



**SEZMUN**  
THE SEZİN SCHOOL  
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# GENERAL ASSEMBLY 6

SEZMUN II. HRD SYMPOSIUM

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**ISSUE OF:** EXPANDING THE APPLICATION OF  
UNIVERSAL JURISDICTION TO ENSURE  
PROSECUTION OF ATROCITY VRIMES  
IRRESPECTIVE OF WHERE THEY OCCURE

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## **Distinguished Delagets,**

**It is our honor to welcome you to the deliberations of the United Nations General Assembly Sixth Committee, where we confront one of the most pressing legal and moral challenges of our time: ensuring accountability for atrocity crimes irrespective of where they occur. The principle of universal jurisdiction stands at the heart of this endeavor, embodying the conviction that the gravest offenses against humanity transcend borders, and that justice must not be constrained by geography or politics.**

**In recent decades, the international community has witnessed both remarkable progress and profound limitations in the enforcement of international criminal law. While the establishment of the International Criminal Court and various ad hoc tribunals represents significant milestones, persistent political paralysis and jurisdictional gaps continue to allow perpetrators of heinous crimes to evade justice. In this context, the discussion on expanding the application of universal jurisdiction is not merely a legal exercise, it is a test of our collective commitment to the rule of law and to the protection of human dignity.**

**The Sixth Committee provides a unique forum where diverse legal traditions converge to shape the evolution of international law. Delegates are encouraged to approach this agenda with both legal precision and diplomatic prudence, recognizing the delicate balance between state sovereignty and global accountability. The task before this committee is to refine a framework that strengthens international cooperation, safeguards due process, and ensures that impunity for atrocity crimes becomes an artifact of history rather than a feature of our present.**

**We extend our best wishes to all delegates in their upcoming debates and negotiations. May this session embody the spirit of constructive dialogue, mutual respect, and unwavering dedication to justice that the United Nations was founded to uphold.**

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# Key Terms

**Atrocity Crimes:** term for genocide, war crimes, crimes against humanity, and aggression.

**Complementarity Principle:** The ICC acts only when national jurisdictions are unwilling/unable to prosecute.

**Jurisdictional Sovereignty:** A state's exclusive right to exercise legal power within its territory.

**Impunity Gap:** Failure to hold perpetrators accountable due to jurisdictional or political barriers.

**Extraterritorial Jurisdiction:** Authority to prosecute crimes committed outside a state's borders.

**Universal Jurisdiction (UJ):** The principle that certain crimes are so serious that any state can prosecute them, regardless of where they were committed or the nationality of the perpetrators/victims.

**Mutual Legal Assistance (MLA):** Formal cooperation between states for sharing evidence, witnesses, or documents in criminal cases.

**Transnational Investigations:** Investigations that cross borders, usually through international police or legal teams.

**Evidence Sharing / Witness Protection:** Practical elements to make UJ prosecutions viable and safe for witnesses.

**International Court of Justice (ICJ):** UN court that settles state-to-state disputes, not individual crimes.

**Judicial Independence:** Courts must be free from political interference.

# Key Terms

**Non-Refoulement:** Principle that no one should be sent to a country where they'd face torture or persecution.

**Sovereign Equality of States:** All states are legally equal, regardless of size or power.

**Selective Prosecution / Double Standards:** When states use UJ selectively, prosecuting enemies while ignoring allies.

**Rule of Law in International Affairs:** The idea that all states and individuals are subject to international law equally.

**Politicization of Justice:** When prosecutions are influenced by political motives rather than law.

**Customary International Law:** Rules that become binding through consistent state practice and legal belief (opinion juris), even if not written down.

**Extradition:** The process of handing over a suspect from one country to another for trial.

**Immunities:** Under international law, certain officials (especially heads of state and diplomats) generally enjoy immunities from foreign prosecution for official acts. Critics of UJ often point to these immunities as obstacles.

**Rome Statute:** The statute sets out the court's jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression

# *Topic Introduction*

Universal jurisdiction is the principle that serious international crimes can be prosecuted by any state, wherever they were committed and whatever the nationality of the perpetrators or victims.

It is based on the belief that there are crimes which "are so grave that they affect the international community as a whole," and which require states to take action even in the absence of a direct connection to the crime.

The atrocity crimes that are the subject of this debate genocide, crimes against humanity, war crimes, torture and enforced disappearance are codified in basic treaties and customary law because they assault the very foundations of human dignity.

In practice, however, the majority of victims have been denied domestic courts willing or able to hold suspects accountable, creating impunity. Universal jurisdiction is held out by its supporters as a way to bridge those gaps: TRIAL International, for example, reports that dozens of states now actively use universal jurisdiction, with dozens of prosecutions under way in Europe and the Americas for atrocities in Syria, Myanmar, Rwanda and elsewhere.

This report covers the basis, reach and pitfalls of asserting universal jurisdiction over atrocity crimes. The report presents basic legal principles and addresses main case examples (such as prosecutions for the Rwandan Genocide, the Syrian conflict, and Myanmar's persecution of the Rohingya). It describes how universal jurisdiction intersects with global institutions the ICC, ICJ, UN system and civil society groups like TRIAL International. The report covers the doctrine's legal foundations and controversies, past international activity on accountability (treaties and tribunals), and the positions of the different blocs. It concludes by outlining existing enforcement challenges and posing questions that a resolution could address. The study relies on authoritative sources, including international legal texts, UN reports, and the Universal Jurisdiction Annual Reviews published by TRIAL International.

# Key Issues

**Evidence and Witnesses:** Atrocity crimes often occur in active war zones or repressive states. Collecting reliable evidence (documents, bodies, crime scene data) across borders is very difficult. Witnesses may be traumatized refugees who fear retaliation. States may be unwilling to cooperate (e.g. Syria is not cooperating with EU courts). The UN or NGOs can share some documentation, but building a case requires extensive investigation support.

**Procedural Hurdles:** Many UJ cases become drawn out. As TRIAL International notes for Syria, lengthy pre-trial phases risk “biological impunity” as suspects age or die. Appeals over legal technicalities (such as whether a foreign head of state has immunity) can further delay trials. Jurisdictional limits also pose issues: some countries only allow UJ if the accused is present (e.g. Germany) or if nationals are victims (passive personality). Others allow “absence” prosecutions but then rely on trials in absentia, which are controversial. In Belgium and Spain, reforms now often require a link to their territory or nationality, limiting pure UJ.

**Political Pressures:** Powerful states may pressure or sanction those who investigate their citizens. The Belgian case of 2003 is a stark example: when Belgium’s courts targeted U.S. and Israeli officials, the U.S. threatened to relocate NATO’s headquarters, and Belgium quickly watered down its law. In other cases, countries might quietly discourage investigations (through diplomatic channels or by limiting extradition). Regional politics can also interfere: e.g. African peace processes have at times included amnesties or immunity for leaders, conflicting with UJ efforts.

# Key Issues

**Resource Constraints:** Prosecuting international crimes is expensive and technically demanding. Few national judiciaries have the staff, language skills, or forensic capacity to handle hundreds of foreign witnesses or thousands of documents. Courts may lack funding for translation and travel. This can lead authorities to reject or dismiss UJ complaints for “lack of evidence,” as reported in some cases.

**Labeling Crimes as Terrorism:** A recent trend is prosecuting atrocity acts under domestic terrorism laws instead of using the specialized categories of war crimes or crimes against humanity. TRIAL International warns that this narrows the scope of justice: terrorism definitions vary widely, often exclude state or large-scale abuses, and deprive victims of status in proceedings. Charging universal-crime suspects as “terrorists” may therefore reduce accountability.

**Immunity and Legal Gaps:** As noted above, ambiguity over immunity can halt cases. There is no universal rule: some courts have recognized immunity (e.g. Spain’s magistrates rejected a case against the King of Morocco), while others have pushed ahead. Additionally, not all states criminalize all atrocity crimes comprehensively. For example, if a country lacks a law against crimes against humanity, it cannot exercise UJ over that crime.

**Coordination with the ICC:** The relationship between UJ prosecutions and ICC proceedings can be complex. By treaty, a person cannot be tried simultaneously by the ICC and a national court for the same conduct (to avoid double jeopardy). States must navigate whether to defer to the ICC or proceed themselves. In some cases, perpetrators indicted by the ICC are at large and have no national ties. In theory UJ could apply, but if the state concerned is not cooperating with the ICC, UJ enforcement may stall.



# *Historical Background*

## **Rwanda (1994):**

The 1994 genocide in Rwanda spurred both international tribunals and widespread domestic prosecutions. The UN set up the International Criminal Tribunal for Rwanda (ICTR) at Arusha, which tried many senior leaders and advanced legal definitions (e.g. of rape as genocide). Meanwhile, Rwanda's own Gacaca courts and national trials prosecuted over a million suspects domestically. Beyond Rwanda, universal jurisdiction has been used against genocide perpetrators who fled abroad. For example, Belgian courts have convicted several Rwandans of genocide and related war crimes committed in Rwanda, even decades later. TRIAL International's 2024 review notes that Rwandan suspects have been arrested or tried in Belgium, Switzerland, France and elsewhere. In one notable case, a former Rwandan radio station manager (Pierre Kayondo) was charged in Germany under UJ, and two Rwandans (Pierre Basabosé and Séraphin Twahirwa) were convicted in Belgium for crimes including sexual violence. However, some prosecutions remain stalled: human rights monitors observe that trials may be delayed by the age or health of suspects, risking that perpetrators die before justice (so-called "biological impunity"). In fact, TRIAL warns that a suspect's deteriorating health can "compromise justice" in long-running cases. Rwanda's example shows both the potential of UJ (no safe haven for genocide suspects) and the practical obstacles (long delays, evidence gathering) when crimes occurred decades ago.

# *Historical Background*

## **Syria (2011 - Present):**

The Syrian conflict has generated massive atrocities (mass murder, torture, chemical attacks) but no functioning international tribunal. With the Security Council blocked, victims and activists have increasingly turned to domestic courts in third countries under universal or extraterritorial jurisdiction. In Europe and the Middle East, prosecutors have opened dozens of investigations. TRIAL International's 2024 review reports 49 cases covering Syrian atrocities since 2011, involving 92 suspects which amounts to about 42% of all individuals currently under domestic investigation worldwide for international crimes. These cases target officials from the Assad regime (including intelligence officers, commanders) as well as foreign fighters (e.g. ISIL members) and allied militias. For example, Belgian and French courts have investigated or tried mid-level Syrian officers; in 2023 Germany issued European arrest warrants for President Bashar al-Assad and three aides on chemical attack charges (the warrants are currently being challenged on immunity grounds). Germany and Sweden have pursued other regime figures, and the Netherlands has already convicted at least one former Syrian fighter for crimes committed in Homs. One trial in Germany began in 2023 against three former heads of Syrian intelligence (Ali Mamluk, Jamil Hassan, Abdel Salam Mahmoud) for crimes against humanity. These efforts illustrate how UJ operates in practice: many Syrian suspects live or travel in Europe, enabling arrests under doctrines like the passive personality (when EU nationals were victimized) or pure UJ statutes. However, they also show challenges. In some cases trials proceed "in absentia" (defendants remain in Syria) because France and Switzerland have issued warrants that suspects could not be brought to trial. Moreover, appeals are already pending: for instance, a Swiss case against former Vice-President Rifaat al-Assad (filed in 2013) is still under review. TRIAL International notes that long delays can lead to "biological impunity" if suspects die or evidence is lost. Overall, the Syria example demonstrates the vital role UJ can play in the absence of an international court but also the practical strain on judicial systems and the contest with state immunity.

# *Historical Background*

## **Myanmar (Rohingya Genocide):**

In August 2017, Myanmar's military launched a campaign of atrocity against the Rohingya Muslim minority, amounting to ethnic cleansing and genocide. Domestically, Myanmar has not tried any commanders, and the ICC only recently opened a limited inquiry. A major development for universal jurisdiction came in 2019 when Argentina became the first country to open an investigation under UJ into these crimes. The Burmese Rohingya Organisation UK filed a complaint in Argentina on behalf of survivors; in late 2019 an Argentine judge began investigating Myanmar's military and civilian leaders for genocide and crimes against humanity. By mid-2024, the Argentine Federal Prosecutor was preparing 25 arrest warrants for high-ranking Myanmar officials, and the court ordered the suspects' detention for preliminary hearings. Argentina's case is unique in Latin America but may inspire others: for instance, NGOs have filed complaints in Turkey, Germany and the Philippines against Myanmar generals (all pending at this time). Myanmar's case illustrates how UJ can internationalize justice: even without the ICC, national courts can respond to pleas of victims abroad. The UN's Independent Investigative Mechanism for Myanmar now supports such cases by sharing its evidence with prosecutors (e.g. in Argentina). This approach has major obstacles too: collecting evidence across continents is complex, and many accused officials are either insulated in power in Myanmar or in exile without an extradition treaty. Nonetheless, the Argentine initiative is a landmark step. (Separately, at the international level, The Gambia has brought a genocide case against Myanmar to the ICJ, which underscores widespread condemnation of the Rohingya atrocities.)

# *Historical Background*

## **Other Examples:**

**African Conflicts:** Beyond Rwanda, universal jurisdiction has been invoked for crimes from other African conflicts. Notably, in 2009 several African states successfully invoked the doctrine to bring Sudanese President Omar al-Bashir before the ICJ on charges of genocide relating to Darfur (although this was an interstate case, not a criminal trial). Some examples of individual cases include the 2010 Swedish conviction of former Liberian official Alieu Kosiah for Sierra Leonean war crimes, and European investigations of Ivorian and Congolese militia leaders.

**Former Yugoslavia:** The aftermath of the Balkan wars also saw universal prosecutions. While ICTY prosecuted most cases, some fugitives were tried elsewhere: for example, former Bosnian Serb leader Radovan Karadžić was arrested in Serbia (which then transferred him to The Hague), and other Balkan war criminals (like Biljana Plavšić) were tried at ICTY. Spanish courts, in the meantime, took universal jurisdiction for Argentinian junta officers' crimes (a Latin American case) and Srebrenica genocide crimes in Bosnia in the 1990s.

# ***Bloc Positions***

**Western States (North America, Western Europe, EU):** Generally supportive of strong accountability. Many Western countries (Belgium, France, Germany, UK, Canada, the United States) have domestic laws recognizing universal jurisdiction for core crimes or support the principle politically. They emphasize that UJ is a vital tool to end impunity and show solidarity with victims. Western delegates often point out that historically, universal jurisdiction was used against leaders from non-Western countries (e.g. Charles Taylor of Liberia) and assert that it should be applied impartially. At the same time, some Western lawmakers have sought to balance UJ with protections: for example, after earlier broad UJ laws provoked foreign protests, Belgium and Spain amended their laws to require a link (citizenship or residence) to activate jurisdiction. In UN debates, Western representatives have emphasized complementarity with the ICC and compliance with due process.

**African Union and African Group:** Cautious and often critical of universal jurisdiction. The AU supports accountability in principle but stresses it must not be used arbitrarily against African officials. In 2009, the AU requested the UNGA to discuss UJ and affirmed its backing for the principle “within the context of fighting impunity,” while warning against its “ad hoc and arbitrary application, particularly towards African leaders”. African states recall instances when the ICC and foreign courts focused on African conflicts and have urged that justice not undermine peace processes. AU Summit declarations have reaffirmed concern about “abuse of UJ” and insisted that prosecution of leaders should respect sovereignty and stability. Consequently, many African governments have been reluctant to open UJ prosecutions. (Notably, only one African country has actually tried a foreign tyrant under UJ Chad’s trial of former Chadian leader Hissène Habré in 2016.) The African Group typically argues in the Sixth Committee for clear limits on UJ, for attention to immunity issues, and for greater emphasis on building capacity in victims’ home countries.

# ***Bloc Positions***

**Asia-Pacific (Asia and Pacific States):** Positions vary. Several Asian democracies (Japan, South Korea, Australia, and some ASEAN members) have incorporated universal jurisdiction crimes into law and support international justice mechanisms. Others (China, India, Russia) are skeptical. China's statements at the UN emphasize that any exercise of jurisdiction must strictly adhere to the UN Charter and should not be politically motivated. Some Middle Eastern states see UJ as respecting the fight against terrorism and atrocity, but also stress respect for state sovereignty. In practice, very few Asian countries have actively used UJ prosecutions to date, often preferring diplomatic or multilateral routes (e.g. ASEAN countries favor regional consultation). Notably, the Association of Southeast Asian Nations (ASEAN) has emphasized cooperative enforcement and extradition as better approaches, in line with mutual legal assistance.

**Non-Aligned Movement (NAM):** This group often overlaps with African and parts of Asia/Latin America. NAM countries generally speak in favor of accountability for atrocity crimes, but also emphasize state consent and due process. They tend to align with the African Group's concerns: NAM declarations have echoed warnings that UJ must not become a tool of powerful states to police weaker ones. Several NAM members (Brazil, Indonesia, South Africa in the past) have prioritized diplomatic immunity for officials and have advocated strengthening the ICC rather than expanding UJ. That said, some NAM states (e.g. Argentina, Chile, South Africa historically) have engaged in UJ prosecutions or supported them when their nationals or nationals of allied countries were victims. Overall, the Non-Aligned bloc is split between strong support for universal standards of justice on one hand, and caution about extraterritorial jurisdiction on the other.

# ***Related Organizations***

## **I. International Judicial and Legal Bodies**

### **International Criminal Court (ICC)**

The International Criminal Court, established by the 1998 Rome Statute, is the primary permanent court with the mandate to try individuals responsible for the worst crimes of concern to international society as a whole. It has a complementary jurisdiction over domestic jurisdictions in the sense that it only acts where states themselves are unwilling or unable to prosecute the crime. Even though the ICC has no universal jurisdiction, the fact that there is an ICC at all is evidence of growing international agreement that the atrocity crimes should not go untried. Aside from that, national prosecutions with universal jurisdiction tend to fill gaps in accountability where the ICC has no jurisdiction or Security Council referrals are politically stalled.

### **International Court of Justice (ICJ)**

The International Court of Justice, the highest judicial organ of the UN, resolves disputes among states and renders advisory opinions on matters of law. It is not obligated to prosecute individuals but can bind states to prevent and punish international criminal actions. The Court's decision in *Belgium v. Senegal* (2012) once again confirmed the duty to prosecute or extradite suspected violators of serious international crimes and therefore reinforced the legal basis of universal jurisdiction. Also before us for determination are cases such as *The Gambia v. Myanmar* further clarifying state obligations under international law on that which is peripherally related to arguments employed in those debates in the Sixth Committee.

# ***Related Organizations***

## **Ad Hoc International Tribunals**

Previous ad hoc tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL), have set out important common legal precedents. These courts enshrined individual criminal responsibility doctrine for crimes regardless of position occupied or where they were committed. Their jurisprudence also informs national courts based on universal jurisdiction.

## **International Law Commission (ILC)**

International Law Commission (ILC) also has the vital role to codify and progressively develop rules of international law. ILC Draft Articles on Crimes Against Humanity currently before the General Assembly require states to assume jurisdiction of them and prosecute or extradite suspects on their territory. ILC work forms the basis for legal negotiations in the Sixth Committee on increasing responsibility for accountability.

## **II. Political and Decision-Making Organs of the United Nations**

### **United Nations Security Council (UNSC)**

The Security Council can refer a case to the ICC pursuant to Article 13(b) of the Rome Statute or authorize ad hoc tribunals, such as it has done in the case of Rwanda and the former Yugoslavia. The usefulness of the Council is, however, typically thwarted by permanent members' veto, thereby rendering accountability selective. Such political stalemate has brought demands in the Sixth Committee for universal jurisdiction's expansion as a means of criminalizing atrocities' crimes to be prosecutable even when agreement by the Security Council fails.



# ***Related Organizations***

## **United Nations Human Rights Council (UNHRC)**

Although not a tribunal itself, the Human Rights Council is a part of the international system of responsibility since it establishes bodies that conduct investigations. Such investigating bodies such as the International, Impartial and Independent Mechanism for Syria (IIIM) and the Independent Investigative Mechanism for Myanmar (IIMM) compile evidence to take before courts within the state or a foreign state. States exercising universal jurisdiction can build cases out of internationally collected credible evidence.

## **United Nations High Commissioner for Human Rights (OHCHR) Office**

The OHCHR offers assistance to the Sixth Committee and other UN entities with legal advice, technical support, and information on the implementation of universal jurisdiction in national jurisdictions. The Office, in reporting, helps to identify best practice and challenges in implementing universal jurisdiction into national law and prosecution policy.

## **III. Regional and Cooperative Bodies**

### **European Union (EU)**

The European Union has built robust regional mechanisms of cooperation among member states for prosecuting atrocity crimes. The EU Genocide Network, under the banner of Eurojust, harmonizes prosecutors' efforts throughout Europe and supports cases prosecuted under universal jurisdiction. The EU approach is a model of harmonization of legal principles and practical cooperation among states.

# ***Related Organizations***

## **African Union (AU)**

The African Union is perhaps the most eloquent advocate of universal jurisdiction. Even though it is on the continent of Africa that the majority of the universal jurisdiction cases have come to be heard by European courts, the AU has argued that the principle has been applied selectively politicized form. The AU responded with regional mechanisms of accountability, most glaringly with the proposed enlargement of the African Court of Justice and Human Rights to include international crimes jurisdiction.

## **Organization of American States (OAS) and the Inter-American Court of Human Rights**

In the Americas, OAS and its judicial arm, Inter-American Court of Human Rights, has enforced the responsibility of states to prosecute and investigate grave human rights violations. Universal jurisdiction was invoked by a few Latin American regimes, including Argentina and Chile, to prosecute human rights violators during dictatorship, with focus on regional efforts against impunity.

## **Council of Europe**

The principle of the rule of law is enforced by the Council of Europe via the European Convention on Human Rights and the case law of the ECtHR. According to the ECtHR, omissions to prosecute or investigate serious crimes can themselves constitute a breach of human rights obligations, thus legitimizing the principle of universal jurisdiction.

# ***Related Organizations***

## **IV. Supporting and Operational Actors**

### **National Courts and Prosecutorial Authorities**

The primary point of application of universal jurisdiction is in national courts. Cases such as the Spanish trial of General Pinochet, Belgium's original universal jurisdiction legislation, and Germany's Koblenz trials of Syrian war criminals are illustrations of application of the concept in practice. Domestic precedents permeate modern discussion in the Sixth Committee.

### **Civil Society and Non-Governmental Organizations**

Civil society organizations play a critical role in making universal jurisdiction occur and succeed. Organizations such as Amnesty International, Human Rights Watch, TRIAL International, and REDRESS report the abuses, take the cases to court, and press for legislative reforms. What they are doing is supporting that of international actors by bringing the perpetrators to book on behalf of victims.

TRIAL International focuses exclusively on representing the victims of international crimes in court and through strategic legal practice. It assists survivors in filing cases before national and international courts under universal jurisdiction, provides legal support to prosecutors, and develops local judicial capacity to prosecute high complexity atrocity crime cases. TRIAL International has been a pioneer in paradigmatic prosecutions for Balkans, Democratic Republic of the Congo, and Syria conflict cases that highlight the important role NGOs can play in making the theory of universal jurisdiction a reality in concrete judicial action.

# ***Related Organizations***

## **V. Core International Conventions and Legal Instruments**

### **Geneva Conventions**

Geneva Conventions of 1949 are the pillars of international humanitarian law. They lay down the groundwork of law which mandates humane treatment to individuals who are involved in wars, f.e. war injured fighters, prisoners of war, and civilians. Their four principal treaties, and three Additional Protocols, obligate all parties involved in war to protect those beyond hostility and prohibit torture, cruel, inhuman, or degrading treatment, and civilians' attack. The Conventions are ratified almost universally and have become part of customary international law.

### **Convention Against Torture (CAT)**

The CAT 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obliges States Parties to prohibit and punish tortures under any circumstances whatsoever. CAT categorically excludes, exceptionally or under conditions, even during war or public emergency torture. The Convention also puts pressure on states to prosecute and investigate alleged perpetrators on their territory, including by the exercise of universal jurisdiction when perpetrators are present on their territory. It is examined by the Committee Against Torture, and it includes enforcement of compliance through states' periodic reports and individual complaints.

# ***Related Organizations***

## **Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)**

The 1948 Convention was the first UN human rights treaty to enter into force on ratification. It makes genocide a crime in terms of acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. States Parties are obligated to prevent and punish genocide, both in times of peace and war. The Convention makes criminal prosecution of the perpetrators possible either in a competent national court or an international criminal court. Its article served as the foundation for later work of ad hoc tribunals and the International Criminal Court and established the pillar of universal jurisdiction of genocide.

## **International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)**

The ICPPED, established in 2006, prohibits any form and type of enforced disappearance and states that it is a crime against humanity on an international scale if it is on a widespread or systematic basis. States Parties should at least criminalize enforced disappearance in their respective nations, investigate possible cases and prosecute perpetrators thereof in their own jurisdictions even if the latter occurred elsewhere. The Convention obliges the Committee on Enforced Disappearances (CED) to promoting follow up to implementation, considering complaints, and assisting states in a manner that allows them to take responsibility. It unites the practice of universal jurisdiction with the aim of halting one of the most diffused patterns of state repression.

# ***Related Organizations***

## **African Charter on Human and Peoples Rights (Banjul Charter)**

Accepted in 1981 in the context of the Organization of African Unity (now the African Union), the African Charter spells out a wide array of civil, political, economic, social, and cultural rights. It also has individual and collective (people's) rights and attendant obligations. The Charter established the African Commission on Human and Peoples' Rights to monitor compliance and provide redress for violations, then the African Court on Human and Peoples' Rights. The Charter is a regional attempt to fight impunity and pursuit of justice to complement efforts at the international level to bring perpetrators of atrocities to book.

# Questions a Resolution Should Answer

**Scope and Definitions:** What offenses will be under universal jurisdiction in accordance with the resolution? Should the resolution include a definition of the term "atrocity crimes" (genocide, crimes against humanity, war crimes, torture, etc.)? Finding the balance between definitions and earlier treaties and customary law?

**Legislative Adoption:** In what ways can States be encouraged to adopt or enact national legislation granting universal jurisdiction over crimes of atrocity? Should the resolution promote model laws or best practice? How can it encourage adoption of UJ jurisdiction without disparaging axiomatic legal principles?

**Sovereignty and Immunities:** Resolving universal jurisdiction and sovereignty and immunities respect. The answer may ask: Encourage or limit prosecution of incumbent officials (e.g. allow only post-term prosecution)? How to ensure observance of international norms of diplomatic and head-of-state immunity (as established in the UN Charter and Vienna Conventions)?

# Questions a Resolution Should Answer

**Complementarity and Coordination:** How is the ICC or other tribunals connected to universal jurisdiction? How do States coordinate to avoid conflict (e.g. a State prosecuting a suspect being pursued by the ICC)? Should the resolution urge support for the ICC and other tribunals (e.g. ad hoc tribunals), and for complementarity strategies respecting those institutions?

**Victims' Rights and Participation:** How are victims and survivors protected and empowered? Universal jurisdiction proceedings can be seemingly far from victims' backyards. The response needs to ask how the victims' participation (as plaintiffs or civil parties), access to information, and reparations are guaranteed. Does it need to foster victim support programs or communication with victims' groups?

**International Cooperation:** How to achieve judicial and law-enforcement cooperation? Most crucial areas are extradition and mutual legal assistance. The solution ought to address simplifying extradition of individuals suspected of committing a crime in order to prosecute before another state, transfer of evidence, and moving witnesses. Ought it provide a registry or conduit (e.g. through the UN) for the transfer of case information?



# Questions a Resolution Should Answer

**Role of International Actors:** What are the UN, ICC, ICJ and civil society roles? Should the resolution, e.g., request a UN list of UJ cases, or request technical assistance to States by the Secretary-General? How can NGOs and hybrid mechanisms (e.g., the IIMM for Myanmar) be used?

**Guarantees of a Fair Trial:** How are the rights of defendants to be ensured? The resolution may restate that prosecutions of UJ should adhere to due process, i.e., the right to counsel and a fair trial. It can request States to provide international criminal procedure training for judges and prosecutors.

**Immunity and Transitional Justice:** What is to be done about immunities and amnesties? There are some contexts (such as peace agreements) where amnesties are granted to officials. The resolution could state that universal jurisdiction is compatible with, or an exception to, any blanket policy of amnesty, especially for atrocity crimes. It could also demand repealing domestic immunity laws for serious offenses.

**Practical Aid:** How are capacity and resources to be provided? Is the response finance or regional centers to assist with investigations (war crimes units, forensic centers, witness protection units)? Could there be a volunteer trust fund to assist weaker states in accepting UJ cases?

# *Questions a Resolution Should Answer*

**Prevention of Political Abuse:** How to be shielded from politicization? The remedy might demand protection like non-partisan case selection or judicial oversight, and ask States not to use UJ vindictively. How to implement consistent application of UJ, with no discrimination on the basis of political or geographical status of suspects?

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