

## The Universal Criminal Jurisdiction Principle between Theory and Practice

مبدأ الإختصاص الجنائي العالمي بين النظرية والتطبيق

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### Abstract:

The universal criminal jurisdiction principle plays an important role in ending impunity for dangerous international crimes, This principle is characterized by the consideration of a specific type of crimes; mainly they are war crimes, crimes against humanity, genocide, torture and crimes of international terrorism, and the crime of international piracy. The universality principle gives national criminal courts the right to consider these crimes without the necessity of a relationship between the State exercising this jurisdiction and the crime committed; however, its application faces several obstacles. Belgium and Spain are among the leading countries that have included the principle in their national laws.

### key words :

Universal criminal Jurisdiction principle – National criminal Courts - Impunity – International Crimes – International Law - International Criminal Justice.

### المخلص:

يؤدي مبدأ الإختصاص الجنائي العالمي دورا هاما في وضع حد لإفلات مرتكبي الجرائم الدولية الخطيرة من العقاب، وهو يختص بالنظر في نوعية معينة من الجرائم؛ تتمثل أساسا في جرائم الحرب، الجرائم ضد الإنسانية، الإبادة الجماعية، التعذيب وجرائم الإرهاب الدولي، وجريمة القرصنة الدولية. ومبدأ الإختصاص العالمي يخول المحاكم الجنائية الوطنية الحق بالنظر في هذه الجرائم دون ضرورة وجود علاقة بين الدولة التي تمارس هذا الإختصاص والجريمة المرتكبة؛ إلا أن إعماله تعترضه عدّة عراقيل. وتعد كل من بلجيكا وإسبانيا من الدول السبّاقة التي عمدت إلى إدراج المبدأ ضمن قوانينها الوطنية.

### الكلمات المفتاحية:

مبدأ الإختصاص الجنائي العالمي – المحاكم الجنائية الوطنية – الإفلات من العقاب – الجرائم الدولية – القانون الدولي – العدالة الجنائية الدولية.

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### **Introduction:**

During the last century millions of human beings perished as a result of genocide, crimes against humanity, war crimes, and other serious crimes under international law. Perpetrators deserving of prosecution have only rarely been held accountable. To stop this cycle of violence and to promote justice, impunity for the commission of serious crimes must yield to accountability<sup>1</sup>.

In international law, a country's jurisdiction is based on congruent with the scope of its sovereign power. Thus states have jurisdiction over crimes committed within their territory "territorial jurisdiction", or by or against their nationals "nationality and passive personality jurisdiction". Universal jurisdiction is an exception to these sovereignty based principles of international jurisdiction. Universal jurisdiction crimes can be prosecuted by any nation, even if the forum state has no connection with the offense. Since the end of cold war, several national courts and international tribunals have exercised the universal jurisdiction over human rights offenses as war crimes, genocide, torture and others serious crimes.

For hundreds of years before the emergence of new universal jurisdiction, piracy was the only universal crime in international law<sup>2</sup>.

This Article argues that, under international law, states have the right to exercise universal jurisdiction over certain international crimes. Rather than disregarding in national justice, such prosecutions may achieve justice by imposing individual responsibility for serious international crimes. It is undeniable, however, that difficulties may accompany the exercise of universal jurisdiction. Although there may be few legal restrictions on its use<sup>3</sup>.

The interest by the universal jurisdiction has increased due to the intertwined of the international relation and the ease transporting and move of people and money. This article has a great importance concerning the international crimes, in view of several international agreements that oblige the state parties to prosecute the perpetrators of serious international crimes and take the measures to establish their jurisdiction over those crimes.

Given the importance of the topic, it raises a set of questions summarized in: what is the concept of universal jurisdiction? What are the foundations on which it is based? What is its scope? What is its role in facing the most serious international crimes? And finally what are the main difficulties facing its application?

To study the research subject, we adopted the analytical legal approach, and this through the analysis of certain legal articles, in particular those contained in the Geneva Conventions and the Additional Protocol, national laws of certain countries, and the statute of the international Criminal Court.

This article will discuss the universal jurisdiction under international criminal law in the first part, explaining the concept and the scope of its application. While the second section is to study the practical cases of the universal jurisdiction by states and the obstacles to its application.

### **Section I: Clarifying Universal Jurisdiction**

The universal criminal jurisdiction principle plays an important role in giving international criminal law a new grant to end impunity, for perpetrators of international crimes, by including it in its national law, hence we have to deal with the main reasons and philosophique bases which gives justifications for adopting the principle by states although it affects its sovereignty; and this by studied the foundations of the universal jurisdiction after dealing whith its general meaning in the first part, then in the second one we deal whith the scope of universal jurisdiction by restricted it in the crimes subject to universal jurisdiction.

#### **A) The Concept of the Universal Jurisdiction Principle:**

Even though the general meaning of the universal jurisdiction principle is known, a definition of it provides a better understanding of its complexity and limits.

##### **1-Basic meaning and definitions:**

The principle of universal jurisdiction is classically defined as ‘a legal principle allowing or requiring a state to bring criminal proceedings in respect of certain crimes irrespective of the location of the crime and the nationality of the perpetrator or the victim’<sup>4</sup>. This principle is said to derogate from the ordinary rules of criminal jurisdiction requiring a territorial or personal link with the crime, the perpetrator or the victim<sup>5</sup>.

But the rationale behind it is broader: ‘it is 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 and the nationality of the perpetrator or the victim’<sup>6</sup>. Universal jurisdiction allows for the trial of international crimes committed by anybody, anywhere in the world<sup>7</sup>. This derogation is traditionally justified by two main

ideas. First, there are some crimes that are so grave that they harm the entire international community. Secondly, no safe havens must be available for those who committed them. Even though these justifications may appear realistic, they clearly explain why the international community, through all its components states must intervene by prosecuting and punishing the perpetrators of such crimes. Universal jurisdiction is a matter of concern for everybody<sup>8</sup>.

Historically, universal jurisdiction can be traced back to the writings of early scholars, such as Grotius, and to the prosecution and punishment of the crime of piracy. However, after the Second World War the idea gained ground through the establishment of the International Military Tribunals and the adoption of new conventions containing explicit or implicit clauses on universal jurisdiction. The Geneva Conventions of 1949 are paramount in this regard, providing in unmistakable terms for universal jurisdiction over grave breaches of those Conventions. International crimes were no longer to remain unpunished. The idea that in certain circumstances sovereignty could be limited for such heinous crimes was accepted as a general principle.

There is no authoritative definition of “universal jurisdiction” or “the universality principle”. The concept has been formulated in many ways and with different emphases. However, a “practicable”<sup>9</sup> definition describes universal jurisdiction as:

“the ability of the prosecutor or investigating judge of any state to investigate or prosecute persons for crimes committed outside the state’s territory which are not linked to that state by the nationality of the suspect or of the victim or by harm to the state’s own national interests”<sup>10</sup>.

Put another way, universal jurisdiction or the universality principle refers to the ability of the prosecuting State to assert jurisdiction over a crime with which it does not have any of the traditional jurisdictional links, but solely because of the nature of the crime. It could be said that the international crimes that are subject to universal jurisdiction are crimes which have been universally condemned by states or offend against the international community as a whole by infringing universal values<sup>11</sup>.

The Princeton Principles on Universal Jurisdiction define universal jurisdiction as “criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the alleged or the convicted perpetrator, the nationality of the victim, or any other connection to the state exercising such jurisdiction”<sup>12</sup>.

The term “universal jurisdiction” is commonly used to describe the application of the universality principle by both an international tribunal and States. The jurisdiction of an international tribunal is not necessarily constrained by where the crime was committed, or the nationality of the accused or the victim, and may be said to be based on the universality principle<sup>13</sup>.

## **2- The foundations of the universal jurisdiction principle:**

To varying degrees, the traditional bases for a State to claim some connection to a crime and thus the right to assert jurisdiction over it are: territoriality; it means where the crime occurs, nationality of the suspect, nationality of the victim, and harm to a direct interest of the prosecuting State. Universal jurisdiction, or the universality principle, refers to the ability of the prosecutor or investigating judge of any State to investigate or prosecute persons for crimes committed outside the State’s territory which are not linked to that State by the nationality of the suspect or of the victim or by harm to the State’s own national interests. Accordingly, it is a somewhat exceptional basis of jurisdiction<sup>14</sup>.

The universality principle is one of a basis for extraterritorial jurisdiction, according to which a state has jurisdiction based on the nature of the crime, even though the crime was committed outside of the state’s territory by and against non nationals, and the state’s vital interests are not endangered. As such, the universality principle vests states with prescriptive jurisdiction when the traditional bases of jurisdiction are absent. There may be a tendency to conflate enforcement and prescriptive jurisdiction, but this distinction should be maintained. Universal jurisdiction may be considered “shorthand” for “universal prescriptive jurisdiction.” For all jurisdictional bases, whether a state should extend its criminal law over certain activity will depend on a number of factors. The principles regarding jurisdiction “were established to foster cooperative relations by avoiding and resolving conflicting assertions of domestic penal authority.”<sup>15</sup>

The concept of a crime against all humankind provides the foundation for modern universal jurisdiction: if a crime transcends the interest of a single state, this supports vesting jurisdiction over the crime to all states<sup>16</sup>.

National courts administer systems of criminal law designed to provide justice for victims and due process for accused persons. A nation’s courts exercise jurisdiction over crimes committed in its territory and proceed against those crimes committed abroad by its nationals, or against its nationals, or against its

national interests. When these and other connections are absent, national courts may nevertheless exercise jurisdiction under international law over crimes of such exceptional gravity that they affect the fundamental interests of the international community as a whole. This is universal jurisdiction: it is jurisdiction based solely on the nature of the crime<sup>17</sup>. National courts can exercise universal jurisdiction to prosecute and punish, and thereby deter, heinous acts recognized as serious crimes under international law. When national courts exercise universal jurisdiction appropriately, in accordance with internationally recognized standards of due process, they act to vindicate not merely their own interests and values but the basic interests and values common to the international community<sup>18</sup>.

The adoption of universal jurisdiction by states is considered to be a procuration that they have given them selves to the international community as a whole to end violations of international hamanitarian law, this procuracy is based on philosophical foundations that find its bases in the idea of the interest of the state in finding the mechanisms to prosecute criminals of serious international crimes to achieve the international criminal justice. Hence the most important justifications for adopting the universal jurisdiction principle are human solidarity and common interests between countries, and the social danger resulting from the presence of a criminal without punishment on the territoty of the country to which he fled<sup>19</sup>.

### **B) The Scope of Universal Jurisdiction:**

The scope of the universal jurisdiction principle can be studied from several aspects, however, we will focus in this regard on crimes subject to universal jurisdiction, including most international laws that provide for this crimes through international agreements.

#### **1- Crimes Subject to Universal Jurisdiction:**

Although universal jurisdiction is widely accepted in principle, there remains a measure of debate regarding the crimes to which it applies. The crimes subject to universal jurisdiction are found under customary international law. As such, they exist internationally regardless of whether a specific state has ratified a treaty to this effect or incorporated the crime into its domestic law. As customary law, the crimes may also evolve with state practice.

A state has jurisdiction to define and prescribe punishment for certain offenses recognized by the community of nations as of universal concern, such as piracy, slave trade, attacks on or hijacking of aircraft, genocide, war crimes, and

perhaps certain acts of terrorism, even where none of the traditional bases of jurisdiction<sup>20</sup>.

Legal theorists generally agree that the crimes subject to universal jurisdiction include piracy, slavery, war crimes, genocide, crimes against humanity, apartheid, and torture. Some theorists suggest that other crimes, most notably terrorism related offences, are subject to universal jurisdiction.

States are not unanimous regarding the crimes to which universal jurisdiction does apply, as diverse views were expressed in recent submissions to the United Nations. China, for example, submitted that universal jurisdiction only exists for piracy, while other countries respectively claimed jurisdiction over ecocide and sabotage of international means of communication<sup>21</sup> on the basis of the universality principle. Due to limited scope, this Article cannot examine this issue in detail and will therefore assume that the universality principle provides states with jurisdiction over crimes including piracy, genocide, slavery, crimes against humanity, war crimes, and torture.

The choice of which crimes to include as “serious crimes under international law” was discussed at length in Princeton<sup>22</sup>. The ordering of the list of “serious crimes” was settled by historical progression rather than an attempt to rank crimes based upon their gravity<sup>23</sup>.

-“**Piracy**” is a crime that paradigmatically is subject to prosecution by any nation based on principles of universality, and it is crucial to the origins of universal jurisdiction, so it comes first<sup>24</sup>.

-“**Slavery**” was included in part because its historical ties to piracy reach back to the Declaration of the Congress of Vienna in 1815. There are but a few conventional provisions, however, authorizing the exercise of universal jurisdiction for slavery and slave related practices<sup>25</sup>. The phrase “slavery and slave-related practices” was considered but rejected by the Princeton Assembly as being too technical in nature. However, it was agreed that the term “slavery” was intended to include those practices prohibited in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery<sup>26</sup>.

-“**War crimes**” were initially restricted to “serious war crimes,” namely, “grave breaches” of the 1949 Geneva Conventions and Protocol I, in order to avoid the potential for numerous prosecutions based upon less serious violations<sup>27</sup>. it would be inappropriate to invoke universal jurisdiction for the

prosecution of minor transgressions of the 1949 Geneva Conventions and Protocol I.

-“**Crimes against peace**” were also discussed at length. While many argue that aggression constitutes the most serious international crime, others contend that defining the crime of “aggression” is in practice extremely difficult and divisive. In the end, “crimes against peace” were included<sup>28</sup>.

-“**Crimes against humanity**” were included without objection, and these crimes have now been authoritatively defined by Article 7 of the Rome Statute of the International Criminal Court<sup>29</sup>. There is not presently any conventional law that provides for the exercise of universal jurisdiction over crimes against humanity<sup>30</sup>.

-“**Genocide**” article 6 of the Genocide Convention provides that a person accused of genocide shall be tried in a court of “the State in the territory of which the act was committed.”<sup>31</sup> However, Article 6 does not preclude the use of universal jurisdiction by an international penal tribunal, in the event that such a tribunal is established.

-“**Torture**” was included without objection though some noted that there are some disagreements as to what constitutes torture. “Torture” is intended to include the “other cruel, inhuman, or degrading treatment or punishment” as defined in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, the Torture Convention implicitly provides for the exercise of universal jurisdiction over prohibited conduct.

It should be carefully noted that the list of serious crimes is explicitly illustrative, not exhaustive. Principle 2(1) leaves open the possibility that, in the future, other crimes may be deemed of such a heinous nature as to warrant the application of universal jurisdiction<sup>32</sup>.

## **Section II: The study of practical cases of the universal jurisdiction**

we will examine how some countries have attempted to prosecute alleged perpetrators of serious international crimes in their national jurisdictions. We will focus on Belgium, and Spain. It will be seen how in these countries the judicial proceedings have been obstructed due to political interference rather than judicial problems.



### **A) The implementation of universal jurisdiction by states:**

The following section considers the circumstances and the ways in which various jurisdictions have sought to enable the exercise of universal jurisdiction. The jurisdictions examined below are a sample, rather than an exhaustive list, of laws addressing the issue of universal jurisdiction from around the world.

#### ***1-Belgium:***

Belgium was one of the first States to enact municipal legislation that permitted the exercise of universal jurisdiction. In June 1993, it enacted the “Act Concerning Punishment for Grave Breaches of International Humanitarian Law”, which was designed to implement Belgium’s obligations under the Geneva Conventions. In 1999, this Act was amended to encompass the crime of genocide and crimes against humanity. These amendments were designed to implement Belgium’s obligations under the Genocide Convention and the ICC Statute<sup>33</sup>.

The Act granted Belgian courts very broad powers with respect to their ability to exercise universal jurisdiction. Jurisdiction was extended to all offences identified in the Act, regardless of where they were committed, who committed them or who the victims were. Belgium also established a special investigation unit to deal exclusively with international crimes. Furthermore, the Belgian Code of Criminal Procedure, which allowed prosecutions to be initiated on request from alleged victims (a process known as parties civiles), led to a situation where almost any action could be brought so long as one of the relevant offences was alleged<sup>34</sup>.

It resulted in a conviction and led lot of cases being brought on the basis of universal jurisdiction. However, Belgium became the subject of political pressure following a number of high profile investigations and prosecutions. This scrutiny intensified following a 2003 decision of Belgium’s Supreme Court, in which the Supreme Court held that prosecutions were valid even when the accused was not in Belgium<sup>35</sup>.

On the 13th of June 2003 the Belgian Ministry of Justice announced that it had started the procedure to transfer an israel case “the Sabra and Shatila case” to Israel. This came as the result of and reaction to persistent pressure exerted by the Israeli government. The US government also forced the Belgian government to curtail Belgium’s progressive universal jurisdiction legislation, which had undergone careful reconfiguration in Belgium’s parliament. The US feared that this law might also lead to the prosecution of USA military or governmental officials, or their possible arrest in Belgium. Donald Rumsfeld kept pressure on

Belgium by threatening to withhold funding for NATO operations and building projects, and even warned that the US would move NATO out of Belgium altogether unless the law was watered down<sup>36</sup>.

Legislation introduced in 2003 placed a number of restrictions on Belgium's universal jurisdiction laws. Under these laws, Belgium is restricted to exercising jurisdiction over international crimes based on the active and passive personality principles.

Investigations must also now proceed on the basis of a writ from the Federal Prosecutor. Where the accused is not present in Belgium, the prosecutor has discretion to dismiss the case if it is not in the interests of justice to pursue it.

The Belgian experience is significant in light of the way that the legal and political ramifications of exercising universal jurisdiction led Belgium's legislature to reduce the scope of its laws concerning universal jurisdiction. It has also influenced the ways in which other European jurisdictions have approached the issue.

This Israeli and USA intervention was an unprecedented act of interference in a sovereign state's judicial and political processes which weakened a number of legally sound attempts at attaining international justice in Belgian courts, including cases against the Chadean dictator Hissene Habre.

### **2-Spain:**

Together with Belgium, Spain has one of the broadest universal jurisdiction regimes in Europe. Under Article 23.4 of the Organic Law for the Judiciary, universal jurisdiction can be utilised to prosecute genocide, terrorism and any other offence that Spain becomes obligated to prosecute owing to the operation of any international treaties that it has ratified (which automatically become part of the law in Spain). In addition to this, Spain's Criminal Code enables its courts to exercise universal jurisdiction with respect to crimes against humanity. Spain's courts are granted jurisdiction over these crimes regardless of whether the crime has any connection with Spain. However, when an accused is not present in Spain, a trial can only commence following a successful extradition or when the accused comes to Spain voluntarily; an accused cannot be tried in absentia. Also, an accused cannot be tried if they are an incumbent state official<sup>37</sup>.

Many examples of the use of universal jurisdiction come from Spain. These include the "*Pinochet case*" and the conviction of former Argentinean marine officer "*Adolfo Scilingo*" for crimes against humanity and torture.

In 2004, Spain's Supreme Court attempted to reduce the scope of Spain's universal jurisdiction laws by requiring that any prosecution authorised by these laws have a link to Spain's national interests. This judgment was overruled by the Spain's Constitutional Tribunal the following year. The decision had the immediate practical consequence of encouraging alleged victims to bring complaints against the former Chinese President Jiang Zemin and other officials for genocide in Tibet. In a separate case, several exiled Chinese citizens filed a complaint alleging that certain individuals had committed genocide and torture against Falun Gong members. There are also many other examples in which Spain has tried to assert its universal jurisdiction and it appears that, generally, Spain is less concerned about the political ramifications of this than some other States<sup>38</sup>.

### **B) Obstacles to the effective application of the universal jurisdiction:**

The implementation of the principle of universal jurisdiction remained difficult, as it is an issue not only of international but also of national law. States are entitled to grant their own courts universal jurisdiction over certain crimes as a result of a national decision, and not only of a rule or principle of international law. Consequently, the universal jurisdiction principle is not uniformly applied everywhere. While a hard core does exist, the precise scope of universal jurisdiction varies from one country to another, and the notion defies homogeneous presentation. universal jurisdiction is thus not a unique concept but could be represented as having multiple international and national law aspects that can create either an obligation or an ability to prosecute. It is therefore difficult to gain a clear picture of the overall situation.

#### **1-The double standards of universal jurisdiction:**

The realities of geopolitics are built around double standards when it comes to war crimes. Many critics argue that universal jurisdiction is but a sign of Western judicial imperialism since most of the successful cases have been against war criminals from Africa or other developing countries. Universal jurisdiction is a very powerful tool to bring justice to victims, however it seems to be much harder to bring justice when the alleged war criminal originates from a Western or allied country (be it US, Israel or China)<sup>39</sup>.

#### **2-The politicization of the judicial process:**

Politics plays a pivotal role in the universal jurisdiction process which normally halts the judicial investigations or makes the parliament of that country change their universal jurisdiction laws.

Further to the amendment of the universal jurisdiction law, it is clear that the application of the principle of universal jurisdiction to seek accountability for war crimes committed is more complicated and challenging than it appears<sup>40</sup>.

**Conclusion:**

Through universal jurisdiction, safe havens may be denied for perpetrators of serious international crimes because they cannot evade justice by crossing an international border. In addition to ending impunity and denying safe havens, advocates highlight that universal jurisdiction can provide a competent forum when one would otherwise be lacking, increase the possibility of domestic prosecutions, and achieve justice when the international community is unwilling to act.

States should adopt a balanced approach that makes universal jurisdiction a useful tool for ending impunity while minimizing the risks associated with its exercise. Ultimately, an international agreement may be required to resolve the outstanding disagreement among states surrounding the doctrine; until then, states should implement universal jurisdiction legislation and exercise it with care.

Universal jurisdiction may also enhance the ability of victims to seek justice, as their complaints to outside states may provide the basis for prosecutions. In instances where the territorial state may be unwilling or unable to prosecute the alleged perpetrator, universal jurisdiction may be the only recourse available for victims to seek prosecution.

Justice and dignity for the victims are the underlying objectives of each word of this contribution, and should not be bypassed by the idea that universal jurisdiction is a mere dream for academics or idealists. Only concerted efforts will lead to a change of attitude

**The results:**

- Universal Jurisdiction is a principle in international law whereby states claim criminal jurisdiction over persons whose alleged crimes were committed outside the boundaries of the prosecuting state, regardless of nationality, country of residence, or any other relation with the prosecuting country.

- Universal jurisdiction is a very powerful tool in the context of the Israel/Palestine conflict, Since 2001 some European countries have tried to prosecute alleged Israeli war criminals under the principle of universal jurisdiction. Belgium, and Spain, are some of these countries.

- We have seen how the process of prosecuting alleged Israeli war criminals in European countries has been politicized due to pressure exerted by

Israel and the USA on the prosecuting countries, to the extent that in Belgium the law has been narrowed down. Similar amendments may follow in Spain.

### **Recommendations**

- Political pressure cannot be allowed to interfere in the work of an independent judiciary. The separation of powers is essential in order to ensure that political concerns and self interests are not placed above individual legitimate rights.

- Universal jurisdiction is of concern to all international citizens. If there is no accountability, the rule of law cannot be upheld and impunity will remain. Universal jurisdiction provides the only mechanism whereby international law can extend to all individuals. The fight for justice must continue on behalf of those to whom justice has been denied.

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<sup>3</sup> - Karinne Coombes, *Universal Jurisdiction: A Means To End Impunity Or A Threat To Friendly International Relations?*, *The Geo. Wash. Int'l L. Rev.*, Vol. 43, 2011, P419.

<sup>4</sup> - *The Scope And Application Of The Principle Of Universal Jurisdiction: The Report Of The Sixth Committee A/64/452-Res 64/117*

<sup>5</sup> - Xavier Philippe, *The principles of universal jurisdiction and complementarity: how do the two principles intermesh?* *International review of Red Cross*, Volume 88, Number 862, June 2006, p.377.

<sup>6</sup> - Mary Robinson, 'Foreword', *The Princeton Principles on Universal Jurisdiction*, op.cit, p. 16.

<sup>7</sup> - Géraud de La Pradelle, '*La compétence universelle*', in Herve Ascencio, Emmanuel Decaux and Alain Pellet, *Droit international pénal*, Ed. Pédone, Paris, 2000, p. 974.

<sup>8</sup> - Misa Zgonec Rozey and Joanne Foakes, *International Criminals: Extradite or Prosecute*, Chatham House, July 2013, in [www.chatham house.org](http://www.chatham house.org), p11.

<sup>9</sup> - This is how the definition was described by the International Law Commission's Special Rapporteur on the obligation to extradite or prosecute, ("aut dedere aut judicare") (7 June 2006, UN Doc A/CN.4/571) at para 19.

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<sup>11</sup> - Helmut Satzger, *International and European Criminal Law*, Hart publishing, United kingdom, 2012, p32.

<sup>12</sup> - Mihaela Agheninei, Luciana Boboc, **Universal Jurisdiction And Concurrent Criminal Jurisdiction**, "Constantin Brâncoveanu" University from Pitești, p1.in: [www.internationalallawreview.eu](http://www.internationalallawreview.eu)

<sup>13</sup> - Luis Benavides, **The Universal Jurisdiction Principle: Nature And Scope**, *anuario mexicano de derecho internacional*, vol 1, 2001, p26.

<sup>14</sup> - Mallesons Stephen Jaques, **The Principle of Universal Jurisdiction**, *Humanitarian Law Perspectives project 2010*, p4, available on the Red Cross website, at : [http://www.redcross.org.au/ihl/resources\\_MSJ-research-papers.htm](http://www.redcross.org.au/ihl/resources_MSJ-research-papers.htm) .

<sup>15</sup> - Karinne Coombes, **Universal Jurisdiction: A Means To End Impunity Or A Threat To Friendly International Relations?**, *op.cit.*, P425.

<sup>16</sup> - Antonio Cassese et Mireille Delmas Marty, **juridictions nationales et crimes internationaux**, puf, France, 2002. P285

<sup>17</sup> - Farid Nabili, **Universal Jurisdiction Only For The International Criminal Court**, *l.l.m. short thesis*, Central European University, Hungary, was discussed on 30-03-2008, p21.

<sup>18</sup> - universal jurisdiction appears as a potent weapon: it would cast all the world's courts as a net to catch alleged perpetrators of serious crimes under international law. It holds the promise of a system of global accountability justice without borders administered by the competent courts of all nations on behalf of humankind.

<sup>19</sup> - Tarek Soror, **universal criminal jurisdiction**, *Dar El Nahda El Arabia*, Cairo, Egypt, first edition, 2006, p 114.(Arabic Book)

<sup>20</sup> - Karinne Coombes, **Universal Jurisdiction: A Means To End Impunity Or A Threat To Friendly International Relations?**, *op.cit.*, Pp432-433.

<sup>21</sup> - like Iraq, see *Permanent Mission of the Republic of Iraq to the United Nations*, Letter dated Apr. 23, 2010 from the Permanent Mission of the Republic of Iraq to the United Nations addressed to the Secretary-General, at 1, U.N. Doc. PRCL/2010/124 (Apr. 28, 2010).

<sup>22</sup> - **Principle 2 -- Serious Crimes Under International Law**

1.For purposes of these Principles, serious crimes under international law include: (1)piracy; (2) slavery; (3) war crimes; (4) crimes against peace; (5) crimes against humanity; (6) genocide; and (7) torture.

2.The application of universal jurisdiction to the crimes listed in paragraph 1 is without prejudice to the application of universal jurisdiction to other crimes under international law.

<sup>23</sup> - Mary Robinson, **The Princeton Principles On Universal Jurisdiction**, *op.cit.*, p45.

<sup>24</sup> - *Convention on the High Seas*, 29 Apr. 1958, art. 19, 450 U.N.T.S. 82, 13 U.S.T. 2312 ("On the high seas, or in any other place outside the jurisdiction of any state, every state may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board."); *United Nations Convention on the Law of the Sea*, 10 Dec. 1982, art. 105, U.N. A/CONF.62/122, 21 I.L.M. 1261.

<sup>25</sup> - *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, 21 Mar. 1950, art. 11, 96 U.N.T.S. 271 ("Nothing 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."); *Convention Relative to the Slave Trade and Importation into Africa of Firearms, Ammunition, and Spiritous Liquors*, 2 July 1890, art. 5, 27

Stat. 886, 17 Martens Nouveau Recueil (ser. 2) 345; Treaty for the Suppression of the African Slave Trade, 20 Dec. 1841, arts. 6, 7, 10, and annex B, pt. 5, 2 Martens Nouveau Recueil (ser. 1) 392.

<sup>26</sup> - Mary Robinson, **The Princeton Principles On Universal Jurisdiction**, op.cit., p.46.

<sup>27</sup> - Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 Aug. 1949, art. 50, 75 U.N.T.S. 31, 6 U.S.T. 3114, T.I.A.S. No. 3362; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Ship- wrecked Members of Armed Forces at Sea, 12 Aug. 1949, art. 51, 75 U.N.T.S. 85, 6 U.S.T. 3217, T.I.A.S. No. 3363; Geneva Convention Relative to the Treatment of Prisoners of War, 12 Aug. 1949, art. 130, 75 U.N.T.S. 135, 6 U.S.T. No. 3316, T.I.A.S. No. 3364; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 Aug. 1949, art. 147, 75U.N.T.S. 287, 6 U.S.T. 3516, T.I.A.S. No. 3365; Protocol I Additional to the Geneva Conventions of 12 August 1949, 12 Dec. 1977, art. 85, U.N. Doc. A/32/144, Annex I.

<sup>28</sup> - Charter of the International Military Tribunal, 8 Aug. 1945, art. 6(a), 82 U.N.T.S. 284, 59 Stat. 1546 [hereinafter Nuremberg Charter], annexed to Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, 8 Aug. 1945, 82 U.N.T.S. 279, 59 Stat. 1544.

<sup>29</sup> - 17 July 1998, art. 7, U.N. Doc. A/CONF.183/9, 37 I.L.M. 999 [hereinafter ICC Statute].

<sup>30</sup> - Luis Benavides, **The Universal Jurisdiction Principle: Nature And Scope**, op.cit., p55.

<sup>31</sup> - Convention on the Prevention and Punishment of the Crime of Genocide, 9 Dec. 1948, art. 6, 78 U.N.T.S. 277.

<sup>32</sup> - Like cybercrime which is one of the most recent crimes subject to universal jurisdiction.

<sup>33</sup> - Silvia Nicolaou Garcia, **European Efforts to Apply the Principle of Universal Jurisdiction Against Israeli Officials**, memo middle east, United Kingdom monitor, July 2009, p5.

<sup>34</sup> - Ibid, p6.

<sup>35</sup> - Helmut Satzger, **International and European Criminal Law**, op.cit., p35.

<sup>36</sup> - Ibid, p36.

<sup>37</sup> - Helmut Satzger, **International and European Criminal Law**, op.cit., p37.

<sup>38</sup> - Luis Benavides, **The Universal Jurisdiction Principle: Nature And Scope**, op.cit, p80.

<sup>39</sup> - Silvia Nicolaou Garcia, **European Efforts to Apply the Principle of Universal Jurisdiction Against Israeli Officials**, op.cit., p12.

<sup>40</sup> - Bediar Maher, Mohamed Salem Moaid Cherif, **Universal Jurisdiction Of National Criminal Court**, Tekrit review of law and political science, vol 1, N° 17, p15.

