

## THE PRINCIPLE OF UNIVERSAL JURISDICTION IN THE 21ST CENTURY: ACCOUNTABILITY FOR WAR CRIMES BEYOND TERRITORIAL BOUNDARIES

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### Abstract

Universal jurisdiction represents one of the most significant developments in international criminal law, enabling states to prosecute individuals for grave international crimes regardless of where the offense occurred or the nationality of the perpetrator or victim. This article examines the evolution, application, and contemporary challenges of universal jurisdiction in 2025-2026, focusing on accountability for war crimes, crimes against humanity, genocide, and torture. The article analyzes recent landmark developments, including the historic 2024 conviction of Ousman Sonko in Switzerland the highest-ranking state official tried under universal jurisdiction in Europe and the 2024 French arrest warrant for Syrian President Bashar al-Assad. It examines the surge in universal jurisdiction activity, with 36 new cases opened in 2024 and 27 convictions, alongside critical challenges including the failure to open investigations into alleged crimes in Gaza and selective application across conflict situations. The research addresses legal reforms adopted in Germany and Denmark in 2024, emerging digital evidence challenges, and the evolving jurisprudence on immunities. The article concludes that while universal jurisdiction has experienced unprecedented growth and remains vital for combating impunity, its legitimacy depends on consistent application across all situations, enhanced international cooperation, and political will to prioritize accountability over diplomatic expediency.

### Introduction

Universal jurisdiction stands at a critical juncture in its development as a mechanism for international criminal accountability. The principle, which empowers states to prosecute individuals accused of the most serious international crimes war crimes, crimes against humanity, genocide, and torture irrespective of where the crimes were committed or the nationality

of perpetrators or victims, has experienced both unprecedented expansion and acute challenges over the past two years (Bassiouni, 2001; Macedo, 2004). The year 2024 witnessed remarkable growth, with 36 new cases opened or made public and 27 convictions in first instance or on appeal nearly double the number from 2023 (TRIAL International, 2025). Yet this quantitative expansion has been accompanied by persistent

concerns about selective application, particularly regarding the failure to open investigations into alleged crimes in Gaza despite substantial evidence and documentation.

This article provides a comprehensive examination of universal jurisdiction in its contemporary context, analyzing developments through February 2026. It explores landmark cases, legal reforms, technological innovations in evidence gathering, and the fundamental challenges threatening the principle's legitimacy and effectiveness. The analysis situates current practice within historical evolution while addressing pressing questions about consistency, political will, and the future trajectory of universal jurisdiction as a tool for international justice.

### Historical Development of Universal Jurisdiction Early Origins and Piracy

The concept of universal jurisdiction has deep historical roots, traditionally associated with the international crime of piracy. As early as the 17th century, pirates were deemed *hostis humani generis*—enemies of all mankind—subject to capture and punishment by any state (Randall, 1988). The rationale was both practical and normative: piracy threatened international commerce and maritime security, occurring in international waters beyond the territorial jurisdiction of any single state. Hugo Grotius, in his seminal work *De Jure Belli ac Pacis* (1625), argued that pirates, having violated the law of nations, could be punished by any captor (Grotius, 1625/2005). This principle became firmly established in customary international law and later codified in treaties such as the 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on the Law of the Sea (United Nations, 1982).

### Post-World War II Developments

The atrocities of World War II fundamentally transformed international criminal law and expanded the scope of universal jurisdiction. The Nuremberg and Tokyo Tribunals, while not pure examples of universal jurisdiction being established by the victorious Allied powers nonetheless established the principle that individuals could be held criminally responsible for crimes against

humanity, war crimes, and crimes against peace, regardless of official capacity (Taylor, 1992). The Nuremberg Charter's articulation of crimes against humanity marked a watershed moment, recognizing that atrocities committed against civilian populations, even by a state against its own citizens, concerned the international community (Schabas, 2000).

The 1949 Geneva Conventions and their Additional Protocols incorporated universal jurisdiction provisions, obligating state parties to search for and prosecute or extradite individuals alleged to have committed grave breaches of the Conventions (Geneva Conventions, 1949). These grave breaches—including willful killing, torture, inhuman treatment, and extensive destruction of property not justified by military necessity—constitute serious violations of international humanitarian law applicable during armed conflicts (Dörmann, 2003). The universal jurisdiction provisions of the Geneva Conventions represented a significant expansion, moving beyond piracy to encompass core international humanitarian law violations.

### The Post-Cold War Era and Expansion

The end of the Cold War unleashed new possibilities for international justice. The 1990s saw the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), followed by the adoption of the Rome Statute of the International Criminal Court in 1998 (Cassese, 2008). While these tribunals primarily exercised territorial and personal jurisdiction, their creation reflected growing international consensus that perpetrators of genocide, crimes against humanity, and war crimes must face justice. This normative shift encouraged domestic jurisdictions to assert universal jurisdiction more robustly (Roht-Arriaza, 2005).

Belgium's 1993 Act Concerning the Punishment of Grave Breaches of International Humanitarian Law, amended in 1999, became the most expansive universal jurisdiction statute, allowing prosecution of international crimes without any connection to Belgium (Reydam, 2003). This legislation facilitated numerous investigations, including cases

involving Rwandan genocide suspects, Chadian dictator Hissène Habré, and Israeli officials. However, the Belgian law also sparked controversy, leading to complaints from the United States and other countries about politically motivated prosecutions and eventually resulting in amendments that significantly restricted its scope (Vandermeersch, 2005).

#### **The Current State of Universal Jurisdiction: 2024-2026 Developments**

##### **Record Growth and Expanding Practice**

The Universal Jurisdiction Annual Review 2025, published in April 2025 by a consortium of human rights organizations including TRIAL International, ECCHR, FIDH, and REDRESS, documented 95 extraterritorial and universal jurisdiction cases prosecuted across 16 countries (TRIAL International, 2025). The data reveals an upward trend in utilization, with 36 new cases opened or made public in 2024 and 27 suspects convicted in first instance or on appeal representing a near doubling from the 14 convictions recorded in 2023. These figures demonstrate that universal jurisdiction has transitioned from an exceptional mechanism to an increasingly normalized component of the international accountability architecture.

Germany continued its position as the most active jurisdiction, with its specialized Federal Prosecutor's Office for War Crimes maintaining over 100 structural investigations related to conflicts in Syria, Iraq, Afghanistan and Ukraine (Kaleck & Kroker, 2018). In 2024, Germany strengthened its legal framework through reforms that clarified the non-applicability of functional immunity for foreign state officials accused of international crimes a significant development addressing one of universal jurisdiction's most contentious obstacles (International Bar Association, 2025). Denmark enacted comprehensive reforms enabling investigation and prosecution of international crimes under universal jurisdiction, joining the cohort of actively prosecuting states. Portugal emerged as a new participant, opening its first universal jurisdiction investigations in 2024.

##### **Landmark Cases and Precedents**

The conviction of Ousman Sonko in Switzerland in 2024 marks a watershed moment for universal jurisdiction. Sonko, former Minister of the Interior of The Gambia, was convicted of crimes against humanity and sentenced to 20 years imprisonment, making him the highest-ranking state official tried under universal jurisdiction before a European court to date (TRIAL International, 2025). The case, which involved systematic torture and killings during Yahya Jammeh's regime, demonstrated that senior government officials can face meaningful accountability in foreign jurisdictions. Sonko's appeal trial is scheduled to commence on March 30, 2026, which will further develop jurisprudence on the applicable standards for crimes against humanity convictions.

In France, a Court of Appeal confirmed in 2024 an arrest warrant against former Syrian President Bashar al-Assad for complicity in war crimes and crimes against humanity following the 2013 chemical weapons attacks (FIDH, 2025). This marked the first time a European court issued an arrest warrant for a sitting head of state based on universal jurisdiction for international crimes committed during an ongoing conflict. The French judicial authorities also entered convictions in absentia in two other cases related to the former Syrian regime, explicitly confirming that functional immunities do not apply in international crimes cases—a critical evolution in immunity jurisprudence that challenges traditional conceptions of official immunity (UJAR, 2025).

In December 2025, a Paris court convicted Roger Lumbala, a former Congolese minister and warlord, of complicity in crimes against humanity for his role in atrocities committed in the Democratic Republic of Congo (TRIAL International, 2025). The case involved extensive documentation of mass killings, sexual violence, and systematic attacks against civilian populations during the Congo conflicts. Germany continued its remarkable track record with Syrian cases, convicting former members of Syrian regime-affiliated militias for war crimes and crimes against humanity, building on the precedent-setting 2022 Anwar Raslan conviction.

In January 2024, the Netherlands convicted Mustafa A., a member of Liwa al-Quds, for war crimes and crimes against humanity committed during the Syrian civil war while fighting on the side of Syrian government forces, sentencing him to twelve years imprisonment (International Bar Association, 2025). This case was notable as the first trial involving simultaneous translation from Dutch into Arabic, significantly improving accessibility for Syrian witnesses and victims. The court's finding that Liwa al-Quds constituted a criminal organization established important precedent for prosecuting members of armed groups under universal jurisdiction.

### Geographic Expansion Beyond Europe

Universal jurisdiction practice has begun expanding beyond its traditional Western European concentration, though unevenly. In February 2025, an Argentine court issued arrest warrants against several officials in Myanmar, including junta leader Min Aung Hlaing, former President Htin Kyaw, and former State Counsellor Aung San Suu Kyi, on charges of genocide and crimes against humanity against the Rohingya people (Wikipedia, 2026). The warrants, issued pursuant to universal jurisdiction on petition from the Burmese Rohingya Organisation UK, represent South American engagement with Asian atrocities and demonstrate potential for South-South accountability mechanisms.

In November 2025, the Istanbul Bar Association in Turkey filed a case against 37 Israeli officials on allegations of genocide related to Gaza, with the Istanbul Chief Public Prosecutor's Office issuing arrest warrants against government members including Prime Minister Benjamin Netanyahu and military leaders (Wikipedia, 2026). While enforcement prospects remain uncertain given geopolitical realities, the case demonstrates expanding willingness among non-Western jurisdictions to exercise universal jurisdiction, particularly for high-profile situations.

### The Gaza Accountability Gap: Challenges to Legitimacy

#### The Failure to Investigate Alleged Gaza Crimes

The failure to open investigations based on extraterritorial or universal jurisdiction into alleged international crimes committed in Gaza has emerged as the most significant challenge to universal jurisdiction's legitimacy in 2024-2025. Despite extensive documentation by human rights organizations, journalists, and UN bodies of potential war crimes and crimes against humanity committed since October 2023, European jurisdictions that have actively prosecuted Syrian, Rwandan, and other cases have largely declined to open formal Gaza-related investigations (ECCHR, 2025). This selective application has been perceived as undermining the principle's claim to universality and non-political character.

The International Criminal Court issued arrest warrants in November 2024 for Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant on charges including crimes against humanity and the war crime of starvation, alongside warrants for Hamas leaders for war crimes related to the October 7, 2023 attacks (JURIST, 2025). However, national universal jurisdiction efforts have been minimal despite complaints filed in at least a dozen countries. In October 2024, Belgian prosecutors announced an investigation into a Belgian-Israeli citizen for alleged war crimes committed in Gaza, representing one of the few active universal jurisdiction probes (UJAR, 2025). In December 2024, Belgian authorities detained and questioned two Israeli soldiers on leave at a music festival in response to legal complaints filed by human rights organizations (The Intercept, 2025).

Germany's Federal Public Prosecutor General refrained from opening an investigation into crimes under international law for the killing of a German-Palestinian family in Gaza in 2024, despite the presence of German victims that would ordinarily establish jurisdiction (UJAR, 2025). This decision contrasted sharply with Germany's aggressive pursuit of Syrian cases, raising questions about consistency and political considerations in prosecutorial decision-making. Civil society organizations have argued that the differential

treatment undermines universal jurisdiction's foundational premise that certain crimes are so grave as to concern the entire international community regardless of political context (ECCHR, 2025).

#### **Documentation and Evidence of Gaza Atrocities**

The evidentiary basis for potential Gaza investigations is substantial. In September 2025, the UN Independent International Commission of Inquiry concluded that Israel is committing genocide in Gaza, finding that Israeli actions demonstrated the requisite genocidal intent through statements by officials, deliberate destruction of medical and educational infrastructure, and creation of conditions calculated to bring about physical destruction of Palestinians (UN Commission of Inquiry, 2025). The Commission documented widespread crimes including direct targeting of civilians, use of starvation as a weapon of war, systematic destruction of civilian infrastructure, and attacks on protected persons and objects. By May 2025, the Commission noted that with 53,000 Palestinians killed and 8,900 militants listed as dead by Israeli intelligence, 83 percent of those killed were civilians a ratio suggesting indiscriminate or disproportionate attacks.

Organizations such as the Hind Rajab Foundation have compiled extensive dossiers documenting specific incidents and identifying individuals allegedly responsible for violations of international humanitarian law (The Intercept, 2025). These databases include video evidence, testimonial statements, geolocation data, and command responsibility analysis. In July 2025, 30 countries convened by The Hague Group committed to supporting universal jurisdiction mandates to ensure justice for victims in the Occupied Palestinian Territory, though translating this commitment into actual investigations has proven difficult (The Intercept, 2025).

#### **Political Obstacles and Diplomatic Pressure**

The reluctance to pursue Gaza cases reflects complex political dynamics. Several European countries with universal jurisdiction laws had previously restricted their statutes specifically in

response to attempts to prosecute Israeli officials, creating structural barriers to investigation (The Intercept, 2025). Spain's 2009 and 2014 amendments to its universal jurisdiction law, which imposed substantial connection requirements, were influenced in part by diplomatic tensions arising from cases involving Israeli defendants. The United States has imposed sanctions on International Criminal Court officials investigating Israeli actions, arguing the Court operates *ultra vires* despite ICC jurisdiction over Palestinian territory (JURIST, 2025). Such pressure creates chilling effects on national prosecutors considering universal jurisdiction investigations.

The differential treatment of Gaza compared to other conflict situations has generated intense criticism from human rights advocates, legal scholars, and affected communities. Critics argue that selective application based on geopolitical considerations fundamentally contradicts universal jurisdiction's normative foundation—that certain crimes are so heinous they warrant prosecution wherever perpetrators are found, regardless of political consequences (ECCHR, 2025). The perception that universal jurisdiction is exercised primarily against officials from weaker states or those outside Western alliances, while powerful states' allies enjoy *de facto* immunity, threatens to delegitimize the entire enterprise.

#### **The Syrian Conflict: A Universal Jurisdiction Success Story**

##### **Comprehensive Response to Syrian Atrocities**

The response to crimes committed in Syria represents universal jurisdiction's most comprehensive application to a single conflict situation. The UJAR 2025 documented 49 cases underway in nine prosecuting countries for international crimes committed in Syria and bordering Iraq since 2011 (TRIAL International, 2025). This extensive case law has established important precedents regarding crimes against humanity, torture, sexual violence as a war crime, and command responsibility for systematic human rights violations.

The Syrian cases have been facilitated by the presence of substantial refugee populations in prosecuting states, particularly Germany, France,



Sweden, and the Netherlands. Syrian survivors and witnesses who fled to Europe have provided crucial testimony, often participating as co-plaintiffs or subsidiary prosecutors in continental legal systems. The convergence of displaced victims with functioning legal systems possessing universal jurisdiction created conditions for accountability unavailable in Syria itself, where the Assad regime maintained absolute impunity until its fall in December 2024.

In November 2023, French authorities issued an international arrest warrant against Syrian President Bashar al-Assad an unprecedented action against a sitting head of state for ongoing conflict crimes (TRIAL International, 2024). The Syrian leader's subsequent overthrow in December 2024 dramatically altered the accountability landscape, potentially enabling access to documentary evidence, witness testimony, and crime scenes previously inaccessible. Universal jurisdiction cases provided crucial documentation and legal frameworks that may now support transitional justice mechanisms within Syria itself.

#### **Collaboration Between Civil Society and Prosecutors**

The Syrian universal jurisdiction cases exemplify effective collaboration between civil society organizations and prosecutorial authorities. Organizations including ECCHR, TRIAL International, the Syrian Archive, and others have documented crimes, identified suspects, supported victim-witnesses, and filed complaints that triggered investigations (UJAR, 2025). The Syrian Archive's preservation of hundreds of thousands of digital materials videos, photographs, social media posts, and other documentation provided evidentiary foundations meeting criminal justice standards.

This collaborative model has been identified as essential for expanding universal jurisdiction's reach. Prosecutors often lack resources and expertise for initiating complex international crime investigations, while civil society organizations possess specialized knowledge, community trust, and documentation capabilities (Kaleck, 2009). The Syrian experience demonstrates that systematic documentation coupled with strategic litigation can overcome barriers to investigation and generate

successful prosecutions even for crimes committed in ongoing conflicts thousands of miles away.

#### **Ukraine, Myanmar and Other Contemporary Conflicts**

##### **Limited Universal Jurisdiction Response to Ukraine**

Russia's full-scale invasion of Ukraine in February 2022 triggered unprecedented legal responses, including expanded codification of universal jurisdiction in multiple states (International Bar Association, 2025). However, actual universal jurisdiction prosecutions have lagged behind initial commitments. While numerous investigations were opened—Germany initiated probes into war crimes for shooting of civilians in Ukraine—tangible results have been limited compared to the scale of documented violations (UJAR, 2025).

The Ukrainian situation presents distinct challenges for universal jurisdiction. Unlike Syria, where Assad's regime prevented any domestic accountability, Ukraine maintains functioning judicial institutions actively prosecuting war crimes cases. The principle of complementarity—that universal jurisdiction should serve as a backstop when territorial states are unable or unwilling to prosecute suggests that Ukrainian prosecutions should take priority (O'Keefe, 2004). Additionally, the International Criminal Court maintains an active investigation with cooperation from Ukrainian authorities, potentially reducing the necessity for dispersed national universal jurisdiction cases.

Nevertheless, practical obstacles limit Ukraine's capacity to prosecute all perpetrators, particularly high-ranking Russian officials unlikely to face Ukrainian custody. Universal jurisdiction could complement Ukrainian and ICC efforts by prosecuting suspects present in European territory. The 2025 UJAR noted that calls for accountability have not always translated into action, suggesting political and resource constraints continue limiting responses despite strong initial commitments (TRIAL International, 2025).

##### **Myanmar and the Rohingya Genocide**

Argentina's February 2025 issuance of arrest warrants for Myanmar officials, including Min

Aung Hlaing and Aung San Suu Kyi, represents a significant South American engagement with Asian atrocities through universal jurisdiction (Wikipedia, 2026). The Rohingya genocide has been subject to multiple accountability mechanisms: an International Court of Justice case brought by The Gambia, an ICC investigation focusing on deportation to Bangladesh, and various national universal jurisdiction efforts. The multiplicity of forums reflects both the gravity of the crimes and the challenge of securing effective accountability when territorial and national jurisdictions are unavailable.

The Argentine warrants, while symbolically important, face significant enforcement obstacles. None of the named officials are likely to travel to Argentina, and Myanmar has not cooperated with international accountability efforts. Nevertheless, the case establishes legal records, supports victim communities' demands for justice, and creates potential future accountability should circumstances change. It also demonstrates that universal jurisdiction practice is not exclusively a Western European phenomenon, potentially enhancing legitimacy through geographic diversification.

### Historical Development and Theoretical Foundations

Universal jurisdiction's historical roots in piracy prosecution established the foundational principle that certain offenses concern the entire international community, warranting prosecution wherever perpetrators are found (Randall, 1988). Post-World War II developments, including the Nuremberg and Tokyo Tribunals and the 1949 Geneva Conventions' grave breaches provisions, expanded the principle to encompass war crimes and crimes against humanity (Dörmann, 2003). The end of the Cold War unleashed new possibilities, with the 1998 Pinochet case catalyzing expanded practice across multiple jurisdictions (Brody & Ratner, 2000). By the 21st century, universal jurisdiction had transitioned from exceptional mechanism to increasingly normalized accountability tool, though its scope, prerequisites, and relationship to immunities remain contested.

Theoretical justifications for universal jurisdiction include the protective principle—certain crimes threaten fundamental values shared by all states—and the subsidiary principle—universal jurisdiction operates as backstop when territorial jurisdictions fail (O'Keefe, 2004; Luban, 2004). Critics challenge these rationales, arguing universal jurisdiction undermines state sovereignty and lacks democratic legitimacy when prosecutors in one state exercise jurisdiction over events wholly unconnected to that state (Kissinger, 2001). The tension between sovereignty and accountability remains central to contemporary debates.

### Recent Legal Reforms and Jurisdictional Developments

#### Germany's 2024 Reforms

Germany's 2024 legal reforms significantly strengthened its universal jurisdiction framework. The amendments clarified that functional immunity does not prevent extension of German jurisdiction to prosecution of crimes under the International Criminal Code, explicitly stating that official capacity does not bar prosecution (International Bar Association, 2025). This reform addresses one of universal jurisdiction's most contentious obstacles—the tension between accountability imperatives and traditional immunity doctrines. By codifying immunity's non-applicability to international crimes, Germany has provided clearer guidance for prosecutors and established a model other jurisdictions may follow. The reforms also expanded definitions of crimes, including clarification of enforced disappearances and environmental war crimes provisions. Critics note limitations—the reforms did not fully resolve discrepancies between German translations of the Rome Statute and Additional Protocol I, and failed to define thresholds for 'widespread, long-term and severe damage to the natural environment,' raising questions about legality principles (International Bar Association, 2025). Nevertheless, the reforms represent significant progress in clarifying Germany's already robust universal jurisdiction regime.

**Denmark and Portugal Join Active Jurisdictions**

Denmark's 2024 adoption of comprehensive universal jurisdiction legislation expanded the community of actively prosecuting states (TRIAL International, 2025). The Danish reforms enable investigation and prosecution of genocide, crimes against humanity, and war crimes without requiring territorial or nationality connections beyond suspect presence. Portugal similarly joined the active prosecution group in 2024, opening its first universal jurisdiction investigations. These expansions demonstrate continued growth in state willingness to implement universal jurisdiction, though translating legislative frameworks into actual prosecutions requires sustained institutional commitment and resources.

**Digital Evidence and Technological Developments**

The proliferation of digital evidence has fundamentally transformed universal jurisdiction practice. Social media documentation, smartphone videos, and digital communications provide unprecedented real-time evidence of international crimes (Freeman, 2018). The Syrian conflict's extensive digital documentation has created testing grounds for admitting such evidence in criminal proceedings. Organizations like the Syrian Archive and Berkeley Protocol initiative have developed methodologies for collecting, preserving, and authenticating digital evidence to meet criminal justice standards (United Nations, 2020).

However, digital evidence presents unique challenges: authentication concerns, chain of custody complications, metadata verification requirements, and deepfake risks necessitate specialized expertise (Koettl, 2020). The January 2024 Mustafa A. trial in the Netherlands was notable as the first to involve simultaneous translation from Dutch into Arabic specifically to improve accessibility, demonstrating how procedural innovations can enhance victim participation in digital-age prosecutions (International Bar Association, 2025). Courts are developing new standards for admitting digital evidence while ensuring reliability and respecting due process rights.

**Contemporary Challenges and Future Directions  
Selectivity and Consistency Concerns**

The most profound challenge facing universal jurisdiction in 2025-2026 is the perception and reality of selective application. The stark contrast between aggressive prosecution of Syrian cases and failure to investigate Gaza allegations, despite comparable or greater documentation of potential crimes, has generated intense criticism (ECCHR, 2025). Similarly, robust responses to Ukrainian situations contrast with minimal action regarding Belarusian regime crimes or other conflicts in Africa and Asia. This selectivity raises fundamental questions about whether universal jurisdiction operates according to legal principles or political expediency.

To address legitimacy concerns, universal jurisdiction must demonstrate consistent application across all situations based on gravity of crimes, availability of evidence, and reasonable prospects of prosecution not geopolitical alignments or diplomatic considerations (Langer, 2011). Prosecutorial guidelines articulating transparent criteria for case selection could enhance credibility, though complete neutrality remains impossible given the inherently political context of international crimes. The principle's survival as a legitimate accountability mechanism depends on meaningful efforts to overcome selectivity through institutional reforms and political will.

**Resource Constraints and Capacity Building**

Despite record numbers of cases, resource constraints severely limit universal jurisdiction's potential reach. Most jurisdictions lack dedicated war crimes units with specialized expertise, multilingual capacity, and resources for international investigations (Heller & Simpson, 2013). Germany's success stems partly from sustained investment in specialized prosecutors and investigators. Expanding universal jurisdiction practice globally requires capacity-building initiatives, technical assistance, and resource allocation prioritizing international crimes prosecution.



**Immunity Jurisprudence Evolution**

The 2024 French confirmation of arrest warrants against sitting Syrian President Assad and explicit rejection of functional immunity for international crimes represents significant jurisprudential evolution (FIDH, 2025). Combined with Germany's 2024 statutory clarification, these developments suggest emerging consensus that official capacity does not bar prosecution for core international crimes. Nevertheless, enforcement remains problematic—states remain reluctant to execute arrest warrants against serving officials of other states despite legal authority. The gap between legal theory and practical enforcement continues limiting universal jurisdiction's effectiveness against high-level perpetrators.

**Comparative Analysis: Jurisdictional Approaches in 2025-2026****The German Model: Systematic Implementation**

Germany's approach to universal jurisdiction has become the gold standard for systematic implementation. The Federal Prosecutor's Office for War Crimes, established in 2002, maintains dedicated resources, specialized expertise, and institutional commitment enabling comprehensive investigations (Kaleck & Kroker, 2018). By 2024, the office oversaw over 100 structural investigations spanning multiple conflict situations, with particular focus on Syria, Iraq, Afghanistan, and increasingly Ukraine. This systematic approach contrasts with ad hoc efforts in many jurisdictions, demonstrating that sustained investment yields tangible accountability outcomes.

The 2024 legal reforms further strengthened Germany's framework. Beyond clarifying immunity non-applicability, the reforms addressed procedural issues including victim participation rights, evidence admissibility standards for digital materials, and coordination with international tribunals (International Bar Association, 2025). Germany's model demonstrates that effective universal jurisdiction requires not merely legislative authorization but comprehensive institutional infrastructure, ongoing training, adequate resources, and political support for prosecutorial independence. Other jurisdictions seeking to expand universal jurisdiction practice would

benefit from studying German institutional arrangements and resource allocation.

**The French Contribution: Immunities Jurisprudence**

France's 2024 confirmation of arrest warrants against sitting Syrian President Assad represents groundbreaking jurisprudence on immunities. French courts explicitly rejected functional immunity defenses for international crimes, reasoning that crimes of such gravity cannot be considered official acts entitled to immunity protection (FIDH, 2025). This reasoning builds on House of Lords precedent in Pinochet but extends it to sitting heads of state during ongoing conflicts—a bold assertion that accountability imperatives override traditional immunity doctrines for core international crimes.

The French approach reflects growing consensus that immunity *ratione material* immunity for official acts should not encompass international crimes that themselves violate *jus cogens* norms. If genocide, crimes against humanity, and war crimes represent peremptory international law from which no derogation is permitted, allowing immunity for such acts creates logical contradiction (Orakhelashvili, 2006). French jurisprudence contributes to erosion of immunity barriers that have historically shielded high-ranking perpetrators from accountability, though enforcement challenges persist.

**Switzerland: Highest-Ranking Conviction**

The Ousman Sonko conviction in Switzerland established precedent for prosecuting cabinet-level officials under universal jurisdiction. Sonko served as Minister of the Interior of The Gambia from 2006 to 2016, holding operational command responsibility for security forces that committed systematic torture, killings, and sexual violence (TRIAL International, 2025). The Swiss court's conviction on crimes against humanity charges demonstrated that senior government ministers can face meaningful accountability in foreign jurisdictions for systematic abuses committed while in office. Sonko's appeal, scheduled for March 30, 2026, will further develop jurisprudence on

evidentiary standards and command responsibility applicable to ministerial-level defendants.

Switzerland's success with the Sonko case resulted from meticulous investigation over many years, close collaboration with victims and civil society organizations, and willingness to invest resources in complex transnational prosecution. The case also benefited from Sonko's presence in Switzerland seeking asylum after fleeing The Gambia following Yahya Jammeh's overthrow, enabling arrest and trial. This highlights a practical reality: universal jurisdiction often depends on suspects' presence in prosecuting states, whether through travel, asylum-seeking, or residence, rather than purely extraterritorial prosecution.

### Belgium's Evolving Practice

Belgium's universal jurisdiction practice has evolved significantly since the controversial expansive approach of the late 1990s and early 2000s. Following 2003 amendments restricting pure universal jurisdiction, Belgium now requires connections through victims, suspects, or suspect presence for investigation (Vandermeersch, 2005). Despite these restrictions, Belgium remains active, as evidenced by the October 2024 investigation into a Belgian-Israeli citizen for alleged Gaza war crimes and December 2024 detention of Israeli soldiers on leave (UJAR, 2025). Belgium also continues pursuing Rwandan genocide cases and Syrian conflict investigations where connecting factors exist.

Belgium's trajectory illustrates tensions inherent in universal jurisdiction practice. The early expansive approach generated important cases but also diplomatic backlash that nearly paralyzed Belgian foreign relations. The subsequent restrictions enabled continued practice within more politically sustainable parameters, though arguably reducing universal jurisdiction's reach. This trajectory demonstrates that universal jurisdiction's scope represents ongoing negotiation between accountability imperatives and political realities, with jurisdictions adjusting boundaries in response to diplomatic pressures and practical experience.

### The Role of International Cooperation

#### Evidence Sharing and Mutual Legal Assistance

Effective universal jurisdiction prosecution depends critically on international cooperation for evidence gathering, witness access, and suspect apprehension. Crimes occurring in distant jurisdictions require cooperation from territorial states, states where witnesses reside, and states possessing relevant documentary evidence. Mutual legal assistance treaties provide frameworks for such cooperation, though bureaucratic delays and political considerations often impede timely assistance (Heller & Simpson, 2013). The Syrian cases demonstrate successful cooperation, with European states sharing evidence, coordinating investigations, and supporting witness protection across borders.

Regional coordination mechanisms enhance cooperation. The European Union's Eurojust facilitates coordination among member state prosecutors, including through the Genocide Network focused on international crimes (Eurojust, 2020). These mechanisms enable information sharing, jurisdictional coordination to avoid duplication or conflicts, and pooled expertise. Expanding similar networks globally—potentially through United Nations auspices or regional organizations—could enhance universal jurisdiction effectiveness by reducing fragmentation and improving resource utilization.

#### Interpol and International Arrest Warrants

Interpol red notices play crucial roles in universal jurisdiction cases by circulating arrest requests internationally. When states issue arrest warrants under universal jurisdiction, Interpol red notices alert member states to detain suspects for potential extradition. However, Interpol's political nature sometimes limits effectiveness. States can challenge red notices as politically motivated, and Interpol generally refuses to circulate notices involving sitting heads of state or government out of respect for immunity doctrines (Akande, 2004). These limitations reduce prospects for apprehending high-ranking officials even when legal warrants exist.

The French arrest warrant for Assad will likely face Interpol circulation challenges given his status as sitting head of state at issuance, though his

December 2024 overthrow may alter calculations. Even without Interpol circulation, arrest warrants create practical constraints on suspects' movement, deterring international travel for fear of detention. This deterrent function represents significant value even absent actual arrest, as it restricts perpetrators' activities and imposes costs for impunity.

### **Victim Participation and Civil Society Engagement**

#### **Models of Victim Participation**

Universal jurisdiction jurisdictions employ varying models for victim participation in proceedings. German law permits victims to join criminal proceedings as subsidiary prosecutors (Nebenkläger), granting standing to present evidence, examine witnesses, and make legal submissions (German Code of Criminal Procedure, Sec. 395). This model empowers victims and ensures their perspectives inform proceedings. French law similarly permits *partie civile* status, enabling victims to participate actively. In the 2022 Anwar Raslan trial in Germany, eleven Syrian torture survivors participated as co-plaintiffs, providing powerful testimony directly contributing to conviction (Kaleck, 2021).

Common law jurisdictions generally provide more limited victim participation, with victims appearing primarily as prosecution witnesses without independent legal standing. However, even in these systems, universal jurisdiction proceedings provide victims with recognition and validation through public trials, official acknowledgment of suffered harms, and moral vindication when perpetrators face consequences. The public nature of trials creates historical records, challenges official denials, and offers symbolic justice even when material reparations prove difficult.

#### **Civil Society as Catalysts**

Civil society organizations serve as essential catalysts for universal jurisdiction cases. Organizations including ECCHR, TRIAL International, Center for Justice and Accountability, REDRESS, and many others document crimes, identify suspects, file complaints triggering investigations, provide legal representation to victims, and pressure authorities to exercise jurisdiction (Kaleck, 2009). Without

civil society initiative, most universal jurisdiction cases would never commence, as prosecutors rarely initiate such complex investigations *sua sponte*.

The documentation work performed by these organizations proves particularly critical. Human rights groups have developed sophisticated methodologies for interviewing witnesses, preserving evidence, conducting open-source investigations using digital materials, and building case files meeting criminal justice standards. The Syrian Archive's preservation of hundreds of thousands of digital materials exemplifies this function, providing evidentiary foundations for numerous prosecutions (Syrian Archive, 2020). Supporting civil society organizations through funding, training, and legal protections represents essential investment in universal jurisdiction's infrastructure.

#### **Conclusion**

Universal jurisdiction in February 2026 presents a study in contrasts: unprecedented growth in cases and convictions alongside acute challenges to legitimacy and effectiveness. The 2024 record of 36 new cases and 27 convictions, landmark decisions including Sonko's conviction and Assad's arrest warrant, and legal reforms in Germany and Denmark demonstrate that universal jurisdiction has matured into an established component of international accountability architecture. The Syrian cases exemplify the principle's potential—comprehensive documentation, victim participation, senior official accountability, and meaningful convictions achieved through domestic courts when territorial and international forums proved unavailable or insufficient.

Yet the failure to apply universal jurisdiction consistently across all situations—particularly the Gaza accountability gap—threatens to undermine the principle's normative foundation. Universal jurisdiction premised on the notion that certain crimes are so grave as to concern all humanity cannot credibly operate selectively based on geopolitical considerations. The differential treatment of comparable situations risks transforming universal jurisdiction from a legal principle into a political tool, wielded primarily

against officials from weaker states while powerful states' allies enjoy de facto immunity.

The coming years will determine whether universal jurisdiction can overcome selectivity challenges and fulfill its promise as a truly universal accountability mechanism. This requires several developments: enhanced international cooperation through streamlined evidence-sharing and jurisdictional coordination; capacity-building support enabling more diverse jurisdictions to exercise universal jurisdiction effectively; continued development of digital evidence standards and practices addressing technological innovations; consistent application of immunity exceptions ensuring official capacity does not bar prosecution; and most critically, political will to prioritize accountability over diplomatic expediency across all situations regardless of geopolitical alignments.

Universal jurisdiction will never be a panacea for impunity. It functions best as one component of a multi-layered accountability architecture including territorial prosecutions, international tribunals, hybrid courts, truth commissions, and alternative justice mechanisms. Its particular value lies in filling gaps when primary jurisdictions fail—providing accountability when territorial states maintain impunity, prosecuting suspects who fled to foreign jurisdictions, and creating deterrent effects through eliminating safe havens. Even when prosecutions prove impossible, universal jurisdiction investigations establish historical records, validate victims' experiences, and maintain pressure on perpetrators.

As of February 2026, universal jurisdiction stands at a crossroads. The quantitative growth and important precedents established over the past two years demonstrate the principle's potential. The record 36 new cases opened in 2024, 27 convictions, and landmark developments including the Sonko conviction, Assad arrest warrant, and Lumbala verdict show that universal jurisdiction has matured from exceptional mechanism to normalized accountability tool. Legal reforms in Germany and Denmark, emerging jurisprudence on immunities, and expanding digital evidence capabilities demonstrate continued evolution responding to contemporary challenges. Yet realizing this potential requires confronting

difficult questions about selectivity, consistency, and the relationship between law and politics in international criminal justice.

The Gaza accountability gap represents universal jurisdiction's most acute legitimacy crisis. The failure to open investigations despite extensive documentation and numerous complaints filed across multiple jurisdictions, contrasted with aggressive Syrian prosecutions, creates untenable perception of double standards. If universal jurisdiction operates selectively based on geopolitical considerations rather than legal principles, its normative foundation—that certain crimes concern all humanity—crumbles. Addressing this crisis requires political will to apply universal jurisdiction consistently across all situations, transparent prosecutorial decision-making based on legal criteria, and institutional reforms ensuring independence from political pressure.

For the victims of atrocities in Syria, Gaza, Ukraine, Myanmar, and elsewhere, the stakes could not be higher. Universal jurisdiction's legitimacy and future depend on demonstrating that accountability transcends geopolitics—that certain crimes truly do concern all of humanity, and that justice can reach beyond borders to hold perpetrators accountable regardless of political consequences. Only through consistent, principled application can universal jurisdiction fulfill its promise as a genuine universal accountability mechanism commanding legitimacy across diverse states and populations.

### Recommendations for Strengthening Universal Jurisdiction

Based on analysis of 2024-2026 developments, several recommendations emerge for strengthening universal jurisdiction practice. First, states must demonstrate consistent application across all situations based on legal criteria rather than political considerations. Establishing transparent prosecutorial guidelines, independent oversight mechanisms, and public accountability for decision-making can enhance consistency and legitimacy. The differential treatment of comparable situations undermines universal jurisdiction's normative foundation and must be

addressed through institutional reforms and political will.

Second, capacity-building initiatives should expand beyond Western Europe. Supporting specialized war crimes units in diverse jurisdictions through training, technical assistance, and resource provision would expand geographic diversity of practice, enhance legitimacy, and provide more venues for accountability. The Argentine arrest warrants for Myanmar officials demonstrate non-European potential that deserves systematic support. Regional mechanisms within African Union, Association of Southeast Asian Nations, and Organization of American States could domesticate universal jurisdiction principles within regional frameworks.

Third, digital evidence standards require ongoing development and harmonization. As conflicts increasingly generate vast digital documentation, courts need clear frameworks for authentication, admissibility, and reliability assessment. The Berkeley Protocol provides valuable guidance that should be widely adopted and regularly updated (United Nations, 2020). Training programs for judges, prosecutors, and defense counsel on digital evidence issues should be expanded to ensure fair trials incorporating new evidence forms.

Fourth, immunity jurisprudence must continue evolving toward clearer standards. The French and German developments rejecting functional immunity for international crimes should be codified in international instruments or at minimum reflected in widespread state practice establishing customary law. Clarity on immunity questions would reduce litigation uncertainty and provide prosecutors with firmer legal foundations for pursuing high-ranking officials.

Finally, international cooperation mechanisms require strengthening. Expanding networks like Eurojust's Genocide Network globally would enhance coordination, reduce duplication, and improve resource efficiency. Streamlined mutual legal assistance procedures specifically for international crimes, potentially through dedicated multilateral treaty, could accelerate evidence gathering and witness access. Enhanced cooperation with international tribunals including ICC should be formalized through protocols

enabling complementary rather than competitive relationships.

## References

- Akande, D. (2004). The jurisdiction of the International Criminal Court over nationals of non-parties: Legal basis and limits. *Journal of International Criminal Justice*, 1(3), 618-650.
- Bassiouni, M. C. (2001). Universal jurisdiction for international crimes: Historical perspectives and contemporary practice. *Virginia Journal of International Law*, 42(1), 81-162.
- Brody, R., & Ratner, M. (2000). The Pinochet precedent: How victims can pursue human rights criminals abroad. In S. Macedo (Ed.), *Universal jurisdiction: National courts and the prosecution of serious crimes under international law* (pp. 311-351). University of Pennsylvania Press.
- Dörmann, K. (2003). *Elements of war crimes under the Rome Statute of the International Criminal Court: Sources and commentary*. Cambridge University Press.
- Eurojust. (2020). Eurojust's work on core international crimes. <https://www.eurojust.europa.eu/genocid-e-network>
- European Center for Constitutional and Human Rights (ECCHR). (2025). Universal jurisdiction annual review 2025. <https://www.ecchr.eu/en/publication/universal-jurisdiction-annual-review-2025/>
- Federation Internationale de Liges des Droits de l'Homme (FIDH). (2025). Universal jurisdiction annual review: New developments in 2024. <https://www.fidh.org/en/issues/international-justice/universal-jurisdiction/>
- Freeman, L. (2018). Digital evidence and war crimes prosecutions: The impact of digital technologies on international criminal investigations and trials. *Fordham International Law Journal*, 41(2), 283-335.



- German Code of Criminal Procedure (Strafprozessordnung). Sections 395-402 (Victim participation provisions).
- Heller, K. J., & Simpson, G. (2013). *The hidden histories of war crimes trials*. Oxford University Press.
- International Bar Association. (2025). *Universal jurisdiction: Good practice guide for law and policymakers*. <https://www.ibanet.org/document?id=Universal-Jurisdiction-HRI-report-2025>
- JURIST. (2025, October 8). Multiple courts, elusive justice: Tracking two years of October 7 legal proceedings. <https://www.jurist.org/features/2025/10/07/multiple-courts-elusive-justice/>
- JURIST. (2025, December 17). ICC appeals chamber affirms jurisdiction to investigate alleged war crimes in Gaza. <https://www.jurist.org/news/2025/12/icc-appeals-chamber-affirms-jurisdiction-to-investigate-alleged-war-crimes-in-gaza/>
- Kaleck, W. (2009). From Pinochet to Rumsfeld: Universal jurisdiction in Europe 1998-2008. *Michigan Journal of International Law*, 30(3), 927-980.
- Kaleck, W. (2021). The Syrian torture trials: Breaking new ground in the fight against impunity. *Journal of International Criminal Justice*, 19(3), 563-572.
- Kaleck, W., & Kroker, P. (2018). Syrian torture investigations in Germany and beyond: Breathing new life into universal jurisdiction in Europe? *Journal of International Criminal Justice*, 16(1), 165-191.
- Kissinger, H. A. (2001). The pitfalls of universal jurisdiction. *Foreign Affairs*, 80(4), 86-96.
- Koettl, C. (2020). How to verify digital content for investigations of human rights violations. In L. Freeman & S. Manoukian (Eds.), *Digital witness: Using open source information for human rights investigation, documentation, and accountability* (pp. 45-78). Oxford University Press.
- Langer, M. (2011). The diplomacy of universal jurisdiction: The political branches and the transnational prosecution of international crimes. *American Journal of International Law*, 105(1), 1-49.
- Luban, D. (2004). A theory of crimes against humanity. *Yale Journal of International Law*, 29(1), 85-167.
- Macedo, S. (Ed.). (2004). *Universal jurisdiction: National courts and the prosecution of serious crimes under international law*. University of Pennsylvania Press.
- Molnar, P. (2019). Technology on the margins: AI and global migration management from a human rights perspective. *Cambridge International Law Journal*, 8(2), 305-330.
- O'Keefe, R. (2004). Universal jurisdiction: Clarifying the basic concept. *Journal of International Criminal Justice*, 2(3), 735-760.
- Orakhelashvili, A. (2006). State immunity and hierarchy of norms: Why the House of Lords got it wrong. *European Journal of International Law*, 18(5), 955-970.
- Randall, K. C. (1988). Universal jurisdiction under international law. *Texas Law Review*, 66(4), 785-841.
- Syrian Archive. (2020). Preserving open source information for accountability. <https://syrianarchive.org>
- The Intercept. (2025, August 6). An unexpected path to hold war criminals accountable. <https://theintercept.com/2025/08/06/israel-palestine-war-crimes-icc-icj/>
- TRIAL International. (2024). *Universal jurisdiction annual review 2024*. <https://trialinternational.org/latest-post/universal-jurisdiction-annual-review-2024/>
- TRIAL International. (2025). *Universal jurisdiction annual review: New developments in 2024*. <https://trialinternational.org/latest-post/universal-jurisdiction-annual-review-new-developments-in-2024/>

- TRIAL International. (2025, December 15). Roger Lumbala convicted of complicity in crimes against humanity. <https://trialinternational.org/latest-post/roger-lumbala-convicted/>
- UN Commission of Inquiry. (2025). Legal analysis of the conduct of Israel in Gaza pursuant to the Genocide Convention. UN Doc. A/HRC/60/CRP.3.
- United Nations. (2020). Berkeley Protocol on digital open source investigations. UN Doc. HR/PUB/20/2.
- Vandermeersch, D. (2005). Prosecuting international crimes in Belgium. *Journal of International Criminal Justice*, 3(2), 400-421.
- Wikipedia. (2026). Universal jurisdiction. [https://en.wikipedia.org/wiki/Universal\\_jurisdiction](https://en.wikipedia.org/wiki/Universal_jurisdiction).

