



Permanent Mission of
Malaysia
to the United Nations

STATEMENT BY MS. SHAZELINA ZAINUL ABIDIN, REPRESENTATIVE OF MALAYSIA AT THE SIXTH COMMITTEE ON AGENDA ITEM 84: SCOPE AND APPLICATION OF UNIVERSAL JURISDICTION AT THE 64TH UNITED NATIONS GENERAL ASSEMBLY, NEW YORK, 21 OCTOBER 2009

Mr. Chairman,

Allow me to align my delegation to the statement delivered yesterday by the representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement, during the debate on agenda item 84: "The Scope and Application of Universal Jurisdiction".

2. Malaysia understands full well the concerns raised by delegations which eventually led to the inclusion of the principle of universal jurisdiction as an agenda item under the Sixth Committee. As a concept, the principle of universal jurisdiction seems to provide a utopian solution to combating impunity, and ensuring that justice is not only seen to be served, but actually served as well. But like all things that seem too good to be true, the application of universal jurisdiction by States seems to somehow been skewed by other considerations other than the pursuit of justice.

3. It is time, therefore, that we, as members of a responsible international community, take a long, hard look at the principle of universal jurisdiction. We are in agreement, I believe, that we need to set clear parameters to the principle – what constitutes the scope of universal jurisdiction, i.e. what crimes would fall under the principle, and what would not. We need to also agree to what exemptions, if any, exist in utilizing the principle of universal jurisdiction. Where does immunity and amnesty fit in, for example?

4. Thus, it is not the principle itself which is in question, but the scope and application of it. Even in the exercise of universal jurisdiction, we need to make a distinction between mandatory universal jurisdiction, arising out of a treaty obligation, and permissive universal jurisdiction, arising mainly out of customary international law.

Mr. Chairman,

5. In the two days that my delegation has sat through the debate on the scope and application of universal jurisdiction, only one thing is clear – that everyone understands the principle of universal jurisdiction to be based on the notion that certain crimes are so harmful to international interests that States are entitled—and even obliged—to bring proceedings against the perpetrator, regardless of the location of the crime or the nationality of the perpetrator or the victim. At least we are agreed on this point. Score one for us.

6. But what my delegation has also heard are conflicting ideas of what crimes should fall within the purview of universal jurisdiction. Tanzania put it succinctly when it said that these

are crimes “universally repugnant to all”. Following that, we heard the differing crimes which delegations considered repugnant to them, but not to others, which means that it is not universally agreed. Therefore, Mr. Chairman, if we do not want the crimes for which universal jurisdiction may apply to become a long shopping list, we need to sit in this very forum and determine the very parameters of universal jurisdiction.

7. To this end, my delegation pledges its commitment to engage constructively in the deliberations under this agenda item.

Thank you, Mr. Chairman.