

Comparative and Legislative Research on Legislative Framework for Universal Jurisdiction in China

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Keywords: Universal Jurisdiction; Legislative Attitude; Legislative Improvement

Abstract: China's attitude to universal jurisdiction, which is a not world-wide accepted definition, shows a change from refuse to accept. At present, the problems of domestic relevant legislative work on universal jurisdiction is, the resource of the power is mainly based on international customary law and domestic law, the violation of the inviolability of international treaties and the violation of the principle of the legality of crimes. To meet the needs of judging international crimes, harmonizing with international criminal law and safeguarding China's national interests, China should amend Article 9 of the General Part of Criminal Law to clarify the scope of application of universal jurisdiction and create new offence in the Special Part of Criminal Law Division to translate international criminal law into domestic law.

1. Introduction

Universal jurisdiction is one kind of criminal jurisdiction that does not require a connection between crime and forum country. Because international society has not set up a complete system of universal jurisdiction yet,^[1] which leads to much controversy and disputes about universal jurisdiction around related practices. The relevant rules towards universal jurisdiction of China also have some shortages that need to be improved. This essay will try to provide legislative advice on the rules about universal jurisdiction of Chinese criminal law based on comparing with the relevant law of some representative countries and analyzing status and defects of Chinese criminal legislation on this problem. This essay is divided into five parts. In part one, different conceptions of universal jurisdiction will be discussed and a reasonable comparative definition of universal jurisdiction. Part two focuses on comparing legislative work of some representative states towards universal jurisdiction to find legislative examples for Chinese legislation. Part three will indicate the needs to improve the Chinese relevant legislative work and to provide legislative suggestions. Part four is the conclusion part, aiming to sum up mentioned points and restate the legislative recommendations.

2. Concepts of criminal universal jurisdiction and legislative framework for it

First, it is necessary to clarify what is universal jurisdiction first. At present, there is no official concept of universal jurisdiction in international law documents, and the concepts of universal jurisdiction mainly come from the viewpoints of scholars and international academic organizations, which are different from each other. This part will start by discussing the necessity of determining

the concept of universal jurisdiction, and then analyze three parts of the nature of universal jurisdiction: the only subject of universal jurisdiction is state; the only applicable condition for universal jurisdiction is the absence of connection between the crime and applicant state; universal jurisdiction requires nothing about the nature of crimes. Based on its nature, this part finally gives the concept of universal jurisdiction: a state's criminal jurisdiction over a crime, which did not infringe this state's specific national interests and occurred outside of the state, committed by and against individual who is not the citizen of this state when the crime happened.

2.1 Disputes on the concept of universal jurisdiction

First, to show the controversy on the concept of universal jurisdiction, several representative concepts will be listed below. Kenneth C. Randall, who studied universal jurisdiction comparatively earlier, indicates that universal jurisdiction, which is over a limited category of crimes, is provided to every state, "regardless of the situs of the offence and the nationalities of the offender and the offended". The "Princeton Project of Universal Jurisdiction", which is proposed by many scholars in 2001, states that "universal jurisdiction is criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the alleged or convicted perpetrator, the nationality of the victim, or any other connection to the state exercising such jurisdiction." Amnesty International, which has been concerned about this subject for many years, hold the opinion that "Universal jurisdiction is the ability of the court of any state to try persons for crimes committed outside its territory which are not linked to the state by the nationality of the suspect or the victims or by harm to the state's own national interests." The above opinions do not include all of the views on universal jurisdiction. However, it is easy to discover that different concepts have differences in the subject of universal jurisdiction, the nature of crimes, the relationship between crimes and universal jurisdiction, and whether to emphasize the way and conditions for the exercise of power. Thus, this essay will analyze several elements of universal jurisdiction to give a new concept.

2.2 Determination of the concept of universal jurisdiction

This section will analyze and summarize the three essential elements to the concept of universal jurisdiction, the subject, applicable conditions and requirement to the nature of crimes^[2] as the entry point to propose a reasonable and clear concept of universal jurisdiction.

2.2.1 The subject of universal jurisdiction

Legally speaking, any right or power is exercised by a specific subject. Most Chinese and western scholars think the subject of universal jurisdiction should be limited as "states".^[3] For example, Randall indicates that universal jurisdiction is provided to every state. Therefore, the states' subject status of universal jurisdiction is determined. And the question here is whether state is the only subject of universal jurisdiction.

Some scholars recognize that international criminal tribunals, including the International Criminal Court, are another subject of universal jurisdiction alongside the state.^[4] Professor Shaping Shao believes that "the universal jurisdiction in international law...is the power of the state and the international criminal tribunals to exercise jurisdiction and trial of international crimes and criminal suspects under international law."^[5] This opinion recognizes universal jurisdiction as a kind of power equally shared by states and international criminal tribunals. However, for states, the universal jurisdiction that they share is not limited by geographical scope.^[6] In other words, every state has the power to sentence crime no matter where they happen. Nevertheless, for international criminal

tribunals, for the aspect of jurisdiction towards geographical scope, whether it is the various criminal tribunals established after the Worldwide War II or the International Criminal Court (ICC) established in 2002, the jurisdiction is not "universal". For example, the Nuremberg International Military Tribunal and the International Criminal Tribunal for the former Yugoslavia only sentence crimes that occur in specific geographic areas. At the same time, ICC only accepts allegations of crimes committed within the territory of the contracting states following the statute. However, because the current number of contracting states is limited, its jurisdiction is minimal. Based on this, since the jurisdiction of international criminal tribunals is largely limited compared with the universal jurisdiction of states, the jurisdiction of the international criminal courts cannot be called "universal jurisdiction". Furthermore, international criminal tribunals shall not be recognized as a kind of subject of universal jurisdiction, same as states. To sum up, because international criminal tribunal does not share the subject status of universal jurisdiction, the state shall be the only subject of universal jurisdiction.

2.2.2 Applicable condition of universal jurisdiction

To define universal jurisdiction, it is significant to determine the fundamental difference between universal jurisdiction and other traditional jurisdictions. Moreover, the essential difference here is the relationship between the jurisdiction and the crime. In orthodox jurisdiction, the applicant state has to establish a certain connection with the crime through elements such as the place where the act occurred and the perpetrator's nationality to advocate its jurisdiction. In contrast, universal jurisdiction is the opposite. The absence of a connection between the applicant state and the crime is the essential applicable condition for exercising jurisdiction. Thus, this applicable condition should be the core of the concept of universal jurisdiction.

However, different scholars add different elements into their definitions. For example, some scholars think "the defendant must be under control" is an irreplaceable element for universal jurisdiction's definition. While some scholars think exercising universal jurisdiction should have a strictly legal basis.^[7] Similarly, some states add this kind of requests in ruling universal jurisdiction. For instance, Japanese Criminal Code (2006 Revision) adds the requirement of "in accordance with international law" requirement; and French Criminal Procedure Law adds the requirements of "the defendant should be in France". However, this kind of conditions shall not be included in the concept of universal jurisdiction as an applicable condition for the following two reasons. First, those conditions are not the essence of universal jurisdiction, nor the critical difference between universal jurisdiction and traditional jurisdiction. Whether the defendant is within the territory of the applicant state and whether there is a legal basis for jurisdiction are also issues faced with territorial and personal jurisdiction. The definition of universal jurisdiction should explain its specific essence, and it is unnecessary to include those conditions. Secondly, as Professor Lijiang Zhu pointed out, "the list of conditions is endless.", it is also impossible to exhaust all of the condition in one definition. Thus, those conditions shall not be concluded into the definition of universal jurisdiction, which exposes its vital essence but should only be recognized as special requirements according to different circumstances for states in exercising universal jurisdiction.

In summary, the absence of the connection between the applicant state and the crime should be regarded as the only applicable condition for universal jurisdiction, which makes it differ from other kinds of jurisdiction.

2.2.3 Universal jurisdiction's requirement to the nature of the crime

It may be inspired by the fact that universal jurisdiction is originally for dealing with specific kinds of crimes. Many researchers emphasize the element of "crimes' specific nature" when defining

universal jurisdiction. Randall was the first to connect “specific crimes” with universal jurisdiction. Moreover, the widely influential “Princeton Project on Universal Jurisdiction” also agrees with this view.^[8] On the other hand, some scholars exclude the requirement of crime’s nature in the definition and believe that the essence of universal jurisdiction has no relationship with the nature of the specific crime.

Towards the question of whether the requirement of crime’s kind should be taken into the concept of universal jurisdiction and recognized as an irreplaceable component of universal jurisdiction, the answer should be no, based on the following three reasons. First, the “crime with specific nature” is only the governed object of universal jurisdiction, and it cannot be distinguished from other jurisdictions. “Crimes that violate international interests” or “crimes of a specific serious nature” are also objects of other traditional jurisdictions. Moreover, according to the “Princeton Project on Universal Jurisdiction”, when multiple jurisdictions can govern such crimes, traditional jurisdiction has priority instead. Therefore, the requirement of crime’s nature has nothing to do with the definition of universal jurisdiction. Second, adding the “crime’s nature” requirement to the concept will make the conception inaccurate. This is because the specific terminology of “crimes with specific nature” in various concepts is not unified: from “the most serious international crimes”, “specific international crimes”, to “criminal nature”, “international crime”. The terms mentioned above obviously have different meanings. Thus, introducing an element whose meaning is still in dispute will inevitably make the concept of universal jurisdiction cannot become a recognized standard. Third, the requirement of “crime’s nature” can limit the scope of application of universal jurisdiction, making it unable to cover a broad and growing legislative and judicial practice. For example, the types of crimes punished by international conventions through establishing of universal jurisdiction mechanisms for states are increasing. Some of these crimes cannot meet the standards of “most serious international crimes”, “endangering important international interests”, or even “international crimes”, such as “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.” and “United Nations Convention against Corruption”^[9]. The crimes set by these conventions only have the nature of ordinary crimes and don’t fit for the requirement of “endangering important international interests”. As time goes by, more types of crimes of different natures may be brought into governing of universal jurisdiction by the international community for various reasons. The scope of applicable crimes of universal jurisdiction is therefore dynamic. Only by excluding the requirement of crimes’ nature, the concept of universal jurisdiction can avoid the application dilemma that arises from it and perform its functions.

2.2.4 Concept of universal jurisdiction

Based on the previous discussion, for the aspect of the concept, there are three parts of nature of universal jurisdiction that can be concluded: universal jurisdiction only has one subject and one applicable condition, and crime’s nature shall not limit it. Considering its nature, the concept of universal jurisdiction should be defined as a state’s criminal jurisdiction over a crime, which did not infringe this state’s specific national interests and occurred outside of the state, committed by and against an individual who is not the citizen of this state when the crime happened.

3. The Legislative practice of Western countries

At present, most states set rules of universal jurisdiction. However, some states, mainly the African and the South American states, never exercise this power. In contrast, European countries exercised universal jurisdiction more frequently. This is because of two reasons, the states’ power and special identity. In general, universal jurisdiction is a kind of enlarged criminal jurisdiction, which involves conflict with other states’ judicial sovereignty. Therefore, only powerful states with more significant

influence in the international community will be better positioned to exercise universal jurisdiction. That is why the powerful traditional countries in Europe are particularly active in the exercise of universal jurisdiction. However, Belgium exercises universal jurisdiction actively is for its unique identity in international society. As a traditional permanent neutral country, Belgium is considered to maintain an objective and neutral attitude in international disputes. Hence the international community allows, and used to encourage, Belgium to actively exercise universal jurisdiction.

In this part, without analyzing specific cases, the discussion about the value and effect of rules will be meaningless. Because of this, this part chooses to discuss the legislative practice of four countries, the United States, Belgium, England and Germany, which has exercised the power of universal jurisdiction. These four examples can show four different modes of rules of universal jurisdiction. The United States sets a complicated system about universal jurisdiction, which includes three main methods. Belgium adopts the mode of setting a specialized code for universal jurisdiction. England transforms this power from international convention into domestic law. Germany chooses to set rules in its criminal code. These modes' effect and value will be discussed in this part. Furthermore, it is needed to be pointed that this part will not to evaluate which state's method is better. Because the legislative work of different countries is complex and influenced mainly by political reasons, it is difficult to compare which is better.

3.1 The United States' legislative practice

The legislative framework of universal jurisdiction in the United States contains two main methods. These two methods are setting the only official statute about universal jurisdiction to deal with the crime of torture and setting long-arm jurisdiction, which requests little about the connection between the crime and the United States. This part will describe and evaluate these two methods separately.

First, the United States Code limits the universal jurisdiction only towards torture. The Article 2340A(b) of the U.S.C, sets jurisdiction over the crime of torture if (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.^[10] This provision is rare legislation for the United States, dominated by case law. It clears that the crime of torture can be charged by universal jurisdiction, which is consistent with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (The United States signed this convention in 1994). Because of this, this article can be seen as a typical legislative example for universal jurisdiction by transforming the crimes set by the international conventions into domestic law.

The second method is the long-arm jurisdiction bill with the nature of universal jurisdiction. Taking New York State as an example, the long-arm jurisdiction bill and related laws include three parts, family law, civil law and criminal law. As for the criminal perspective, the law rules that, even though none of the conduct constituting the offense may have occurred within this state, the court may share the jurisdiction to prevent the occurrence of a particular effect. The basic legal basis of this article is "effect principle", which means, as long as an act which occurs in a foreign country produces an "effect" in the territory of the country, regardless of whether the perpetrator has the nationality or residence of the country, and whether the act conforms to the law of the perpetrator's location, domestic court can exercise jurisdiction over this case. Because of its regardless of the jurisdiction and attitudes towards specific cases of other countries, the essence of long-arm jurisdiction is extraterritorial jurisdiction, which inevitably conflicts with the jurisdiction of other countries and threatens the judicial sovereignty of other countries.

In conclusion, the United States adopts two different methods to exercise universal jurisdiction. One is transforming the crimes set by the international convention into its domestic criminal code. This method makes domestic criminal articles consistent with the signed conventions, which prevents

violations of the legal principle of crimes punishments when prosecuting specific crimes. Thus, this method is an example for China to refer. The other one is the long-arm jurisdiction, leading to the violation of other countries' judicial sovereignty, which contrasts China's diplomatic policy of respecting every country's complete sovereignty.

3.2 Belgium's legislative practice

Belgium is one of the first countries to finish relevant legislation and exercise universal jurisdiction accordingly. However, in recent years, Belgium adopts a more conservative attitude because of the pressure of international society. In order to fulfil its obligations under the Geneva Conventions, Belgium promulgated the "Act Concerning Punishment for Grave Breaches of International Humanitarian Law" in June 1993. This bill grants the Belgian courts broad universal jurisdiction, even over which the defendants are absent. However, the application of this bill has always been controversial. In 2003, Belgium had to abolish this act because of political pressure and incorporated relevant domestic laws on international crimes into its criminal code, to reduce the use of universal jurisdiction. The relevant provisions stipulate that for those accused of genocide, crimes against humanity, and war crimes, only if they are Belgians or live in Belgium (including those who become Belgians or live in Belgium after committing the crime), the Belgian courts have jurisdiction over it. In addition, if the victim is a Belgian citizen or has lived in Belgium for three years from the time of the victimization, the court can also exercise jurisdiction. The above rules show that, towards international crimes, Belgium now exercises personal jurisdiction and territorial jurisdiction than universal jurisdiction in general. However, Belgium still shows positive attitudes in exercising universal jurisdiction based on international conventions to deal with specific cases, such as the Habré case.^[11]

Towards universal jurisdiction, only in the legislative aspect, Belgium and China shares similar attitudes. Rather than universal jurisdiction, other kinds of jurisdiction like personal jurisdiction or territorial jurisdiction which require the connection between the crime and the prosecution countries are preferred. This method can indeed avoid the violation of other countries' judicial sovereignty, but such passive attitude would negatively influence prosecuting and punishing international crimes. In addition, as a state with significant international influence, China should play an exemplary role in this aspect.

3.3 The United Kingdom's legislative practice

The UK choose the method to transform the international crime ruled by international conventions into its domestic law. As a signatory of the Torture Convention, the United Kingdom promulgated the Criminal Justice Act in 1988. Article 134 of this Act transformed the crime of torture from the Torture Convention into domestic law and implemented it in the United Kingdom.^[12] In 2001, the United Kingdom's International Criminal Court Act extended the scope of universal jurisdiction to war crimes, genocide, and crimes against humanity. Towards the crime committed by a person who is not the United Kingdom national, a United Kingdom resident or a person subject to UK service jurisdiction, if he is resident in the United Kingdom when the proceedings are brought.

The United Kingdom's relevant law is an excellent example of transforming international crime into domestic crime. The most important point of the United Kingdom's legislative practice is that the prosecution can be started as long as the defendant is resident with the U.K.'s territory. This rule is genuinely universal jurisdiction and prevents the occurrence of default judgement.

3.4 Germany's legislative practice

As a civil law system state, under the request of legality, Germany published its Code of Crimes against International Law in 2002. Section 1 of this Code sets universal jurisdiction as: "This Act shall apply to all criminal offences against international law designated under this Act. even when the offence was committed abroad and bears no relation to Germany..." Moreover, this Code also indicates several crimes that universal jurisdiction can be applied to. It seems like German's universal jurisdiction is quite comprehensive and effective. However, considering the Section 153f (2), its universal jurisdiction is only a kind of supplemental jurisdiction--when the crime share a stronger connection with other states, including territorial and personal reasons, German automatically loses the power to exercise universal jurisdiction.^[13] For example, German refused to prosecute Donald Henry Rumsfeld in 2004 and 2006 just because of this reason. Towards universal jurisdiction, German makes a perfect example for the aspect of legislation by setting a special code for international crimes.

4. The Need and Suggestions for the improvement of the Chinese Legislative Framework on Universal Jurisdiction

4.1 The need for the improvement of Chinese Legislative Framework on Universal Jurisdiction

Because the Article 9 of Criminal Law is the only provision of the Chinese legislative framework on universal jurisdiction, it is too abbreviated and has many shortages. Moreover, because of the existence of mentioned shortages, the Chinese legislative framework cannot meet the needs of trying international crimes, harmonizing with international criminal law and protecting China's national interests.

4.1.1 The need to try international crimes

Concerning the trial of international crimes, although there is an International Criminal Court and various specially established criminal tribunals, there is more reliance on the exercise of criminal jurisdiction by sovereign states in their domestic courts to punish crimes. Not only do international conventions lack specific content of crimes, but also the international community does not currently have a well-developed direct enforcement mechanism. This means that a state must seek a basis in domestic law, rather than international criminal law, in the process of trying a specific international crime.

Moreover, as technology continues to develop, it has also given rise to new types of crime, which can spread more quickly and wreak havoc worldwide. However, international criminal law will spend much time to identify a new type of crime as an international crime or develop an international custom. Thus, combating crime based on international law is not conducive. In contrast, sovereign states can supplement their national laws flexibly in a relatively timely manner with new types of crimes. Thus, establishing the legal system of universal jurisdiction can help states to sanction new international crimes.

Besides, applying the principle of universal jurisdiction has become increasingly important in the context of the growing seriousness of the harm caused by the development of international crime. The explicit provisions of universal jurisdiction can help states govern international crimes and help with the practical judicial assistance between states to combat serious international crimes. Deficiencies in the provisions universal jurisdiction principles may result in China losing jurisdiction over certain cases, allowing perpetrators to go unpunished.

4.1.2 The need to harmonize with international criminal law

The improvement of the principle of universal jurisdiction is an essential element in the alignment of domestic criminal law with international criminal law. From the standpoint of substantive law, the establishment of the principle of universal jurisdiction must include two parts, the general provisions on universal jurisdiction itself and the provisions on the international crimes to which the principle applies, both of which are indispensable. Because Chinese criminal law does not set provisions for international crimes under international conventions or customary international law, it can be said that Chinese process of transformation from international to domestic criminal law is incomplete.

In addition, as technology continues to develop, it has also given rise to the creation of new types of international crimes that rely on high technology, which are often more likely to spread quickly and cause damage worldwide. The long legislative cycle and extensive international practice required to identify a new type of crime as an international crime and then legislate or form international custom is not conducive to combat. On the other hand, sovereign states can rule the new crimes in their domestic law, which can be the foundation of international criminal law. Nevertheless, since Chinese criminal law does not include any international crimes, thus, the crimes under Chinese criminal law cannot form the basis of international criminal law, which leaves Chinese criminal law in a state of disconnection from international criminal law.

4.1.3 The need to protect China's national interests

In line with China's opening-up process and growth in national power, China's national interests are more global than ever and those of most other countries. The latest statistics released by the Ministry of Commerce showing that China's total outbound investment reached US\$140 billion in 2014, and Chinese capital has spread to 184 countries and regions around the world. At the same time, the political, legal, tax and investment policy, market, financial, social, credit, environmental, technological and operational risks of China's overseas investments have become the main dilemmas faced by Chinese companies investing overseas. Many failed Chinese overseas investments have been made due to local political situations and legal investment policies in recent years.^[14] Moreover, the damage caused to Chinese overseas interests by certain international crimes, especially terrorist crimes, cannot be underestimated. Today, with China's deep involvement in globalization, the common interests of the international community and China's claims have become highly integrated, and China is hardly immune to international crime. Thus, adopting universal jurisdiction is necessary for protecting the global public interests and China's national interests.

4.2 Suggestions on Chinese Legislative Framework on Universal Jurisdiction

Considering that the direct application of international treaties is inconsistent with Chinese legislative tradition, the better solution is to establish the accurate principle of universal jurisdiction in the Part of General Provisions and specify the international crimes in the Part of Special Provisions.

4.2.1 Amendment to the Part of General Provisions

Some scholars suggest that China need to expand the scope of application of this provision. This is to fulfil China's international treaty obligations and to protect its interests. However, some domestic scholars have also argued that this provision's scope should be appropriately limited because exercising universal jurisdiction may violate other states' judicial sovereignty. Accordingly, this article argues that the scope of application of Article 9 of the Criminal Code is indeed unclear and should be amended, but it should be discussed from two aspects.

In terms of enlarging the scope, as mentioned, the principle of universal jurisdiction currently

established in China is only based on international treaties. It does not include the content of customary international law. Also, the direct application of international treaties is inconsistent with Chinese legislative tradition. Leaving it to judges to determine whether to apply customary international law is also asking too much of the judge. Therefore, an amendment to Article 9 of the Criminal Law is needed. This essay suggests that a new paragraph be added to Article 9: "This law is applicable to crimes specified in customary international law." On the other side, given the nature of universal jurisdiction, its arbitrary exercise may undermine the sovereignty of other states or place an unnecessary burden on China. Therefore, China may impose appropriate restrictions on the scope of application of universal jurisdiction. One of the most accepted methods is to limit the range of perpetrators of crimes to which universal jurisdiction can apply. For example, Article 7(3) of Canadian Criminal Code rules that, if the perpetrator enters Canada after committing an international crime, Canada shall treat the said act as having occurred in Canada and shall be entitled to exercise universal jurisdiction over it. China could follow this approach by adding a clause to Article 9, which states that "China can exercise universal jurisdiction only if the perpetrator is present within Chinese territory". Thus, the amended article would read as follows: "This law is applicable to the crimes specified in international treaties to which the PRC is a signatory state or with which it is a member, and the PRC exercises criminal jurisdiction over such crimes within its treaty obligations. This law is also applicable to the crimes specified in customary international law. China can exercise universal jurisdiction only if the perpetrator is present within Chinese territory". Moreover, specific provisions should also be made in the Part of General Provisions of the Criminal Law on issues such as the statute of limitations regime, to clarify which international crimes are not subject to the statute of limitations.

4.2.2 Creation of new crimes in the Part of Special Provisions

Many international crimes cannot be covered by ordinary domestic crimes. The direct application of international treaties can also suffer from the problem of only conviction but not sentencing. Only by clearly establishing the offence of international crimes in the Part of Special Provisions of Chinese criminal law can solve the problem more effectively.

As mentioned, some countries choose to enact separate laws for international crimes outside the criminal code. In contrast, a few countries have provided for international crimes in a special section within the criminal code. Considering the tradition of Chinese criminal legislation and the practical applicability for judges, this essay suggests ruling all international crimes within the criminal code. When creating new crimes, crimes covered by international treaties to which China is a party, and crimes recognized under customary international law, should be taken into account.

General international crimes are already partially regulated in the Chinese Criminal Law. This means that the composition of the various crimes stipulated in the Criminal Law is the same as that stipulated in international criminal law, such as drug crimes and the crime of hijacking an aircraft. For other general international crimes provided in the treaties, to which China is a party, and customary international law, they can be ruled like drug crimes and placed in different chapters of the current Criminal Code depending on the legal interests they infringe. This situation represents a successful transformation of international crimes.

For core international crimes, a particular chapter on "Crimes against the Peace and Humanity" could be created in the Criminal Code. Principle II of the Princeton Principles of Universal Jurisdiction defines the scope of severe crimes and indicates that the core international crimes are with common elements and have a global impact. In formulating each international crimes, China could follow the example of most civil law countries and, rather than simply quoting the content of the treaties concluded, have its legislature re-define the content of the treaties in accordance with the provisions of the international conventions to form a new offence. This approach aligns with the

overall approach to the formulation of Chinese criminal law and suits the Article 9 of the Criminal Code.

5. Conclusion

This essay focuses on the legislative framework for universal jurisdiction in China. After discussing some conceptual questions, this essay analyzes several legislative examples of European countries. Then, based on China's negative political attitude towards universal jurisdiction, this essay illustrates the existing problems of Chinese legislative framework on universal jurisdiction, including the refusal to universal jurisdiction based on customary international law and domestic law and the violation of the principle of universal jurisdiction inviolability and legality. As the reaction to the needs of trying international crimes, harmonizing with international criminal law and protecting China's national interests, this essay finally gives the following suggestions to Chinese criminal law: in the part of General Provisions, two provisions should be added to Article 9 in order to enlarge China's universal jurisdiction over crimes based on customary international law and limit the range of perpetrators of crimes to which universal jurisdiction can apply. Moreover, add provisions to indicate specific issues like limitation regime; in Special Provision, China should transform international criminal law into domestic law by creating new crimes. New crimes can be divided into different chapters according to the legal interests they infringe, and one new chapter should be set for core international crimes.

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