiction by a State for certain grave offenses, where the State's only link to the particular crime is the presence in its territory of the alleged offender. Under this principle, jurisdiction for the offense would be established regardless of the location in which the offense took place, the nationality of either the victim or the perpetrator, or the effect of the crime on the State exercising jurisdiction.

Various federal criminal statutes provide U.S. courts with jurisdiction over certain serious offenses even when there is no direct link between the offense and the United States other than the alleged offender's presence in the United States.¹ Many of these statutes reflect the jurisdictional provisions of international terrorism and other treaties to which the United States is a party, but the statutes also cover a small subset of offenses – crimes like piracy, genocide and torture – for which the authority to exercise such broad jurisdiction derives, at least in part, from recognition of the offense as a universal crime under customary international law.² For example, shortly after World War II, genocide came to be viewed as a crime of universal

Massachusetts legislation established 1991 TIC

jurisdiction over 1991 TIC and 1991 TIC 3

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.⁴

In two other well-known cases, although U.S. law would have permitted prosecution based solely on the principle of universality and the offender's presence in the United States, there were alternative bases for jurisdiction. For example, in 2008, a U.S. court convicted Chuckie Taylor, son of former Liberian president Charles Taylor, of torture and related crimes committed in Liberia between 1999 and 2003 under his father's regime. Although the U.S. torture statute⁵ provides jurisdiction regardless of the

nationality of the offender based on the offender's presence in the United States, Taylor is also a U.S. citizen. In 1998, Ramzi Yousef was convicted of

example, the United States may appropriately defer prosecuting jurisdiction in

favor of a state on whose territory the crime was committed, as such crimes injure the community where they have been perpetrated in particular, the bulk of the evidence will usually be found in that territory, and prosecution within