



ÇALMUN'25

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THE UNITED NATIONS GA-6: LEGAL STUDY GUIDE

**Agenda Item: Revisiting the Principles of Universal Jurisdiction in the Prosecution of
International Crimes**

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1. Letter from Secretaries General

Most Esteemed Participants

It is our utmost pleasure and enthusiasm to host you at the second edition of ÇemberlitaşMUN'25. As Secretaries-General, we are beyond honoured to witness this conference grow into a platform where diplomacy, intelligence, and collaboration flourish. The past few months have been filled with tireless efforts from our team, shaping what we are confident will be an experience you will never forget.

Our mission is to give a community that encourages active discussion, independent thinking, and innovative answers. With the rapidly changing world today, we believe that today's younger generation has the potential to drive changes. With every one of your speeches delivered, every resolution drafted, and every debate you conduct in this room, our youth deepen their knowledge of the world today.

ÇemberlitaşMUN'25 is not just about the debates—it is about the friends you will make, the skills and the perspective you will gain. We are thrilled to share this experience with all of you and await the energy, diligence, and leadership that will define this conference.

Beste Nur Filiz, Ayça Ayaz

ÇALMUN'25

2. Letter From Under Secretary General

Most Esteemed Delegates,

I am pleased to welcome you all to the second edition of ÇALMUN'25. I am Cansu Solmaz Hurşitoğlu, an 11th grader at Vefa High School and will be serving as the Under-Secretary General of the committee GA6: LEGAL.

I am thrilled to have you participate in this great conference and committee. The LEGAL Committee focuses on critical issues related to universal jurisdiction. As delegates, you have a unique opportunity to engage in meaningful debate, negotiation, and problem-solving to address these pressing issues. This study guide contains many prominent information about the agenda while giving an open space for you to also do your own research. Remember, regardless of your country's position in the agenda, you are all equal in the committee and you have all the resources in your hands to come up with great solutions and innovative ideas to achieve the goals set by the committee.

Other than the committee itself, during these 3 days, my utmost aim is to make sure that all delegates have a fruitful and entertaining conference. I personally think that ÇALMUN'25 will rock the MUN community with its high quality. My biggest target is making everyone find a place in the MUN community for themselves. Attaching importance to the previous statement, even one delegate within this committee continues to attend these conferences; I will be proud and joyful to do so. During every process, my dear and precious academic assistant Alya Berra contributed so much. We did our best together. We are more than sure that we, as the academic team of ÇALMUN'25, will be doing our best to achieve such an accomplishment.

If you have any kind of questions regarding either the agenda item or the committee, please do not hesitate to contact me via email. I recommend you to not limit yourself with the study guide, it's better to research more to achieve more!

Warm Regards,

Under Secretary General, Cansu Solmaz Hurşitoğlu- cansus.hursitoglu@gmail.com

3. Letter From Academic Assistant

Dear Delegates,

It is truly an honour to welcome you all to this edition of ÇALMUN'25, where your passion for diplomacy, law and global affairs will shape the debate ahead. I am Alya Berra Bellice, a preparatory class student from Çemberlitaş Anatolian High School and I am completely honoured to have the privilege to serve as GA:6 LEGAL's Academic Assistant. I hope, as a committee, we get along so well and spend these fascinating three days as best as we can!

In ÇALMUN'25, The Legal Committee will be tackling one of the most complex and debated principles in international law: Universal Jurisdiction. As you engage in discussions, I encourage you to think critically, challenge assumptions, and explore different perspectives. After all, MUN is always full of surprises—new perspectives, heated debates, and moments where you completely rethink your stance. No matter how the discussions unfold, what makes it truly special is the energy and ideas each of you brings. Every conference is a mix of serious diplomacy and those fun, unexpected moments that make it unforgettable.

For delegates to understand the committee's topic and be able to think about it, we have the honour to present to you the study guide we prepared with my Under-Secretary General, Cansu. With her amazing guidance and passion to work on this topic, she always helped me understand it and led me no matter what. Thanks to her support, I was able to help prepare this guide. This guide is here to provide you with a solid foundation, but the real impact comes from your research, your arguments, and your ability to think critically.

Lastly, I wish we all spend ÇALMUN'25 with amazing debates, judicious discussions and unforgettable moments. Looking forward to seeing all the debates, unexpected turns, and maybe even some last-minute speech miracles. Enjoy the conference, make the most of it, and most importantly—have fun!

With pleasure,

Academic Assistant, Alya Berra Bellice

4. Introduction to Committee

The Legal Committee (LEGAL) is the Sixth Committee of the United Nations General Assembly, and it is responsible for handling the legal matters regarding the United Nations as well as matters regarding general international law as a whole. Unlike other GA committees, the Sixth Committee focuses solely on the legal aspects of these issues.

When it comes to negotiating treaties, interpreting international conventions, and creating guidelines for legal standards, the GA:6 is extremely significant. It covers subjects like treaty law, counterterrorism, United Nations (UN) employee accountability, and international humanitarian law. Additionally, it collaborates closely with important legal organizations, such as the International Law Commission(ILC), The International Court of Justice (ICJ), and specialized UN agencies.

Each member state has one vote and participates equally, as is the case with all GA committees. Recognizing that the committee's resolutions have substantial ethical, moral, and political significance for the member nations despite not being legally enforceable is one of its most crucial functions. Since its inception, GA:6 LEGAL has served as the principal platform for nations to discuss collective laws and international legal standards, and it will continue to clear the path for international compliance and collective will in global politics. The decisions made here have long-lasting effects, as they help establish precedents and legal frameworks for future international agreements and conventions.

5. Key Terms and Definitions

Universal Jurisdiction: Universal jurisdiction refers to the principle that certain crimes are of such gravity that the international community has agreed they may be prosecuted by any state, regardless of where the crime was committed or the nationality of the person responsible. For instance, if an individual commits a crime such as genocide, they cannot evade justice simply by fleeing to another country. This principle ensures that, irrespective of the perpetrator's location, they can be held accountable for their actions.

Extradition: Extradition is when a country works with another to send someone back who's tried to escape justice. If a person commits a serious crime and flees to a different country, their homeland should give the criminal back.

Impunity: Impunity means freedom from punishment or from the unpleasant results of something that has been done.

Admissibility: Admissibility is the legal process of determining whether a case can be brought before an international court.

Obligations Erga Omnes: This means the obligations of a state not to a particular state but to the international community as a whole. For example, the duty to prevent and punish genocide or crimes against humanity is considered erga omnes, meaning that all states have an interest in complying with it.

Jus Cogens: Jus cogens, or compelling law, refers to a category of norms that govern customary international law.

Aut Dedere Aut Judicare: A principle according to which a state may assume an affirmative obligation (usually by treaty) either to punish a person shown to have violated an applicable principle of law or to extradite the person to another state for punishment. Basically it means "Either to punish or to deliver."

6. Introduction to the Agenda Item: Revisiting the Principles of Universal Jurisdiction in the Prosecution of International Crime

Universal Jurisdiction is a legal principle that allows the prosecution of crimes that are so serious as they pose a threat not only to individuals but also to the international community as a whole. A state has its own jurisdiction over crimes committed within its borders but it is also expected to prosecute international crimes no matter who committed them, where they are committed and for whom they are committed. Moreover, the states that have universal jurisdiction may claim authority along with taking legal action. Thus, in the circumstances when a state is unwilling to or not able to arraign a crime, other states with universal

jurisdiction have the right to intervene and take legal action. These aims to offer the opportunity to hold perpetrators accountable and prevent impunity.

International law usually allows a state to prohibit acts which take place outside its territory only when they are done by or to one of its nationals or when they threaten some vital interest of that state. But there are some acts that a state may criminalize when none of these links are present, on the basis of what is known as universal jurisdiction. Piracy on the high seas is an ancient example that could be cited, since, as early as the Middle Ages, all states have been allowed to punish pirates, regardless of their nationality.

Today, a growing number of treaties not only allow but also oblige states to permit their courts to try crimes, regardless of where and whom they are committed. Hijacking, hostage-taking, torture and trafficking in humans are just a few of the many treaty crimes of universal jurisdiction. In addition, although the question is not beyond doubt, it is likely that international law permits states to act upon universal jurisdiction over war crimes, crimes against humanity, genocide, and slavery and the slave trade, even in the absence of a treaty to the effect. However, in no case may a state arrest a suspect who is in the territory of another state. International law generally allows a state to enforce its criminal law only when the alleged offender is within its own territory.

The current event that could help to understand the importance of Universal Jurisdiction is the sudden removal of Bashar al-Assad which provides a unique opportunity for justice that had always seemed impossible until now due to Assad's regime's brutality as it targeted civilians using chemical weapons, barrel bombs and starvation. Many international efforts, such as investigations by the UN and prosecutions in various countries, have been trying to hold those responsible accountable. However, the highest officials still remain out of reach. This is where Universal Jurisdiction comes in. It allows countries to take action and punish people for serious crimes, like war crimes and crimes against humanity, no matter where the crime happened or who the criminal is. Universal Jurisdiction gives countries the chance to make sure those who commit such horrible acts are held responsible, even if national courts cannot act.

Universal jurisdiction differs from a state's prosecuting crimes under its own laws, whether on its own territory (territorial jurisdiction) or abroad (extraterritorial jurisdiction). As an example, the United States asserts jurisdiction over stateless vessels carrying illegal drugs on

international waters—but here the US reaches across national borders to enforce its own laws, rather than invoking universal jurisdiction and transnational standards of right and wrong.

States attempting to police acts committed by foreign nationals on foreign territory tend to be more controversial than a state prosecuting its own citizens wherever they may be found.

Based on which a state might exercise jurisdiction in this way include the following:

A state can exercise jurisdiction over acts that affect the fundamental interests of the state, such as spying, even if the act was committed by foreign nationals on foreign territory. For example, the Indian Information Technology Act 2000 largely supports the extraterritoriality of the said Act. The law states that a contravention of the Act that affects any computer or computer network situated in India will be punishable by India irrespective of the guilty's location and nationality.

A state may try its own nationals for crimes committed abroad. France and some other nations will refuse to extradite their own citizens as a matter of law, but will instead try them on their own territory for crimes committed abroad.

More controversial is the exercise of jurisdiction where the victim of the crime is a national of the state exercising jurisdiction. In the past some states have claimed this jurisdiction (e.g., Mexico, Cutting Case (1887), while others have been strongly opposed to it (e.g., the United States, except in cases in which an American citizen is a victim: *US v Yunis* (1988)). In more recent years, however, a broad global agreement has emerged in allowing its use in the case of torture, "forced disappearances" or terrorist offences (due in part to it being permitted by the various United Nations conventions on terrorism); but its application in other areas is still highly controversial. For example, former dictator of Chile Augusto Pinochet was arrested in London in 1998, on Spanish judge Baltazar Garzon's demand, on charges of human rights abuses, not on the grounds of universal jurisdiction but rather on the grounds that some of the victims of the abuses committed in Chile were Spanish citizens. Spain then sought his extradition from Britain, again, not on the grounds of universal jurisdiction, but by invoking the law of the European Union regarding extradition; and he was finally released on grounds of health. Argentinian Alfredo Astiz's sentence is part of this juridical frame.

Universal jurisdiction must therefore be utilized in a cautious manner that minimizes possible negative consequences, while at the same time enabling it to achieve its useful purposes. It

must also be harmonized with other jurisdictional theories. Furthermore, it should be noted that private international law has not yet developed rules or criteria of sufficient clarity to consider priorities in the exercise of criminal jurisdiction whenever more than one state claims jurisdiction.

The legal theorists have a common agreement that “piracy, slavery, war crimes, genocide, crimes against humanity and torture” are the crimes that subject to universal jurisdiction. There are some proponents positing that offences related to terrorism acts should be recognised as crimes that are subject to universal jurisdiction. However, such proposal has not enjoyed wide acceptance, perhaps owing to the fact that there have not been universally accepted definition of ‘terrorism’. Though some studies claim that there are unanimous views with respect to the crimes to which universal jurisdiction applies; the submissions that have been made to the UN recently shows diverse views. For example, whereas China only made a submission that piracy should be the only crime to which the principle of universal jurisdiction applies, both Belarus and Iraq submits that the principle of universal jurisdiction should extends to ecocide as well as crimes relating to the sabotage of international channels of communication. Whether or not there is unanimous acceptance of the principle of universal jurisdiction, there are controversies surrounding the scope and appropriate application of the principle. These differing views highlight the ongoing debate over the scope of universal jurisdiction, with some states advocating for its extension to include additional crimes like ecocide and terrorism, while others argue for a more restricted application. As such, the principal's future remains uncertain, and its development will likely depend on further international dialogue and legal reforms to clarify its boundaries and applicability.

6.1. Crimes that subject to Universal Jurisdiction

a. Piracy: In the summer of 2008, an outbreak of piracy broke out in the Gulf of Aden, off the Horn of Africa, with record numbers of ships attacked and captured. The magnitude of the problem generated a response that on the surface appears to be a model of international cooperation. A remarkable naval force, launched by the United States and with contributions from a dozen nations, assembled in the Gulf of Aden. The U.N. Security Council unanimously authorized the use of force against pirates even in sovereign Somali territory. These developments could be seen as a high point for a new international legal order. Yet the international response has failed to control the outbreak of piracy. 6 The countries policing the Gulf of Aden refuse to attack and

often even to arrest the pirates. As the U.S. National Security Council wrote, “Somali-based piracy is flourishing because it is nearly consequence-free.

The Somali piracy problem provides an excellent case study of the effects of various international legal rules, because one would expect international law to be more effective here than with terrorism and unlawful combatants. Piracy is the paradigmatic crime for which international law authorizes and even requires universal enforcement and punishment. Terrorism, on the other hand, is not an international offense. Unlike the War on Terror, the anti piracy campaign has not been the subject of intense domestic or international dispute; an alliance of diverse states has sent forces to inhibit Somali pirates. The only state whose sovereign interests are at stake, Somalia, has made clear that it has no intention of intervening on behalf of the pirates.

Similarly, pirates lack ideological fellow-travelers who might draw attention to their cases. Terrorists have political goals and thus sympathizers, lobbyists, and often state support. Furthermore, the U.N. Security Council resolutions authorized robust action against Somali pirates, both at sea and in sovereign Somali territory.

The Security Council passed five such resolutions in 2008, more than on any other issue, including the Israeli-Arab conflict. Unlike terrorism, which is often directed at a particular nation, piracy directly injures the commerce of the many countries whose trade passes through the Gulf of Aden; states suffer direct losses and thus have private incentives to intervene.

Moreover, the practicalities of fighting piracy are less daunting than terrorism: pirates have little training, float around the seas in open boats, and thus are easier to catch than terrorists. Finally, while Kenya is now hosting trials of some captured pirates, many third-party states are not eager to try or jail terrorists or other serious international criminals out of fear that their friends might retaliate. Even U.S. allies sympathetic to President Obama’s planned closure of Guantánamo refused to accept detainees from the base. Similarly, the Netherlands agreed to host the war crimes trial of former Liberian President Charles Taylor, but refused to host his imprisonment if he is convicted.

b. Slavery: Slavery has been associated with piracy since 1815 when the Declaration of the Congress of Vienna equated traffic in slavery to piracy. Since then, there has

been a gradual development in the positive international law of slavery and slave-related practices based on the same type of universal condemnation that existed with respect to piracy. Nevertheless, universal condemnation, which is evident in twenty-seven conventions on the subject of slavery and slave-related practices from 1815 to 1982, did not always produce the resulting universality of jurisdiction. There are also forty-seven other conventions between 1874 and 1996 relating to slavery. An analysis of the text of these conventions reveals that only a few establish universal jurisdiction or allow a state to exercise it.

It may be significant that, with respect to traffic in slavery on the high seas, universal jurisdiction is more evident in treaty provisions insofar that traffic has been equated to piracy. In this situation, universal jurisdiction is necessitated by the medium used by traffickers, namely, the high seas, since it is the most effective way to combat such traffic. However, with respect to sexual exploitation of persons, it seems that the conventions have left it to the states to decide what jurisdictional theories they would rely upon. This may be explained in part by the fact that these practices are conducted by means of transiting through the territory of states and that the ultimate stage of such trafficking is exploitation on the territory of a state.

As a result, a state could exercise territorial criminal jurisdiction to combat this international crime without the need for universal jurisdiction. This neutral position on universal jurisdiction is expressed in the 1950 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which in Article 11 states "[n]othing in the present Convention shall be interpreted as determining the attitude of a Party towards the general question of the limits of criminal jurisdiction under international law."

Whenever slavery and slave-related practices are committed within the context of an armed conflict, it is subject to international humanitarian law and becomes a war crime. But in such cases, even though the crime is international and is part of 'jus cogens' (refers to a category of norms that govern customary international law), the jurisdictional theory relied upon is usually territoriality.

The provisions contained in all the treaties relevant to slavery and slave-related practices characteristically require the signatory states to take effective measures to

prevent and suppress slavery, and also provide specific obligations as to criminalization and punishment, extradition, and mutual legal assistance. All of these provisions can best be characterized as reflecting the concept of *aut dedere aut judicare*. This is even true with respect to the more recent treaty provisions that link slavery to piracy. For example, the 1958 Geneva Convention on the Law of the High Seas provides in Article 13 that: every state shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall right after be free.

It is also significant that the dramatic increase in the traffic of women and children for sexual exploitation, which has taken place in the last two decades, has only recently been the subject of a specialized convention: the Protocol on International Traffic in Women and Children, which is part of the Convention on Organized Crime of December 2000.¹¹⁸ With respect to this category of *jus cogens* international crimes, it was essentially the writings of scholars that has driven the notion that universal criminal jurisdiction extends to all manifestations of this category of international crimes.

c. War Crimes: M. Cherif Bassiouni (1937–2017) was an Egyptian-American legal scholar, often referred to as the "*father of international criminal law*." He was a key figure in the development of international criminal justice, contributing significantly to the establishment of the International Criminal Court (ICC) and the drafting of laws related to human rights, war crimes, and genocide.

Bassiouni held numerous academic and legal positions throughout his career. He was a professor at DePaul University in Chicago and served as a UN investigator for crimes committed in the former Yugoslavia. His work laid the groundwork for the prosecution of war crimes and other serious violations of international law.

In his paper, "Universal Jurisdiction for International Crimes: Historical Perspectives and Contemporary Practice," M. Cherif Bassiouni explores war crimes, their legal basis, and challenges in their prosecution.

6.2. Definition and Legal Foundations

War crimes refer to serious violations of international humanitarian law, such as attacks on civilians and prisoners of war. These crimes are defined in the 1949 Geneva Conventions and other legal treaties. Bassiouni highlights that war crimes have been addressed in international law for centuries but became more structured after World War II, particularly with the Nuremberg Trials.

6.3. Universal Jurisdiction and Its Importance

Bassiouni emphasizes that war crimes fall under universal jurisdiction, meaning that any country can prosecute these crimes, regardless of where they were committed. This principle exists because war crimes are offenses against all of humanity, not just individual states.

Examples like the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Rwanda Tribunal (ICTR) demonstrate efforts to apply universal jurisdiction. However, he also points out that political interests often prevent these prosecutions from being effective.

6.4. Challenges in War Crimes Prosecution

- War crimes trials can take place in national or international courts, but enforcement is inconsistent.
- Powerful states and their allies often avoid accountability by using political and legal loopholes.
- Governments sometimes prioritize diplomatic relations over justice, preventing the prosecution of high-ranking officials.

6.5. State and Individual Responsibility

While war crimes can be committed by both individuals and states, Bassiouni notes that prosecuting states is rare due to the principle of sovereign immunity (the idea that states cannot easily be held legally responsible).

However, individuals—such as military commanders and political leaders—can still face prosecution under international criminal law.

d. Crimes Against Humanity: The concept of crimes against humanity has long lacked an authoritative definition. However, the Statute of the ICC has now filled this gap. Article 7 defines as crimes against humanity a number of practices, including murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecution, enforced disappearance, and apartheid “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”²² No connection with an armed conflict is required. The Statute understandably does not purport to enable domestic courts to exercise universal jurisdiction in respect of these crimes. However, it is widely considered that such exercise of jurisdiction is permitted under customary international law. An investigating magistrate in Brussels has recently ruled that alleged perpetrators of crimes against humanity committed abroad could be brought to justice in Belgium on the basis of customary international law. Belgium has subsequently amended its legislation to specifically enable its courts to exercise universal jurisdiction in respect of crimes against humanity.

e. Torture: Under the UN Convention against Torture, a state party is required to submit the case of an alleged torturer found in its territory to its competent authorities for the purpose of prosecution, if it does not extradite him: The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in Article 4 is found, shall in the cases contemplated in Article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

The obligation is limited to persons found in a state’s territory and therefore does not go as far as the Geneva Conventions, which contain a duty to search for persons, even when they are outside the territories of states’ parties. A prosecutor must treat offenses in the same manner as if they had been committed in the prosecutor’s own state. Since the prosecutor is acting on behalf of the international legal order, the fact that the crime may have been committed far away from the prosecutor’s office has no

bearing on his or her discretionary powers. States not parties to the Convention against Torture are entitled, but not obliged, to exercise universal jurisdiction in respect of torture on the basis of customary international law.

The ICTY has pointed out that the entitlement of every state to investigate, prosecute, and punish or extradite individuals accused of torture, who are present in a territory under its jurisdiction is one of the consequences of the jus cogens character bestowed by the international community on the prohibition of torture. Perpetrators of torture committed in states that are not parties to the Convention against Torture may therefore be brought to trial elsewhere on the basis of universal jurisdiction. Examples are the proceedings started recently in the United Kingdom and France against a Sudanese and a Mauritanian national for torture committed in Sudan and Mauritania, respectively. Sudan and Mauritania are not parties to the Convention against Torture.

f. Other crimes: By its very nature, the principle of universal jurisdiction can apply only in a limited number of instances. For the time being, it may be wiser to concentrate on the need to exercise the principle with regard to the crimes to which it clearly applies under current international law rather than to focus on an expansion of the catalogue of crimes. Nevertheless, the number of offenses that are subject to universal jurisdiction in international law is likely to continue to increase. For example, perpetrating “forced disappearances” (on a scale not amounting to a crime against humanity) has recently been identified as a crime subject to universal jurisdiction under the InterAmerican Convention on Forced Disappearance of Persons. This regional initiative has been endorsed at the global level.

The UN Declaration on the Protection of all Persons from Enforced Disappearances contains a provision on the exercise of universal jurisdiction with regard to persons presumed responsible for an act of enforced disappearance.

6.6. OBSTACLES TO THE EXERCISE OF UNIVERSAL JURISDICTION

A comparative analysis of the cases in which proceedings have so far been brought against persons suspected of having committed gross human rights offenses reveals several obstacles of a legal or practical nature that typically arise. Some of these difficulties may arise in any

trial of crimes under international law. They include problems such as those relating to statutes of limitations, command responsibility, superior orders, and gender issues.

A recent codification of the applicable rules of international law on these issues may be found in the Statute of the ICC. Some difficulties are, however, typical for the trial of crimes on the basis of universal jurisdiction and they will be considered here in some more detail. They include the lack of adequate implementing legislation, lack of specialized machinery, immunities, amnesties, evidentiary problems, and ineffective international supervision.

6.7. UN's Role

The United Nations (UN) has been deeply engaged in discussions regarding universal jurisdiction, a legal principle that allows national courts to prosecute individuals for serious international crimes, such as war crimes, genocide, and crimes against humanity, regardless of where these crimes were committed or the nationality of the perpetrators or victims. The primary focus of the UN's involvement has been to clarify the legal framework, scope, and practical application of universal jurisdiction while addressing concerns over its potential misuse.

Since 2009, the issue of universal jurisdiction has been a recurring topic of discussion in the Sixth Committee (Legal Committee) of the UN General Assembly. These discussions arose from differing perspectives among UN member states, some of which strongly support universal jurisdiction as a means to combat impunity and ensure justice for the most serious crimes under international law. Others, however, have expressed concerns that universal jurisdiction could be used for political purposes, selectively targeting certain individuals or countries while allowing more powerful nations to act with impunity. There are also fears that it could undermine national sovereignty, as one country prosecuting individuals from another state might be seen as an infringement on the latter's judicial authority.

To address these challenges, the UN established a working group within the Sixth Committee in 2017 to study how universal jurisdiction is applied in different national legal systems. The objective of this working group is to develop clearer guidelines and principles for the proper application of universal jurisdiction, ensuring that it is used consistently and fairly across different jurisdictions. However, despite years of discussions, there is no international

consensus on a uniform legal framework for its implementation. Some states argue that universal jurisdiction should only be applied under strict conditions and in accordance with international treaties, while others advocate for a more expansive and flexible approach that allows national courts to act whenever there is clear evidence of international crimes.

The International Criminal Court (ICC) is often cited as a key institution in enforcing universal jurisdiction, as it was established specifically to prosecute the most serious international crimes when national courts are unwilling or unable to do so. However, the ICC faces limitations, particularly because several major powers, including the United States, Russia, and China, do not recognize its authority. As a result, the effectiveness of universal jurisdiction remains limited, as some of the world's most powerful countries refuse to be bound by international legal mechanisms.

In recent years, there have been high-profile cases in which national courts have exercised universal jurisdiction. For example, some European countries have prosecuted individuals for crimes committed during the Syrian civil war, arguing that these crimes were so severe that they warranted prosecution under universal jurisdiction. However, these cases have also sparked controversy, with some governments viewing them as selective justice or as interfering in political affairs.

The UN remains committed to finding a balance between ensuring justice for international crimes and respecting the sovereignty of states. While universal jurisdiction is widely recognized as a necessary tool to prevent impunity, ongoing discussions focus on how to prevent its misuse and ensure that it is applied fairly and consistently across different countries. The lack of clear, universally accepted legal standards continues to pose challenges, but the UN's efforts to refine the principles of universal jurisdiction reflect the broader goal of strengthening international justice and accountability.

6.8. Conclusion

While the project of universal jurisdiction requires the highest standards of the rule of law –similar to, or even higher than, those applied in any domestic constitutional system –, its predicament is revealed in the truth according to which the reality of international relations is still one of power politics, whereby relations between states are conducted on the basis of the

assertion of national sovereignty. International criminal jurisdiction, for all its failings, is going to compensate for some of the weaknesses of domestic criminal jurisdiction; it is going to act in some cases where local social and political forces prevent a domestic prosecution. That will be a net gain, even if international prosecution is not possible in many cases and perhaps not even in the ones we would most like to see prosecuted. The combination of universal criminal jurisdiction of states and an international criminal court is a system which meets the criteria for effective implementation of the Code of Offences against the Peace and Security of Mankind.

6. General Overview

Universal jurisdiction is a fundamental principle of international law that allows any state to file suit for certain international crimes, regardless of where the crimes occurred or the nationality of the perpetrators or victims. This principle is based on the belief that some crimes are so extreme that they offend the global conscience and that any nation has the right and responsibility to seek justice. These crimes, which include genocide, war crimes, crimes against humanity, and torture, are considered serious enough to go beyond national borders and be subject to universal jurisdiction.

Historically, universal jurisdiction started with the goal of preventing piracy, as pirates were considered enemies of all and could therefore be arrested and prosecuted by any state. Over time, the concept expanded to include other international crimes, particularly after the atrocities of World War II. Universal jurisdiction has been an important tool in preventing impunity for the most egregious crimes, ensuring that individuals are held accountable for their actions even when they seek refuge in a different jurisdiction.

Universal jurisdiction, while celebrated for its potential to achieve justice, is not without controversy. The principle raises important questions about state sovereignty, immunity for government officials, and the potential for political abuse. Some states argue that universal jurisdiction violates their sovereignty, especially when powerful nations use it to prosecute officials of smaller or less powerful states. Giving states this power in a system dominated by interests has raised questions. But others argue that allowing such crimes to go unpunished

because of national or political obstacles undermines the credibility of international law. Because an impartial judiciary is what everyone can rely on.

Universal jurisdiction has played an important role in the development of international criminal justice systems, particularly through the establishment of international tribunals such as the International Criminal Court (ICC) and various ad hoc tribunals to investigate crimes in the former Yugoslavia and Rwanda.

6.1. Background Information, Current Events, and Situation

I. Post World War 2

The origins of universal jurisdiction date back to the aftermath of World War II. The global furor caused by Nazi atrocities, particularly the Holocaust—the Nazi genocide of the Jews—led to a widespread consensus that those responsible for such heinous acts of aggression must be held internationally accountable. In 1945, the Nuremberg Trials were the first significant attempts to try individuals for crimes against humanity, war crimes, and genocide. The trials established the much-discussed principle that individuals can be held criminally responsible under international law regardless of the laws of their own country or where the crimes were committed. It is said that this principle may be the only good thing Hitler brought to world history.

II. The Eichmann Trial

Adolf Eichmann was one of the most important actors in the implementation of the "Final Solution". Tasked with directing and facilitating the mass deportation of Jews to ghettos and killing centers in the German-occupied East, Eichmann was among the principal organizers of the Holocaust. His trial in Jerusalem, Israel in 1961 sparked international interest and increased public awareness of the crimes of the Holocaust.

The Eichmann Trial demonstrated that states could use universal jurisdiction to try individuals for crimes against humanity, even if those individuals were in a different country and the crimes were committed far away. The case was seen as a precedent for future efforts to hold perpetrators of international crimes accountable, and demonstrated that individuals

were not safe from prosecution for the most heinous crimes even after they had fled to foreign countries.

III. The Pinochet Case

The 1973 Chilean Coup was a military coup that overthrew socialist President Salvador Allende and brought General Pinochet to power on September 11, 1973. This coup overthrew the world's first elected socialist government and established a dictatorship that would last 17 years.

According to official figures, approximately 40,000 people were illegally detained or tortured in Chile between 1973 and 1990. More than 3,000 people were killed or disappeared. A 1978 amnesty law exempted from criminal liability those who committed human rights violations between September 11, 1973, and March 10, 1978.

Pinochet was arrested in London at the request of Spain, which had requested his extradition to face charges of human rights abuses committed during his regime in Chile. Pinochet argued that he had immunity as a former head of state, and this claim was tested in the House of Lords. The House of Lords ruled that Pinochet could not claim immunity for crimes such as torture, which are considered violations of international law. This decision was groundbreaking, as it reaffirmed the principle that even former heads of state can be held accountable for international crimes under universal jurisdiction, particularly crimes that shook the global conscience. However, the case also highlighted the political sensitivities surrounding universal jurisdiction, as diplomatic and political considerations often play a major role in such legal proceedings.

After approximately 16 months under house arrest in London, he returned to Chile in March 2000, after British Home Secretary Jack Straw allowed him to return home, based on a report that Pinochet's health was unfit to stand trial.

Although the Pinochet era is considered a period in which numerous human rights violations took place, according to Pinochet supporters, the country achieved great economic development thanks to Pinochet.

IV. The Trial of Hissène Habré

On July 20, 2015, former Chadian dictator Hissène Habré went on trial in the Extraordinary African Chambers of the Senegalese courts on charges of crimes against humanity, war crimes and torture. It was the first time in the world that the courts of one country tried a former ruler of another for alleged human rights crimes. The fact that the trial began 25 years after Habré was overthrown and fled to Senegal was due entirely to the determination and perseverance of Habré's victims and allies such as Human Rights Watch. The French newspaper Le Monde described the trial as "a turning point for justice in Africa".

Habré was found guilty in 2016 and sentenced to life imprisonment, giving rise to the assumption that such cases were of interest to European or Western states, with universal jurisdiction effectively applied in the Global South.

7. Major Parties Involved

Rome Statute

The Rome Statute of the International Criminal Court is the international treaty that founded the Court. Adopted at the Rome Conference on 17 July 1998, it entered into force on 1 July 2002, thereby creating the International Criminal Court. The Rome Statute, which established the ICC, is the most important international agreement on universal jurisdiction. Although the Statute does not directly mandate universal jurisdiction, it does guarantee the principles of accountability for genocide, war crimes and crimes against humanity that are at the core of universal jurisdiction. The Rome Statute stresses that these crimes cannot be committed with impunity and must be prosecuted at the national or international level. The principle of subsidiarity in the Rome Statute reinforces the



importance of national courts exercising universal jurisdiction in cases where the ICC cannot intervene.

Genocide, crimes against humanity, war crimes, and, as of a 2010 amendment, the crime of aggression are covered by the Statute. The Court's administration and composition, investigations and prosecution, trials, penalties, appeal and revision, foreign cooperation and judicial assistance, admissibility and relevant law, and enforcement are all covered in addition to jurisdiction.

125 countries are States Parties to the Rome Statute of the International Criminal Court. Out of them 33 are African States, 19 are Asia-Pacific States, 20 are from Eastern Europe, 28 are from Latin American and Caribbean States, and 25 are from Western European and other States.

International Criminal Court (ICC)

The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.



In accordance with article 112 of the Rome Statute, the Assembly of States Parties meets at the seat of Court in The Hague or at the United Nations Headquarters in New York once a year and, when circumstances so require, may hold special sessions.

There is one representative from each State Party in the Assembly, who may be joined by advisers and alternates. Although every attempt will be made to obtain decisions by consensus, the Rome Statute also stipulates that each State Party has one vote. Without having the ability to vote, states that are not parties to the Rome Statute may participate in the Assembly's operations as observers.

The ICC's principle of complementarity means that it intervenes only where national courts are unwilling or unable to prosecute these crimes, effectively strengthening the role of universal jurisdiction in ensuring that perpetrators are brought to justice.

International Law Commission (ILC)

"To initiate studies and make recommendations with a view to promoting the progressive development and codification of international law" is the mission stated in Article 13(1)(a) of



the United Nations Charter, which the General Assembly established in 1947 to

carry out the International Law Commission. The duties of this commission are settlement of disputes to which international organizations are parties; prevention and repression of piracy and armed robbery at sea; subsidiary means for the determination of rules of international law; non-legally binding international agreements.

Human Rights Watch (HRW)

Human Rights Watch was founded in 1978 as "Helsinki Watch," when they began investigating rights abuses in countries that signed the Helsinki Accords, most notably those behind the Iron Curtain. When families victimized by war crimes found no justice at home, they championed international justice and international courts.



They are composed of approximately 550 people from over 70 countries and include: country experts, lawyers, journalists. They direct their advocacy to governments, armed groups, and businesses, compelling them to change or implement their laws, policies, and practices. They refuse government funding to ensure their independence, and they carefully review all donations to ensure they are consistent with their policies, mission, and values. They partner with organizations large and

small around the world to protect activists fighting back and help hold abusers accountable and bring justice to victims.

“Together, we can use our influence – from advocating with world leaders to sharing the truth of what’s happening on the ground – to help stop repression around the world.”

Ken Roth (Former Director)

The Geneva Conventions

The Geneva Conventions – one of humanity's most important accomplishments of the last century – turned 70 on 12 August 2019. The Geneva Conventions, which form the core of international humanitarian law, play a significant role in the context of universal jurisdiction. They oblige states to prosecute those who commit "grave violations" of international humanitarian law, such as war crimes regardless of where the crimes are committed or the nationality of the perpetrators. The Geneva Conventions represent a basic framework within which universal jurisdiction is exercised, particularly in the prosecution of war criminals.



United States of America

The United States takes a cautious and strategic approach to universal jurisdiction (UJ), emphasizing territorial jurisdiction, active nationality jurisdiction, and treaty-based obligations over broad extraterritorial prosecutions. While it recognizes the importance of UJ in addressing serious international crimes such as genocide, war crimes, and crimes against humanity, its application remains limited and selective. Unlike some European countries that apply UJ more broadly, the US generally restricts its use to cases that have a direct connection to national security interests, treaty commitments, or the presence of the accused within its territory.

At the United Nations (UN) level, the US acknowledges the role of UJ in ensuring accountability and preventing impunity but remains wary of its broad and potentially politicized application. It supports international efforts to prosecute serious crimes but has

consistently advocated for a cautious approach that respects state sovereignty and prevents politically motivated prosecutions. The US has expressed concerns that an overly expansive application of UJ could be misused for political or diplomatic reasons, leading to conflicts between states and undermining international cooperation. Instead of endorsing a universal application of jurisdiction, the US prefers to engage through multilateral legal frameworks, treaty-based commitments, and case-by-case cooperation mechanisms to address international crimes effectively.

The US is also not a party to the International Criminal Court (ICC), which further influences its stance on UJ and UN-led legal mechanisms. While it has cooperated selectively with international tribunals, particularly in cases aligned with its foreign policy objectives, the US remains reluctant to subject its own nationals, including military personnel and government officials, to external judicial oversight. This position reflects a broader policy of maintaining control over legal actions involving US citizens and ensuring that prosecutions align with national interests rather than UN-driven judicial processes.

Despite these reservations, the US actively participates in international efforts to combat impunity, often preferring bilateral extradition agreements, diplomatic pressure, and intelligence-sharing to facilitate the prosecution of serious crimes. While it does not embrace a broad interpretation of UJ, it recognizes its value in exceptional cases and continues to work with international partners through treaty-based obligations and targeted legal interventions rather than relying on UN-led universal jurisdiction frameworks.

Spain



Spain has been one of the most active supporters of universal jurisdiction, emphasizing its importance in combating impunity for serious international crimes such as genocide, war crimes, and crimes against humanity. The Spanish government believes that universal jurisdiction is an essential legal tool to ensure that perpetrators of the most

heinous crimes do not escape justice, especially when national courts fail to act.

Spain's experience with universal jurisdiction is well-known due to high-profile cases handled by its courts. One of the most notable was the case against former Chilean dictator Augusto Pinochet in 1998, when a Spanish judge issued an international arrest warrant for him under the principle of universal jurisdiction. This case set a precedent for international justice and demonstrated Spain's commitment to holding human rights violators accountable, regardless of their nationality or where the crimes were committed.

However, despite its strong historical support, Spain has modified its stance on universal jurisdiction over time. Due to diplomatic pressures and concerns about judicial overreach, the Spanish government restricted the scope of its universal jurisdiction laws in 2009 and 2014. These legal reforms limited Spanish courts' ability to prosecute crimes under universal jurisdiction unless there was a clear connection to Spain (e.g., if Spanish citizens were victims or if the accused was present in Spain). These restrictions were introduced to prevent politically sensitive cases from straining Spain's diplomatic relations with other countries.

Despite these limitations, Spain continues to support the discussion at the UN level on how universal jurisdiction should be applied fairly and consistently. The Spanish government emphasizes the need for international cooperation and legal clarity, so that universal jurisdiction is not applied arbitrarily or misused for political purposes. Spain also advocates for a balanced approach, ensuring that the principle respects state sovereignty while still preventing impunity for serious international crimes

Netherlands



The Netherlands is a strong proponent of universal jurisdiction, particularly in cases involving genocide, war crimes, crimes against humanity, and torture. The Dutch government views universal jurisdiction as a necessary legal tool to ensure that perpetrators of the most serious crimes do not enjoy impunity, even if their home

countries fail to prosecute them.

The Netherlands has incorporated universal jurisdiction into its national legal system, allowing its courts to prosecute individuals for international crimes under specific conditions.

Dutch law generally requires some connection to the Netherlands, such as the presence of the suspect within Dutch territory. However, for certain crimes, such as torture, Dutch courts can prosecute suspects even if there is no direct link to the Netherlands. This demonstrates the country's commitment to international justice while balancing concerns over state sovereignty and judicial overreach.

Regarding the United Nations (UN), the Netherlands supports ongoing UN discussions on universal jurisdiction, emphasizing the need for clear guidelines and legal certainty. The Dutch government believes that the UN should play a key role in defining the scope and limitations of universal jurisdiction to prevent its misuse. The Netherlands also highlights the importance of international cooperation, particularly through organizations like the International Criminal Court (ICC), which is headquartered in The Hague. The country strongly supports the ICC and sees it as a central institution for ensuring accountability for international crimes.

At the UN level, the Netherlands encourages a balanced approach to universal jurisdiction, ensuring that it is applied fairly and consistently across different jurisdictions. It stresses that universal jurisdiction should not be used for political motives and should respect international legal principles and human rights standards.

In conclusion, the Netherlands maintains a strong commitment to universal jurisdiction and international justice, advocating for clear legal frameworks and international cooperation under the guidance of the UN. While supporting strict legal conditions for its application, the Netherlands remains one of the leading voices in ensuring accountability for the world's most serious crimes.

France



France is a supporter of universal jurisdiction, viewing it as an essential legal tool to ensure accountability for serious international crimes which are mentioned before. France believes that no one should be able to escape justice for serious crimes, regardless of where the crimes were committed or the nationality of the

perpetrators. The French legal system allows for universal jurisdiction in cases where French courts can prosecute individuals who have committed international crimes, even without a direct link to France. This demonstrates France's commitment to international justice, ensuring that the most serious offenses are addressed effectively.

The French legal framework enables its courts to prosecute crimes such as genocide and torture even if there is no direct connection to France, provided that certain criteria are met, such as the presence of the accused in France or if French nationals are victims of such crimes. France has a history of using this legal principle in high-profile cases, underscoring its belief that international crimes should not go unpunished, irrespective of where the crimes took place.

At the United Nations (UN) level, France has consistently advocated for the strengthening and clarification of universal jurisdiction. The country emphasizes the importance of having clear legal guidelines and principles to ensure universal jurisdiction is applied consistently and fairly, avoiding potential abuses or political exploitation. France supports the UN's efforts to develop standards for universal jurisdiction, which would help avoid misuse and ensure that it is applied in the pursuit of justice, not as a tool for political maneuvering or interference.

Furthermore, France supports the International Criminal Court (ICC), viewing it as a vital institution in the global fight against impunity. France advocates for the complementary role of the ICC alongside universal jurisdiction. While universal jurisdiction allows for national courts to prosecute international crimes, the ICC serves as a global institution that provides a centralized forum for justice. France believes that these international legal mechanisms, combined with universal jurisdiction, are key in preventing impunity and ensuring that individuals who commit the most serious crimes are brought to justice.

Despite its support for universal jurisdiction, France recognizes the challenges associated with its application. The country is committed to ensuring that universal jurisdiction is not used selectively or promptly, and it stresses the importance of maintaining a balance between international accountability and state sovereignty. France advocates for international cooperation in the implementation of universal jurisdiction and highlights the necessity of developing legal frameworks that ensure the effective and fair application of this principle across different legal systems.

Germany



Germany has found universal jurisdiction to be an effective and proportionate tool to pursue accountability for the worst international crimes. While Germany would prefer for the Security Council to give the ICC more possibilities to try the most serious crimes under international law, the country find it valuable to be able

to do our part in achieving accountability by German courts.

In the German legal framework, universal jurisdiction is mainly exercised in cases involving crimes like war crimes and crimes against humanity, which are punishable under German criminal law, irrespective of where the crimes were committed. Germany's commitment to universal jurisdiction is evident in its efforts to enforce international justice and cooperate with international bodies such as the International Criminal Court (ICC). However, the application of universal jurisdiction is also subject to legal safeguards, such as ensuring that the case is linked to Germany or that the suspect is present in the country, in accordance with national laws.

At the UN level, Germany supports efforts to strengthen and clarify the legal principles of universal jurisdiction. Germany advocates for a clear framework to ensure that universal jurisdiction is not misused or applied arbitrarily. The country highlights the importance of international cooperation in the prosecution of international crimes, stressing the need for collaboration between national legal systems and international courts to ensure that perpetrators are brought to justice.

Germany is a strong advocate of universal jurisdiction, believing it is crucial for international justice. The country supports the application of universal jurisdiction under a clear legal framework and emphasizes the importance of international cooperation. While advocating for the rule of law and fair application of universal jurisdiction, Germany also underscores the importance of cooperation between national and international courts, particularly the ICC, in

ensuring that individuals who commit serious international crimes are held accountable for their actions.

United Kingdom



tool to ensure that the perpetrators of serious crimes do not escape justice.

The United Kingdom notes, however, the continued lack of international consensus about the nature, scope and application of universal jurisdiction.

The United Kingdom's view is that the term "universal jurisdiction" refers to jurisdiction over a crime irrespective of the location of the alleged crime, the nationality of the alleged perpetrator, the nationality of the victim or other links between the crime and the prosecuting State. It is distinct from the jurisdiction of international judicial mechanisms and distinct from other categories of extra-territorial jurisdiction. On the other hand, there are significant overlaps between universal jurisdiction and "extradite or prosecute" regimes, which require careful scrutiny.

The legal framework in the UK permits prosecution under universal jurisdiction for specific international crimes, such as war crimes, even if these crimes took place outside the country. The UK's legal system allows for prosecution if the accused is present within the jurisdiction, regardless of their nationality or the location of the crime. This legal provision highlights the UK's commitment to international justice and its willingness to prosecute perpetrators of international crimes under the principle of universal jurisdiction.

At the UN level, the UK supports the strengthening of international law to define clearer guidelines for the use of universal jurisdiction. The UK advocates for international cooperation with institutions like the International Criminal Court (ICC), ensuring that perpetrators of international crimes are prosecuted through appropriate legal means. The UK emphasizes the importance of ensuring that universal jurisdiction is applied fairly and consistently, with safeguards in place to prevent misuse or politically motivated prosecution.

The UK also stresses the importance of international cooperation in the exercise of universal jurisdiction. The legal system underscores the need for collaboration between national courts and international institutions, ensuring the effective apprehension of suspects and their prosecution in line with international law. Furthermore, the UK recognizes the necessity of establishing clear legal guidelines to prevent the misuse of universal jurisdiction, ensuring that it is applied solely for the pursuit of justice and not for political purposes.

The United Kingdom strongly supports the principle of universal jurisdiction as a vital legal tool for holding perpetrators of the most serious international crimes accountable. The UK emphasizes the need for clear and consistent application of universal jurisdiction, highlighting the importance of international cooperation between national legal systems and international courts like the ICC to ensure justice is served while preventing impunity.

8. Case Study

Prosecution of Augusto Pinochet

In 1998, Chilean dictator Augusto Pinochet was arrested in London after Spain requested him to be faced trial for all the crimes he committed during his cruel dictatorship which lasted 17 years. Pinochet was accused of human rights abuses, including torture and extrajudicial killings of political opponents. After approximately 16 months under house arrest in London, he returned to Chile in March 2000, after British Home Secretary Jack Straw allowed him to return home, based on a report that Pinochet's health was unfit to stand trial.

He died in a military hospital at 14:15 Chilean time on December 10, 2006. Only a military ceremony was held, as the Chilean government had decided that there would be no state funeral for Pinochet. The government also rejected requests for a national mourning. His remains were cremated in accordance with his wishes and returned to his family. His family did not have a grave built for him, due to the risk of attack. The armed forces also did not allow his ashes to be kept in any military facility.

Pinochet's arrest has shown that universal jurisdiction can intervene within its authority, regardless of the position of the suspect. Pinochet's alleged crimes were considered so grave

that they were considered crimes not just against Chile or its people, but against all of humanity. The UK House of Lords ruled that Pinochet could be given to Spain to stand trial on torture charges. This was a path-breaking decision because it made clear that even former heads of state can be held accountable for human rights violations and are not immune from international law, regardless of their previous positions or claims of immunity.

This case showed us that people in high-level positions can also be tried. However, in terms of practice, problems such as "health problems" raised questions about whether it would be possible for heads of state to be tried and then not receive their punishment. However, this case was the first time we saw universal jurisdiction in its true sense.

Syrian Civil War

The Syrian Civil War began in 2011 following pro-democracy protests that swept across Syria during the Arab Spring, threatening the rule of Syrian President Bashar al-Assad. His violent crackdown on protesters escalated into a war between Assad's forces and opposition militias. An offensive led by Hayat Tahrir al-Sham culminated in Assad being removed from power in December 2024. The Syrian Civil War has been a major source of instability in the Middle East since 2011, and the resulting civilian displacement and refugee exodus constitute one of the worst humanitarian crises in modern history.

From 2006 to 2010, Syria went through the worst drought in recent history. The initial peaceful reformist protests that rode the wave of the Arab Spring events in 2011 were influenced by the combined effects of the drought and pre-existing economic inequality under the Assad administration. Another issue was the divisions between the ruling Alawite elite and the Sunni majority in the country. Tensions increased as a result of Bashar al-Assad's regime's brutal military reaction, and by September 2011, the nonviolent demonstrations had descended into an armed insurgency. Assad committed crimes including torture, sexual violence, chemical weapon attacks, and extrajudicial killings.

When the government's military allies' support left in late November 2024, they were unable to stop an offensive by an opposition force, and Assad fled the country in early December. Since Assad's ouster, civil war has continued as a new administration has emerged and attempted to seize control of the entire country.

Despite the efforts of international organizations such as the United Nations (UN) and the International Criminal Court (ICC), responsibility for these crimes remains unclear. The UN Security Council has been unable to refer the situation in Syria to the ICC due to the veto powers held by Russia and China, staunch allies of the Assad regime.

Although Syria is not a signature of the Rome Statute, its universal jurisdiction has enabled some countries, particularly in Europe, to take legal action against individuals accused of war crimes in Syria. Germany, France and Sweden have been at the forefront of using this principle to prosecute Syrian officials and combatants, particularly those accused of atrocities committed during the civil war.

Germany

Since the outbreak of the Syrian crisis in 2011, it has been one of the most complex crises in modern history, both in terms of its internal repercussions and its regional and international effects. With the escalation of conflict and increased violence, many countries had to reassess their foreign policies towards Syria, including Germany, which played a prominent role in dealing with the consequences of the crisis, both by hosting refugees and contributing to diplomatic and humanitarian efforts. In this context, German foreign policy towards the Syrian crisis serves as a model of a balanced European role that seeks to achieve stability through soft power and humanitarian aid while avoiding direct military intervention. While Germany focused on diplomatic efforts and humanitarian assistance, it avoided direct engagement in military conflict.

On December 4, 2015, the Bundestag voted to authorize the participation of the Bundeswehr in the international anti-ISIL coalition in Syria, which ended in January 2021. The Berlin Prosecutor General's Office opened an investigation at the end of January 2017 into allegations that the Syrian embassy in Berlin had issued passports without verification but with an extra fee. In February 2021, Assad supporter Eyad A. was sentenced by a Regional Court to four and a half years in prison for war crimes committed in the Syrian civil war, marking the first international conviction for charges involving "crimes against humanity" committed by individuals linked to the Government of Syria during the war.

In January 2022, a German court in Koblenz sentenced Syrian officer Anwar Raslan to life imprisonment, declaring him guilty over crimes against humanity. Anwar Raslan had served

as a colonel under the notorious Branch 251 of Ba'athist General Intelligence Directorate and was charged with organizing large-scale torture, rape, sexual violence against detainees and in the killing of 58 individuals. In July 2023, German police busted a major captagon network in the southern state of Bavaria, run by two Syrian-born men who were involved in production and smuggling of captagon.

Raslan defected from the Assad government and was smuggled with his family to Jordan in December 2012. He travelled to Germany in 2014 and was granted asylum there in the same year. He was arrested in February 2019 and charged in March 2020. The trial began in April 2020 in the city of Koblenz and was held until 13 January 2022. The European Center for Constitutional and Human Rights (ECCHR), the Syria Justice and Accountability Centre and the podcast 'Branch 251' have documented the trial. The prosecution is part of a larger trend in universal jurisdiction to investigate and hold accountable individuals who committed crimes during the Syrian civil war. On 2 December 2021, the German federal prosecutor's office called for the life sentence against Anwar Raslan, in the first trial in the world for abuses committed by the Bashar al-Assad government.

On 13 January 2022, Raslan was sentenced by the state court in Koblenz to imprisonment for life "for a crime against humanity in the form of killing, torture, severe deprivation of liberty, rape and sexual coercion in unity of action with 27 counts of Mord ('severe' murder in the German penal code), 25 counts of dangerous bodily harm, two counts of especially serious rape, sexual coercion, 14 counts of deprivation of liberty for more than one week, two counts of hostage-taking and three counts of sexual abuse of prisoners."

Raslan denied all the charges against him, saying he had nothing to do with the mistreatment of prisoners and that he actually tried to help some detainees. His trial was extraordinary for several reasons. It was unprecedented in taking on Syria's state-led torture and it was prompted by the arrival in Germany of hundreds of thousands of Syrians who'd fled their own country.

Many of the almost 800,000 Syrians who now live in Germany brought with them terrible stories of what happened to those who opposed the Assad regime, and German human rights lawyers took up their cause, using the principle of universal jurisdiction to bring the case to court. This allows serious crimes committed in one country to be tried elsewhere.

IMPACT OF THE SYRIAN CONFLICT ON THE USE OF THE PRINCIPLE OF UNIVERSAL JURISDICTION

In looking into the use of universal jurisdiction in the Syria context, one can observe an apparent expansion in the use of the principle. This Part details the study conducted to test this hypothesis and the possible explanations for the conclusions of the study.

A. Methodology

This study began by compiling data on cases that have been brought under universal jurisdiction worldwide between 2014 and 2020. The primary source of this data came from the TRIAL International Universal Jurisdiction Database, supplemented by TRIAL International's Universal Jurisdiction Annual Reviews (UJARs) published each year. This database and the accompanying UJARs "an overview of major criminal cases related to universal jurisdiction worldwide." The year 2014 was chosen as a starting point for data collection for two reasons. First, 2014 is the year that TRIAL International began collecting its data. Second, 2014 is the year that the first case concerning a Syrian individual was brought on the basis of universal jurisdiction. The data was then cross-referenced with, and supplemented by, information collected from the Syrian Justice and Accountability Centre, the Center for Justice and Accountability, and Civitas Maxima. The cases included represent those in which a judge or prosecutor has initiated a criminal investigation on the basis of universal jurisdiction. Complaints filed by victims, lawyers, and NGOs that did not result in an investigation, are currently pending before a national court, or have been dismissed have not been included. Notably, civil cases have also not been included. For each case, the following information was compiled: the names of the suspects/perpetrators (if publicly available), the country of prosecution, the country of commission, the year of initiation, and the year(s) in which the case was ongoing.

B. Analysis

1. Ongoing Cases The total number of ongoing universal jurisdiction cases worldwide increased every year except for 2020. The slight decrease in 2020 can likely be explained by the onset of the COVID-19 pandemic—due to the pandemic, there was a significant decrease in the initiation of cases, including cases brought under universal jurisdiction. Additionally, the total number of ongoing Syria cases increased every year until 2020. In comparing these

two sets of data, it is apparent that the percentage of ongoing cases that had to do with the Syrian conflict also increased every year between 2014 and 2020.

	2014	2015	2016	2017	2018	2019	2020
Total # of ongoing universal jurisdiction cases	45	47	55	71	78	92	91
# of ongoing Syria universal jurisdiction cases	3	5	12	22	26	38	40
% of total ongoing universal jurisdiction cases that are Syria cases	6.67%	10.64%	21.82%	30.99%	33.33%	41.30%	43.96%

Table 2: This table shows the number of ongoing cases, the number of Syria-related cases, and the percentage of ongoing cases that are Syria-related for each year between 2014 and 2020.

	2014	2015	2016	2017	2018	2019	2020
Total # of initiated Universal Jurisdiction cases	7	4	26	21	18	19	12
# of initiated Syria Universal Jurisdiction cases	1	2	7	11	8	12	5
% of initiated cases that are Syria cases	14.29%	50.00%	43.75%	52.38%	44.44%	63.16%	41.67%

Table 3: This table shows the number of initiated cases, the number of Syria-related cases initiated, and the percentage of initiated cases that are Syria-related cases for each year between 2014 and 2020.

Cases Newly Initiate

The total number of cases newly initiated each year followed an upward trend, although it fluctuated more than the total number of ongoing cases. Again, there was a noticeable decline in 2020, which can be explained by the onset of the COVID-19 pandemic. The total number of Syria cases newly initiated each year followed a similar trend.

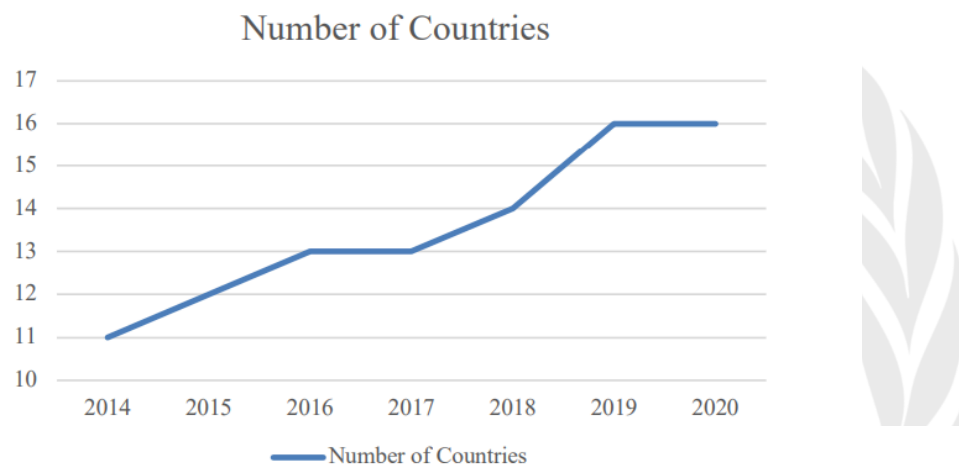


Figure 5: This graph shows the number of countries with ongoing universal jurisdiction prosecutions for each year between 2014 and 2020.

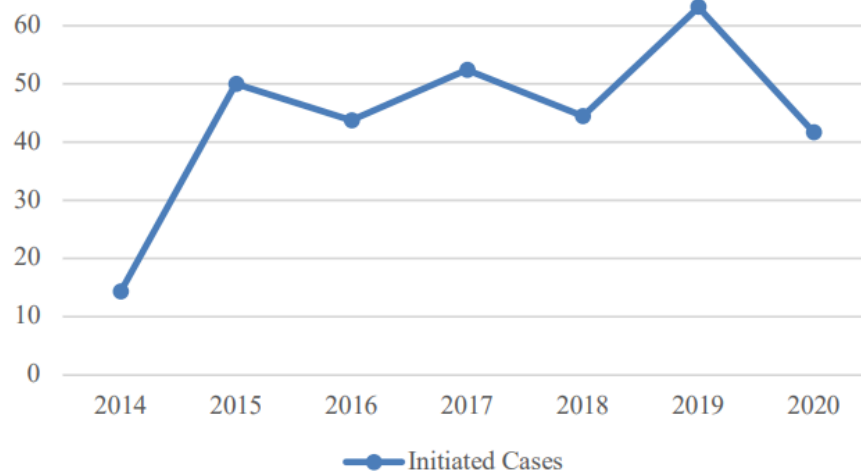


Figure 4: This graph shows the percentage of total initiated universal jurisdiction cases that are Syria cases for each year between 2014 and 2020.

Countries Included

The number of countries involved in prosecuting cases under universal jurisdiction also increased or remained constant every year between 2014 and 2020. This mirrors the finding

of Langer and Eason, who argued that the quiet expansion of universal jurisdiction included the geographical expansion of the principle to include countries outside of Western Europe. Notably, there are non-European countries included in the data: Argentina, Canada, Ghana, Senegal, and the United States.

Conclusion

The purpose of this study was to prove that the use of universal jurisdiction has expanded and that the prosecution of Syria-related universal jurisdiction cases has significantly contributed to this expansion. The data collected and the results of the analysis conducted prove this contention. First, the overall number of universal jurisdiction cases has continually increased and the number of Syria-related universal jurisdiction cases significantly predicted the overall number of cases. Second, the number of universal jurisdiction cases that have been initiated has followed an upwards trend and the number of Syria-related universal jurisdiction cases initiated significantly predicted the total number of cases initiated. Third, the number of countries involved in the prosecution of cases under universal jurisdiction has continually increased. More than a “quiet expansion” of universal jurisdiction, these findings show a significant increase—leading to a rebirth of the principle.

9. Questions to Be Addressed

1. How can universal jurisdiction be effectively applied to prevent impunity for international crimes while ensuring respect for state sovereignty?
2. What challenges states face when implementing universal jurisdiction, especially in terms of legal and diplomatic barriers?
3. How can the principle of universal jurisdiction be cooperated with existing international legal frameworks such as the International Criminal Court (ICC) and the Geneva Conventions?

4. What is the significance of the judicial systems within countries in this regard and how can countries be encouraged to improve their own justice systems?
5. How can the international community address concerns about selective prosecution or political abuse of universal jurisdiction, particularly when it targets individuals from specific countries or regions?
6. How can a framework be created to ensure that this justice does not bypass the decision-making authorities at the top?
7. What is the role of the United Nations in promoting or regulating the exercise of universal jurisdiction, particularly in relation to states that are not parties to the Rome Statute?
8. What are the limits of universal jurisdiction and at what point can it be argued that the sovereignty of nations is being violated?
9. How can regional cooperation enhance or hinder the application of universal jurisdiction in international cases?
10. What ways can be used to ensure transparency and accountability of the courts?
11. How can universal jurisdiction be successfully applied to the Syrian civil war?
12. How can the balance between national courts and the ICC be achieved?
13. How can practical obstacles to applying universal jurisdiction be overcome?
14. What ways can we strengthen cooperation between states?
15. What legal frameworks should guide the international community when a state fails to act in accordance with universal jurisdiction?

16. Should new mechanisms be established to monitor the proper application of universal jurisdiction, and if so, how should these mechanisms operate?
17. What solution can be found if a state is not willing to prosecute a criminal who has committed a universal crime hiding within its borders?
18. What measures can be taken to strengthen the implementation and enforcement of international agreements?
19. How can countries that advocate universal jurisdiction on issues that may be beneficial according to their own policies, but apply double standards and are not beneficial on other issues, be fully included in the process?

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