



6th Legal

Legal Accountability of
International Organization

Evaluating the Scope of Universal Jurisdiction

UCIMUN 2022



Welcome Delegates,

My name is Mary Lee, and I am the Secretariat-General for the UCI Model United Nations 2021-2022 school year. I am honored to serve as part of your Secretariat this year and are excited for everything we have planned for the conference. Now that we are finally hosting an in-person conference again after two years, we hope that everyone will reunite together, have a fun, engaging and informative time in debate.

I am a fourth year Criminology, Law and Society major. I have been involved in UCIMUN since freshman year of college and loved my experiences here by far. My favorite part of actively being involved in MUN is cooperating with other students to contribute to raising awareness of global issues and their relevance to the holistic wellbeing of the entire world. In UCIMUN, I have been an Assistant Director of the Legal Committee, Director of the SPECPOL Committee and Secretariat-General for the year of 2020-2021. Outside of UCIMUN, I am actively involved in advocacy for basic needs, research, and legal organization. In my leisure time, on the other hand, I like listening to music and watching YouTube videos.

By now, we have spent roughly two years in this unprecedented time due to Covid-19. This year, however, in light of the global pandemic that has been slowly attenuated by vaccination, our theme, “reaffirming UN leadership in rebuilding a fractured world”, has become more relevant than ever. As we are transitioning to the new-normal in such turbulent times, it is imperative to recognize the responsibility of the UN and address any lingering issues that are influencing different communities across the globe. With your research and your resolutions, I would like you all to delve into ways to benefit as many people as possible, because global issues go beyond nations and governments—they affect all of us.

Our staff’s goal, as always, is to provide delegates with high quality debate and an opportunity to immerse themselves in an intellectual discussion of relevant issues. Please feel free to reach out to me or our Directors anytime between now and our conference. We are here to help you in any way we can.

Thank you for your time, and I look forward to seeing you in the Spring!

Sincerely,

Mary Lee
UCIMUN Secretariat 2021-2022
ucimunsg@gmail.com



Dear Delegates,

I hope you are all doing well! My name is Natalie Bonilla, the Director of the Sixth Committee (Legal) for this conference. This will be my second year of being a part of UCIMUN and my first time as a Director, so I am very excited and determined to make this a great learning experience not only for myself but for you all as well! Prior to this year, I had an opportunity to serve as an Assistant Director of the 4th SPECPOL Committee and such a wonderful experience that ultimately made me continue my membership here at UCIMUN.

To give you a little more about me, I am an incoming sophomore pursuing a degree in Criminology, Law and Society with the hope of double majoring in Sociology or Chicana/Latina Studies. I am very passionate about social justice, community service, and making delicious coffee with my dad any chance I get. And some things I like to do for fun are watching various gaming streams, reading books, and baking random goods late at night for myself or friends! As for other extracurriculars, I am very involved at UCI as I enjoy being a part of cultural organizations, mentor programs for incoming freshmen, and of course Model United Nations.

Moving on to the topics for this year's committee, we have Topic A: Legal Accountability of International Organizations and Topic B: Evaluating the Scope of Universal Jurisdiction. Topic A will be evaluating the types of legal accountability among international organizations to ensure the best support and assistance to people who are supported by international organizations as the Sixth Committee focuses on legal action to keep all issues in order. Topic B will be focusing on universal jurisdiction and the importance of legal action being made by nations and their own governments in their own land or others to ensure peace and cooperation. The Sixth Committee also focuses on ensuring no laws are being broken and providing correct guidelines for each nation to correctly provide justice to the people. Both topics have a main focus on improving cooperation and ensuring all nations are being held responsible for any actions to ensure we are building a strong community among nations in order to solve national issues or problems. Since in order to fix something it takes cooperation, compromise, and improvement.

To end this off, here is one reminder about research. I would like to encourage everyone to go beyond what I provide in the topic synopsis since it is just a starting point for everyone to get an idea of the information. It would be best to do your own research, so you can better understand this topic on a deeper level and be more prepared to participate in the upcoming conference. Otherwise, I am extremely excited to see all of you at the conference in April! Of course, if you have any questions please feel free to email me and I will respond as quickly as I can. As always, do your best and have fun with this.

Sincerely,

Natalie Bonilla
Director, 6th Legal Committee



Topic A: Legal Accountability of International Organizations

Introduction

International Organizations (IOs) have a prominent role in the world to offer a range of functions like protecting human rights or providing financial or legal support to state governments. An example of an international organization is the United Nations (UN) whose mission is not only to protect human rights but ensure peace and stability globally (Council on Foreign Relations). Due to the significance of these organizations across the globe, it is crucial to ensure that there is accountability when they do not properly fulfill their roles or follow regulations to ensure justice to protect the rights and safety of people globally (Wilde, 2006).

One might question what IOs are legally responsible and can be held liable for. Not every international organization resides under the same sovereignty of the host state; in fact, each country has separate methods of decision-making (Suzuki, 2005). The uniqueness of each organization is a crucial reason for discussing the topic of accountability since it is not a simple subject to agree on due to conflicting perspectives of responsibility. An example of these conflicting perspectives is when states or nations commit wrongful acts under an IO, triggering the discussion of whether the IO must also take responsibility alongside the states for the act. This has been argued as a possible violation of human rights due to IOs not being able to obligate states to conform to strict laws making it harder for IOs to follow guidelines or restrictions set by international law. This was clearly shown in the case between the European Court of Human Rights in *Nada and Switzerland* that gave light to the violation of Switzerland's right to not be held accountable for the UN's mistakes. The case of *Nada v. Switzerland* involved Switzerland



being investigated and held responsible for violation of Conventions meaning a previous agreement between Nada and Switzerland. Though without Switzerland's knowledge, the agreement interfered with their previous obligation to the Security Council that was seen as an action against Nada. In the end after proceedings finished it was made known that Switzerland unknowingly had a right to convince the court to not investigate or hold them accountable for the UNs authority (Beneyto, 2013).

Accountability can be ignored or set aside due to the success of an IO, but that is not acceptable since the rules and regulations are in place to ensure the safety and validity of any second or third party involved with IOs. The UN and the Council of Europe (COE) are two primary examples when it comes to the necessity for accountability for IOs, as they are constantly involved in challenging human rights along with the European Union various times (Beneyto, 2013). The constant increase of power between these two IOs leads to the expansion of their own activities, like taking up more cases to support, leaving room for further infringements on human rights. Seeing this expansion means that accountability starts with internal accountability, meaning depending on judicial scrutiny and mechanisms of responsibility to preserve rights and prevent misconduct (Beneyto, 2013).

Description

International Organizations

The first step to understanding IOs requires dissecting their goals, previous actions, and the contributions they have made. The Vienna Convention describes IOs as an “intergovernmental” organization created by treaties or an international agreement approved by



law or legal presence (International Law Commission, 2011). Meaning, IOs can be created between many different governments and be established through treaties or by law in order to exercise their full power in terms of their mission. With this definition, it can help understand the limits and correlations to IOs when it concerns international law and regulations (Gaja, 2011). Along with this definition is the understanding of what constitutes a breach of accountability, which is when the IO is either accountable under law or the IO disregards their legal obligation stated in their mission and goals (International Law Commission, 2011).

International Organizations like the UN and World Health Organization (WHO) have been more prominent this year due to the COVID-19 pandemic. The global pandemic has shown the importance of IOs and how crucial they are in supporting and helping people of the world especially in the case of global health crisis; most IOs have been tasked with distributing vaccines, giving safety information, and coming up with solutions to combat additional problems that arose in the pandemic (UN News). WHO, in particular, has been able to vaccinate 75% of people in 10 countries and strives to have a global reach of 70% vaccinated people by the middle of 2022 (UN News). At the same time, however, the discussion of accountability has similarly increased to ensure that each nation is receiving the appropriate support. For example, WHO was accused of failing to properly handle the COVID-19 outbreak by not providing the necessary medical support and attention to the outbreak site (Gasbarri, 2020). This emphasizes the importance of keeping each international organization responsible for their participation and duty that they promised to uphold and deliver globally (Gasbarri, 2020).

WHO is a large and noticeable power, especially in our current politics and discussion around health, which makes it essential to hold WHO responsible for any wrongdoing or lack of



support to any nation or people. WHO has been called out multiple times regarding the response to COVID-19 and the proper discussion with China since WHO first ignored what China truly was doing to stop the spread of this virus even though at that time China was the epicenter of COVID-19 (Collins, 2020). The WHO gave praise in order to appear supportive but they later responded criticizing China for its mishandling of COVID-19 (Collins, 2020). Being such a large organization with multiple priorities can lead to many violations that aren't noticeable to them but are nonetheless impactful to the communities affected. Yet they are far from the only ones that have a large presence and power to influence the world in such a manner.

Despite such scandals, WHO has also been at the forefront in campaigning for greater accountability. WHO has partnered with the United Nations Development Programme, World Bank Group, and the Global Fund that have built a case for anti-corruption, accountability, and transparency specifically in the healthcare system. For example, given the pandemic, there have been higher risks of corruption in our healthcare system due to the increasing demands from vaccination distributions. In order to combat this situation WHO has implemented ACTA or Anti-corruption, Accountability and Transparency that implements measures which WHO did in three divisions which are internal audit, inspection/evaluation, and investigation that all are used to detail a report of misconduct or crimes in the health sector regarding WHO. From this report WHO is able to manage and delegate which sectors of their organization need more support, funds, or attention in order to accomplish each sector's goals (Kohler and Bowra, 2020). Furthermore, WHO is the main response and point organization focused on the global pandemic and a hub for information from many countries around the world, which WHO has demonstrated through the Solidarity Trial that was able to supply the world with vaccines and answers



(Jenkins, 2020). Additionally, other IOs have assisted in finding other flaws and proof of corruption in many funds and organizations and advocated for the need to ensure accountability (Kohler and Bowra, 2020).

The Difficulties of Accountability

The difficulties with accountability among IOs mostly arise when they try to protect their reputation. An IO is usually started to address or focus on a certain issue or to provide aid to people either in IOs respective that can benefit their reputation. Reputation becomes a disciplinary method rather than a chance of responsibility and growth. An example of this harmful method is when the UN had received a lot of criticism for its handling of the cholera outbreak in Haiti in 2010 (Daugirdas, 2020). Due to the worldwide attention to this incident of the UN poorly handling the cholera outbreak, its reputation was damaged and forced the UN to improve their outbreak strategies. However, it was too late because that incident also led officials like Secretary-General Ban Ki-moon to prevent further funding to support their new approach that would improve or change water and sanitation systems in Haiti (Daugirdas, 2020). As mentioned, reputation can be used as a consequence against IOs to conform to their own responsibility as an IO. A reputation can label them as responsive or successful when it comes to international crises or being relied on to support and provide for people rather than being seen as inadequate and lousy. The UN encountered difficulties during the Cholera outbreak due to their poor response which if the UN had taken the proper steps to solve or contain cholera it is likely their reputation would have been more positive and could have implemented a new system to prevent this poor response (Daugirdas, 2020).



Most International Organizations enjoy taking responsibility over their own obligations that can hurt or uplift their reputation. Along with failing to uphold this responsibility there is also a strain in the relationships between IOs and the Security Council, the latter of which is in charge of maintaining peace and stability among IOs and enforcing accountability. Though they are obligated to comply with the legal rule by the Security Council, many IOs uphold their freedom of action and not follow limitations imposed by the council (Murphy 2020). IOs have the largest responsibility and influence over the development of liability for IOs in general since they play a large factor in what laws or regulations should be passed due. Yet with this influence and dominance there is still a large presence of the vacuum that cleans away the roles and responsibilities of IOs (UNESCO). Aside from this there can be more benefits to international laws that are straightforward and state exactly what is wrong for IOs to commit rather than being vague. This then allows organizations to be obligated due to acknowledging and acting on this law before officially being a recognized IO by law. Creating various negative punishments for IOs will make more of a ruckus and frustration from IOs that won't allow legal accountability to ever be accepted (Klabbers, 2017).

To implement the regulatory rules in place for IOs that showcase the lack of liability to ensure the safety of people, the Draft Articles of Responsibility of International Organizations (DARIO), specifically Article 64, was introduced in 2011 detailing a practice for some IOs called the *Lex specialis* (International Law Commission, 2011). The *Lex specialis* practice allows for certain laws to apply or be used compared to a more general law. This misuse has led to the great use of international human rights laws to be overruled by international humanitarian laws that usually involved war or armed conflicts (Borelli, 2015). Nevertheless, these articles have



promoted cooperation among different IOs to shape guidelines for better regulatory procedures. As seen in Article 31, being introduced in 2011 as well details of the obligation for the IO to pay reparations for the injuries or damage caused whether it be material or moral. Meaning that governments should play a key role in upholding regulations that concern their respective IOs due to not having a formal method of guidelines that involve this responsibility. It not only leads to more accountability but acknowledgment and attention that each IO deserves and needs to be held and kept at the correct standards (Burrall and Neligan, 2005). This topic can be seen in various ways as to the ideals needed to improve accountability, what is considered the proper organization, and overall a common ground when it comes to speaking about responsibility among IOs.

Another difficulty of holding IOs responsible for their actions is the lack of judicial forums to review cases that contain violations. For example, in what would later be called the 'Oil for Food Scandal', Benon Sevan, the Director of the Oil for Food Program used vouchers to purchase barrels of oil resulting in 3.5 million of profit straight into the Directors pockets (Anderson, 2010). Many called for some type of action to hold those involved responsible for the outright corruption and legal violations that needed to be addressed in court of justice (Anderson, 2010). Although it took time to get an official review of this situation, there was a private investigation, led by Paul Volcker who oversaw the committee and anything related to this scandal. Independent states like the United States did not cooperate at all with the investigation as they were involved in this scandal. Illustrating how states and IOs play crucial parts in holding organizations responsible for their actions and mistakes as seen in the Oil for Food Scandal. Even with this investigation and full clearance to go through various documents no states have



been held subject to any violations that were committed and can not at the moment indict any person, state or organization at fault (Center for American Progress, 2006).

Human Rights Violations in International Organizations

IOs come in various forms and on the latter there are as many issues. From these issues the most common are violations or crimes committed by humanity that show the need for accountability. The most discussed violation in this section will be human rights violations and how they impact IOs. The purpose of accountability for human rights leads to the prevention of conflict and escalated violence and etc. that are being pushed to be the norm and standard for protecting human rights globally (UNHCR, 2018).

When addressing human rights violations one of the consequences that greatly affect IOs are the integrity and credibility of IOs. The lack of protection for human rights has been highlighted by the Global Coalition, which brought attention to the United Nations failure to address the violations of Human Rights in China. This is a great example of how an International Organization can violate its own duty to ensure the protection of human rights for people around the world. The Global Coalition has urged the UN to take action against China and prevent the continuation of violations against their people since both the organization and the country are not above the law. Not only is the UN at fault but China is also at fault for not complying or allowing these violations of freedom to occur (Human Rights Watch, 2020).

To further expand on another human rights violation is the UNs failure to handle the recent increase in refugees fleeing the Syrian conflict that has led to millions to live in camps and other parts of the world. The UN with its efforts to support and fix the refugee crisis there are



still 30-40 million that continues to increase due to the COVID-19 crisis that plagues the world today that are constantly turned away port to port. And with no proper response to this crisis involving refugees the UN ignores and in a sense stops at making improvements or framework to provide any more aid to the refugees (Maguire, 2020).

Bloc Positions

African Bloc

In African IOs, there is an invisible focus of youth rights that has been highly encouraged to be focused on by the UN that shows the lack of information and attention in certain continents. Furthermore, the relationship among African IOs and the UN is one that lacks presence or unity since African IOs no need to receive support from other IOs (Youth Policy).

Asian Bloc

In terms of IOs in Asia, there is more need for cooperation and desire to have resources or regional centers in any place they can be in. These IOs handle many issues that relate to important and prevalent issues today that these IOs promote and campaign for accountability and standing against corruption among IOs and more (Youth Policy).

European Bloc

The European Union (EU) has played a large role in keeping IOs amenable since the EU has their own sets of governing laws that decide the laws or regulations under their own jurisdiction. In Europe there is a focus on gaining more responsibility for IOs to represent their own positive contribution in international society (Youth Policy).

North American Bloc



In the Americas, the IOs are partners with the UN and Council of Europe in order to establish responsibility over human rights which are in contact with violations that these organizations handle and are the face of. Overall, the focus in North America is to partner with other IOs and build relationships to establish unity among IOs to work on similar issues (Reinisch).

South America Bloc

The IOs in Latin America and the Caribbean concern themselves more with the youth and ensuring the ability to safeguard the people's rights from any harm in their respective countries. The United Nations Development Programme (UNDP): Latin America and the Caribbean deals with the direct information to focus on the governance policies and the ability to do crisis prevention and recovery (Youth Policy).

Committee Goals

By the end of this committee session, you should have a comprehensive understanding and knowledge of current issues with holding IOs accountable for their actions. You should also gain a deeper insight into the policy and legality behind IOs that involve the United Nations in upholding accountability and collaboration among organizations. In addition, you will also learn what accountability means internationally and the purpose of accountability among International Organizations. As delegates, you will be expected to consider possible solutions and improvements to guidelines to hold organizations responsible for any mistakes. Be prepared to discuss these matters with other delegates and together to find a solution to improving accountability.



In terms of etiquette, we expect all the delegates to remain true to their country's policy by advocating and respectfully representing the interests and policies of their respective countries. Under no circumstances should you disrespect other delegates due to conflicts with your country's policies or priorities. Additionally, during the conference, please maintain a professional manner in order for everyone to feel respected and heard by their peers when addressing the committee and chair. Furthermore, we would like to see collaboration and compromise among delegates to find solutions or create ideas and of course active participation.

Research Questions

1. What would convince IOs to take part in legal accountability that would benefit themselves? And how would it be possible to create these benefits with other countries or nations?
2. What factors and systems in place allow IOs to not follow rules or guidelines?
3. Why is it necessary to hold IOs accountable?
4. What diplomatic or professional ways can you utilize to address accountability of IOs while prioritizing support and the best intentions for their respective states? How is it possible to determine how these organizations should provide support and what is considered a good intention?
5. What are current ways organizations promote accountability and collaboration? Are the methods working or increasing more difficulties and problems?
6. What should be done to correct the wrongs or misdoings of IOs?
7. Why is accountability worth the time and effort to be focused on by your respective



country?



References

- Accountable international organizations.* Unesco. (2018, June 27).
<https://gem-report-2017.unesco.org/en/chapter/accountable-international-organizations/>
- Africa: International organizations.* Youthpolicyorg. (n.d.).
<https://www.youthpolicy.org/mappings/regionalyouthscenes/africa/actors/international/>
- Anderson, K. *Legal accountability of international organizations and their agents.* *Opinio Juris.* (2010, September 17).
<http://opiniojuris.org/2010/09/16/legal-accountability-of-international-organizations-and-their-agents/>
- Asia-Pacific: International organizations.* Youthpolicyorg. (n.d.).
<https://www.youthpolicy.org/mappings/regionalyouthscenes/asia-pacific/actors/international/>
- Beneyto. (2013.). *Parliamentary assembly.* PACE - Doc. 13370 (2013) - Accountability of international organizations for human rights violations.
<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20310&lang=en>
- Borelli, S. (2015, June). *The (mis)-use of general principles of law: Lex specialis ...*
Retrieved January 17, 2022, from
https://www.researchgate.net/publication/300781425_The_Mis-Use_of_General_Pri



[nciples_of_Law_Lex_Specialis_and_the_Relationship_Between_International_Human_Rights_Law_and_the_Laws_of_Armed_Conflict](#)

Burall, S., & Neligan, C. (n.d.). *The Accountability Of International Organizations*.

https://www.gppi.net/media/Burall_Neligan_2005_Accountability.pdf

Collins, Micheal. Council on Foreign Relations. (2020). *The who and China: Dereliction of duty*. Council on Foreign Relations. Retrieved September 13, 2021, from

<https://www.cfr.org/blog/who-and-china-dereliction-duty>

Council on Foreign Relations. (n.d.). *Six essential international organizations you need to know*. Council on Foreign Relations.

<https://world101.cfr.org/global-era-issues/globalization/six-essential-international-organizations-you-need-know>

Daugirdas, K. (2020, April 20). *International organizations accountability symposium: Reputation and accountability*. *Opinio Juris*.

<http://opiniojuris.org/2019/10/15/international-organizations-symposium-reputation-and-accountability/>

Gasbarri, W. by D. L., & Gasbarri, D. L. (2020, May 27). *The failure to pursue the mandates of international organizations in the midst of the covid-19 pandemic*. EJIL Talk.

<https://www.ejiltalk.org/the-failure-to-pursue-the-mandates-of-international-organizations-in-the-midst-of-the-covid-19-pandemic/>

Gaja, G.(2011, December) *Articles on the responsibility of international organizations*.

United Nations. <https://legal.un.org/avl/ha/ario/ario.html>



Global coalition urges UN to Address China's human rights abuses. Human Rights Watch.

(2020, October 28).

<https://www.hrw.org/news/2020/09/09/global-coalition-urges-un-address-chinas-human-rights-abuses#>

International Law Commission. (2011). *Draft articles on the responsibility of ... - United*

Nations. Retrieved January 12, 2022, from

https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf

Jenkins, B., & Jones, B. (2020, July 2). *Reopening the world: The Who, international institutions, and the Covid-19 response.* Brookings.

<https://www.brookings.edu/blog/order-from-chaos/2020/06/16/reopening-the-world-the-who-international-institutions-and-the-covid-19-response/>

Johansen, S. (2020, September 11). *Are international organizations accountable towards individuals when they violate human RIGHTS?: Fifteeneightyfour: Cambridge*

University Press. FifteenEightyFour | Cambridge University Press.

<http://www.cambridgeblog.org/2020/09/are-international-organizations-accountable-towards-individuals-when-they-violate-human-rights/>

Klabbers, J. (2017, November). *Reflections on Role Responsibility: The Responsibility of*

International Organizations for Failing to Act. Academic.oup.com. Retrieved

January 12, 2022, from

<https://academic.oup.com/ejil/article/28/4/1133/4866310#111740425>

Kohler, J. C., & Bowra, A. (2020, October 20). *Exploring anti-corruption, transparency, and accountability in the World Health organization, the United Nations*



Development programme, the World Bank group, and the Global fund to Fight AIDS, tuberculosis and malaria. Globalization and Health.

<https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00629-5>

Latin America & The Caribbean: International organizations. Youthpolicyorg. (n.d.).

<https://www.youthpolicy.org/mappings/regionalyouthscenes/latinamerica/actors/international/>

Maguire, S. (2020, June 17). *75 years of the UN: Its triumphs and disasters.* The Lighthouse.

<https://lighthouse.mq.edu.au/article/june-2020/75-years-of-the-un-its-triumphs-and-disasters>

Murphy, B.L.(2020, September 18). *Situating the accountability of the UN Security Council: Between liberal-legal and political 'styles' of global constitutionalism?.*

Cambridge University Press.

<https://www.cambridge.org/core/journals/global-constitutionalism/article/situating-the-accountability-of-the-un-security-council-between-liberal-legal-and-political-styles-of-global-constitutionalism/62D02388829ABEAD2C5D971AA7161666>

Nanda, V. P. (n.d.). *Accountability of International Organizations: Some Observations.*

<https://digitalcommons.du.edu/>

United Nations. *Responsibility of international organizations - sixty-ninth session - sixth committee (legal) - un general assembly.* United Nations.

https://www.un.org/en/ga/sixth/69/int_organizations.shtml



Reinisch, A. (2001, April). *Securing the Accountability of International Organizations*.

<https://www.jstor.org/stable/27800294>

Strengthening the rule of law and accountability for human rights violations. OHCHR.

(n.d.).

<https://www.ohchr.org/EN/AboutUs/ManagementPlan/Pages/law-accountability.aspx>

Suzuki, E., & Nanwani, S. (2005). *Responsibility of International Organizations: The Accountability Mechanisms of Multilateral Development Banks*.

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1184&context=mjil>

Ten things progressives should know about the United Nations Oil-for-Food Scandal.

Center for American Progress. (2006, September 14).

<https://www.americanprogress.org/issues/security/news/2004/12/06/1240/ten-things-progressives-should-know-about-the-united-nations-oil-for-food-scandal/>

United Nations. (n.d.). *Health* | UN NEWS. United Nations.

<https://news.un.org/en/news/topic/health>

United Nations. (n.d.). *International law and justice*. United Nations.

<https://www.un.org/en/global-issues/international-law-and-justice>

United Nations. (n.d.). *Sixth committee, Legal, United Nations, main body, Main organs, General Assembly*. United Nations.

https://www.un.org/en/ga/sixth/74/criminal_accountability.shtml

United Nations. (n.d.). *WHO to G20 Health MINISTERS: Meet covid-19 Pledges, support*

REGIONAL vaccine Manufacturing | | UN NEWS. United Nations.

<https://news.un.org/en/story/2021/09/1099212>



Wilde, R. (n.d.). *ENHANCING ACCOUNTABILITY AT THE INTERNATIONAL LEVEL:*

*THE TENSION BETWEEN INTERNATIONAL ORGANIZATION AND MEMBER
STATE RESPONSIBILITY AND THE UNDERLYING ISSUES AT STAKE.*

<https://core.ac.uk/download/pdf/80035454.pdf>



Topic B: Evaluating the Scope of Universal Jurisdiction

Introduction

Universal Jurisdiction is the legal principle that allows international organizations to prosecute individuals or groups for crimes against international law, regardless of the accused's own nationality, country of origin, or even where the crime was committed (Universal jurisdiction, 2021). The origins of Universal Jurisdiction stems from the idea that the people who commit horrible crimes are "*hostes humani generis*-'enemies of all mankind'" and need to be held accountable and punished (Universal jurisdiction, 2021). As of 2012, 147 states have utilized or allowed universal jurisdiction to prosecute crimes or bring justice to those victimized (Universal jurisdiction, 2021). Universal jurisdiction is limited to crimes of war, torture, humanity, genocide, piracy, hijacking, terrorism, and attacks on UN personnel. This is important to note since if any of these crimes occur it is an obligation of the state to use universal jurisdiction in the prosecution of the crime as long as they can be considered heinous (Basic Facts, 2009).

The importance of this jurisdiction resides in being able to provide justice for victims of international crimes, reducing power imbalances, and improving a state's own government. It also enables the international community to address the immunity gap, political abuse, and restrictions to resources; the UN has outlined what contributes to the inability to serve out justice to international crimes and how to fight back against impunity (United Nations GA). The issue of jurisdiction always becomes a point of controversy when it reaps the most benefits or the least consequences for a state. Nonetheless, When making the comparisons between the benefits and



disadvantages it is evident that the disadvantages of not having universal jurisdiction largely outweigh the benefits of complying with the jurisdiction.

Description

The scope of international laws include genocide, war crimes, torture, and other crimes that are classified as acts of cruelty or inhumane acts committed against people globally. Each place around the globe has a different understanding and exercising of universal jurisdiction due to the different context and legality of each case (Universal jurisdiction, 2021). Sri Lanka, for example, has done little to address universal jurisdiction, making the state vulnerable to crimes that would otherwise be prosecuted as such (A.S.F., 2021). In other words, fugitives and criminals may travel to Sri Lanka to avoid prosecution and being brought to justice that requires immediate intervention (A.S.F., 2021). Even though there are current places around the world that do not follow universal jurisdiction like Sri Lanka, there is also a case like the women of Rohingya in Myanmar who as of August 2020 finally had the chance to speak of the Rohingya genocide in a court of law (Khin, 2021). This is considered a milestone since it all works out for this case against the Myanmar military it will hopefully be the first case about Rohingya that has been able to be discussed under universal jurisdiction (Khin, 2021). This case was able to use the strategy developed by the United Nations to catalyze the movement to legally pursue justice for the victims of Myanmar (Khin, 2021).

As of today, the UN has come together to discuss the applications of Universal Jurisdiction and the best way to uphold its principle. A strong voice in this debate was the representative of Rwanda who strongly urged for states to take action against persecuting



international criminals in their respective states. They have also noted how some fugitives still live freely in certain states enjoying their safe haven they have found rather than being brought to justice. Rwanda had much support from Costa Rica, and Myanmar that have seen the need to have a better framework of universal jurisdiction in order to properly execute international crimes anywhere rather than in one place solely. Yet along with these perspectives to improve this many states such as Saudi Arabia and Zimbabwe argued that applying this jurisdiction should be a last resort as to prevent misapplication and ensure that international crimes are prosecuted in a proper way (Seventy Sixth Session, 2021).

Impacts of Universal Jurisdiction

Today the scope and use of universal jurisdiction varies around the world which contributes a lasting impact. There are many prosecutions of torture crimes that has gathered attention in multiple countries. An example of this prosecution of tortuous crimes is in Chechnya where there is a constant abuse of LGBTQ+ people due to not conforming to Chechnya's model for a heteronormative man (ECCHR, 2021). As of February 2021, the European Center for Constitutional Human Rights and the Sphere Foundation and Russian LGBT Network filed a lawsuit in Germany to hold Chechnya accountable for its tortuous behavior and for Germany to finally step in (ECCHR, 2021). Cases similar to this one have become more difficult to intervene in due to increasing restrictions that can halt investigations or prevent prosecutors from initiating them (Krebs, 2018). On the other hand, there is also the danger of undefined jurisdiction, and many states argue for a more clear and solid answer to how to use universal jurisdiction. Argentina was the first to speak out on the dangers and possibility of abusing universal



jurisdiction to create politically motivated attacks that will create further tensions and conflicts among states (AJC, 2021). Several nations made the effort to name types of potential abuse such as avoiding the use of universal jurisdiction in cases it does not apply to since this can cause legal miscommunication and confusion (United Nations, 2018). This also invites discussion of whether this application should be limited in its use or be more thorough of its guidelines and when it should be applied (AJC, 2021).

Universal Jurisdiction can also contribute a negative impact, exemplified by the impunity gap. An example of this impunity gap is when a state would act on its jurisdiction outside their own respective territory and would be limited from further action until there is a clear and direct connection between the two territories or states. The International Criminal Court (ICC), for example, has experienced impunity gaps since they can only prosecute crimes after July 1, 2002; anything before cannot be tried or held accountable (Factsheet: Universal jurisdiction, 2015). Complicating this situation further, many have turned their backs on universal jurisdiction due to not wanting to handle the responsibility of being universal. By denying this responsibility, states limit themselves from prosecuting crimes outside their territory and restricting other states from doing the same as well. For example, in 2016 Germany legally dismisses any and all cases from another state outside Germany even if it has a strong tie to any state in Germany (Rey-Adams, 2016). Similar to Germany's effort to avoid universal jurisdiction there have been many failed practices like the 'no safe haven' or the 'global enforcer' both are practices to encourage states to take part in universal jurisdiction (Rey-Adams, 2016). Even though there are flaws when it comes to encouraging the practice or the need for universal jurisdiction it does have many benefits to being applied globally.



Importance of Universal Jurisdiction

Universal Jurisdiction can provide justice to victims of a crime outside of their given territory that may not be given to them in the place they reside. This is achieved through the concept of Responsibility to Protect, or R2P, in order to combat potential abuses of power and ensure that justice is being carried out around the globe (Universal jurisdiction, 2021). R2P also takes a primary focus on the role of responsibility to protect the lives and wellbeing of any person or being that resides in each state's respective territory (Universal jurisdiction, 2021). An example of using universal jurisdiction to bring justice is in 1998, when General Augusto Pinochet who was tried for murder, torture, and disappearance of people (HRW, 2020). At first, Pinochet fought against the ability to be arrested and demanded immunity, but some activists filed the charges against him resulting in his trial to take place in Spain and be held accountable for his crimes that happened in Argentina and Chile (HRW, 2020).

Along with justice, universal jurisdiction also provides insight into better practices for execution that can help improve each state's own domestic legal system and stay as a reliable actor in international court. Even though universal jurisdiction is seen as a negative it has contributed much to improving legislation, learning, and the best ways to prosecute war crimes in Europe. Even though there has been a low amount of conviction rates this is slowly rising to increase the amount of universal jurisdiction used in cases around the world (Krebs, 2018). Moreover, universal jurisdiction provides an evenness in the land of international justice, since the state of international justice is uneven. This unevenness is seen when officials that are protected by powerful states or from these powerful states escape justice or prosecution



compared to weaker governments that universal jurisdiction can help improve these gaps(Basic Facts, 2020).

Bloc Positions

Africa

The African Union (AU) has recognized the importance of Universal Jurisdiction and has stated its belief in using this jurisdiction to aid in the fight against impunity for atrocious crimes which goes well with the AUs own articles (African Union). With this recognition comes concern from fellow African States that voice similar worries concerning the validity and practice behind universal jurisdiction that affect African States (African Union). This is echoed by states such as Zimbabwe, who have outlined the purpose and its expectations of Universal Jurisdiction as a means to provide and ensure justice on a global scale rather than a national scale (Zimbabwe).

Europe

The European Union(EU) comes together to evaluate and outline the positives and negatives that come with Universal Jurisdiction in order to pursue the best outcome for improving and ensuring the reliability of Universal Jurisdiction (Human Rights Watch, 2006). Their overall goal is to ensure proper justice and decisions made regarding criminal cases in both Europe and in Western States as well. In relation, the United Kingdom believes that there is a lack of constraints and limitations on Universal Jurisdiction that need to be imposed upon people with ill intentions similarly to the EU (United Kingdom Missions).

North America



In North America there are various laws regarding universal jurisdiction that were created and enforced by larger nations in North America like the US (Hershowitz, 2020). The United States supports universal jurisdiction in the sense that they will prosecute international criminals in their respective state through a civil suit based on the US's federal statutes (TRIAL, 2016). In comparison, Canada applies universal jurisdiction case by case due to the lack of support and resources Canada has readily available at the time (Canada).

South America

The Southern American bloc has had mixed responses to the concept of universal jurisdiction. Some countries have displayed their reluctance and note to the dangers of Universal Jurisdiction and how it plays a role in legal courts around the world. Both Cuba and Argentina vocally spoke out about the fears of political retaliation or politically motivated attacks that Universal Jurisdiction would bring to many countries around the globe (Asia Justice Coalition). On the other hand, the country of El Salvador has stood firmly behind universal jurisdiction to be upheld and acknowledged around the world as a main factor in justice and impunity globally (El Salvador, 2020).

Committee Goals

By the end of this committee session, you should have a deeper understanding and knowledge of the current scope of Universal Jurisdiction and how your country approaches this concept. You should also gain a greater insight into the purpose of international criminal court and laws that involve universal jurisdiction, as well as the roles that countries and International Organizations play in universal jurisdiction. As delegates, you will be expected to consider



possible solutions or improvements to the current legality and credibility of current Universal Jurisdiction. Be prepared to discuss these matters with other delegates and together to observe and find improvements to Universal Jurisdiction.

In terms of etiquette, we expect all the delegates to remain true to their country's policy by respectfully advocating for the interests and policies of their respective countries. Under no circumstances should you disrespect other delegates due to conflicts with your country's policies or priorities. A reminder to all delegates to step in and participate when appropriate and to make space for other delegates to speak and comment as they wish. Additionally, during the conference, please maintain a professional manner by respecting and actively listening to your peers when addressing the committee and chair. Furthermore, we would like to see collaboration, initiative and compromise among delegates to find solutions, create ideas and of course active participation. Overall be your best self and come prepared to do your best in this committee.

Research Questions

3. What role does your country play in evaluating universal jurisdiction?
4. What benefits are received from Universal Jurisdiction that affect your respective country?
5. Should Universal Jurisdiction play a larger role in all crimes globally or specific crimes only? Why or why not?
6. Is the ICC beneficial to countries seeking proper justice or not? If not, how can they be amended so they are?
7. What international conventions, treaties, or initiatives from the UN, ICC, etc. has your



country participated in, and how do they affect your country's approach to handling international crimes?

8. How can your country improve or change their application or laws that relate to universal jurisdiction?



References

- African Union* - *un.org*. (n.d.). Retrieved December 30, 2021, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/au_e.pdf
- AJC. (2021, March). *Universal Criminal Jurisdiction Scoping Paper*. Retrieved from https://2c13781c-c65e-48b5-ac86-efc598a2bd62.filesusr.com/ugd/811bc6_4c6c67c3617145b1a98067342a29964b.pdf
- A. S. F., Schüller, A., & Schüller, A. (2021, February 25). *Universal jurisdiction -- the most difficult path to achieve justice for Sri Lanka*. Just Security. Retrieved January 12, 2022, from <https://www.justsecurity.org/74941/universal-jurisdiction-the-most-difficult-path-to-achieve-justice-for-sri-lanka/>
- Basic facts on universal jurisdiction*. Human Rights Watch. (2020, October 28). Retrieved October 5, 2021, from <https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction#>
- Canada* - *un.org*. SCOPE AND APPLICATION OF UNIVERSAL JURISDICTION IN CANADA. (n.d.). Retrieved January 17, 2022, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/canada_e.pdf
- ECCHR, *Universal jurisdiction*. (2021, October 4). Retrieved October 5, 2021, from <https://www.ecchr.eu/en/glossary/universal-jurisdiction/>
- El Salvador. Permanent mission of El Salvador to the United Nations*. (April, 2020.). Retrieved October 4, 2021, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/elsalvador_e.pdf



Factsheet: Universal jurisdiction. Center for Constitutional Rights. (2015, December 7).

Retrieved October 5, 2021, from
<https://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction>

Gladstone, R. (2021, February 28). *An old legal doctrine that puts war criminals in the reach of Justice.* The New York Times. Retrieved October 5, 2021, from
<https://www.nytimes.com/2021/02/28/world/europe/universal-jurisdiction-war-crimes.html>

Hershowitz, C. (2020, June 12). *With Syrian prosecutions, a rare case of universal jurisdiction.* The Interpreter. Retrieved January 17, 2022, from
<https://www.lowyinstitute.org/the-interpreter/syrian-prosecutions-rare-case-universal-jurisdiction>

Hovell, D. (2018, July 23). *Authority of universal jurisdiction.* OUP Academic. Retrieved October 5, 2021, from <https://academic.oup.com/ejil/article/29/2/427/5057077>

HRW., *The Pinochet precedent.* Human Rights Watch. (2020, November 16). Retrieved December 30, 2021, from
<https://www.hrw.org/report/1998/11/01/pinochet-precedent/how-victims-can-pursue-human-rights-criminals-abroad#>

Human Rights Watch. (2006, June). *Universal Jurisdiction in Europe The State of the Art.* Retrieved December 30, 2021, from
<https://www.hrw.org/sites/default/files/reports/ij0606web.pdf>



- Khin, T., & Quintana, T. O. (2021, September 29). *Symposium on the current crisis in Myanmar: Inching closer to a historic universal jurisdiction case in Argentina on the Rohingya Genocide*. *Opinio Juris*. Retrieved January 12, 2022, from <http://opiniojuris.org/2021/09/30/symposium-on-the-current-crisis-in-myanmar-inching-closer-to-a-historic-universal-jurisdiction-case-in-argentina-on-the-rohingya-genocide/>
- Krebs, J. (2018, September). *Universal jurisdiction and ... - european parliament*. Retrieved October 5, 2021, from [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/603878/EXPO_STU\(2018\)603878_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/603878/EXPO_STU(2018)603878_EN.pdf)
- ReyAdams, L. (2016, March). *Policy Department, directorate ... - statewatch | home*. Retrieved October 5, 2021, from <https://www.statewatch.org/media/documents/news/2016/apr/ep-study-universal-jurisdiction-fight-against-impunity-4-16.pdf>
- Seventy Sixth Session. (2021, October 22). *Concluding debate on Universal Jurisdiction Principle, sixth committee speakers wrestle with challenging balance between state sovereignty, fighting impunity | meetings coverage and press releases*. United Nations. Retrieved January 12, 2022, from <https://www.un.org/press/en/2021/gal3642.doc.htm>
- TRIAL. (2016). *Universal Jurisdiction Annual Review ... - trial international*. Retrieved October 4, 2021, from



https://trialinternational.org/wp-content/uploads/2020/03/TRIAL-International_UJA_R-2020_DIGITAL.pdf

UNEP-United Nations. (n.d.). Retrieved October 4, 2021, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/unep_e.pdf

United Kingdom Mission. (n.d.). *United Kingdom of Great Britain and Northern Ireland.* Retrieved October 4, 2021, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/unitedkingdom_e.pdf

Universal jurisdiction. International Justice Resource Center. (2021, February 27). Retrieved October 5, 2021, from <https://ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/>

Universal jurisdiction. Universal jurisdiction | How does law protect in war? - Online casebook. (n.d.). Retrieved October 5, 2021, from <https://casebook.icrc.org/glossary/universal-jurisdiction>

Universal jurisdiction. The Center for Justice and Accountability. (n.d.). Retrieved October 5, 2021, from <https://cja.org/what-we-do/litigation/legal-strategy/universal-jurisdiction/>

United Nations. (2015). *As views diverge on universal jurisdiction's scope, application, Definition Sixth Committee delegates urge further study on matter | meetings coverage and press releases.* United Nations. Retrieved October 5, 2021, from <https://www.un.org/press/en/2015/gal3502.doc.htm>



- United Nations GA. (n.d.). *The scope and application of the principle of universal jurisdiction - seventy-first session - sixth committee (legal)* United Nations. Retrieved October 5, 2021, from https://www.un.org/en/ga/sixth/71/universal_jurisdiction.shtml
- United Nations. (2018). *Without clear definition, universal jurisdiction principle risks misuse, abuse, Sixth Committee speakers warn | meetings coverage and press releases*. United Nations. Retrieved October 5, 2021, from <https://www.un.org/press/en/2018/gal3571.doc.htm>
- Zimbabwe-un.org. (n.d.). Retrieved October 4, 2021, from https://www.un.org/en/ga/sixth/75/universal_jurisdiction/zimbabwe_e.pdf