With the October 1998 arrest of former Chilean President Augusto Pinochet by British authorities acting at the behest of a Spanish magistrate, an arcane principle of international law—universal jurisdiction—became the stuff of headline news1 and global debate. Although long recognized in principle by some scholars and courts, Cherif Bassiouni reminds us, this extraordinary basis for jurisdiction had been exercised infrequently.2 When it came to human rights crimes, universal jurisdiction had been exercised mainly in the context of World War II-era depredations; even here, it rarely, if ever, formed the sole basis for jurisdiction.3

The principle of universality permits any state to prosecute individuals against whom there is serious ground for suspecting that they have committed one of a handful of crimes that are subject to universal jurisdiction, regardless of where the offense took place and the nationality of

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1 See, e.g., Clifford Krauss, Britain Arrests Pinochet to Face Charges by Spain, N.Y. TIMES, Oct. 18, 1998, at 1.


3 See Diane F. Orentlicher, Whose Justice? Reconciling Universal Jurisdiction with Democratic Principles, 92 GEO. L.J. 1057, 1059 (2004) [hereinafter Orentlicher, Whose Justice?]. But see Bassiouni, History of Universal Jurisdiction, supra note 2, at 276–77 n.25 (asserting that most cases involving universal jurisdiction have related to piracy and that author could not locate “[s]ome cases reported by scholars” referring to post-war prosecutions).
the alleged perpetrator(s) and victim(s).\(^4\) By its nature, universal jurisdiction represents a profound departure from core principles of sovereignty reflected in international legal principles governing the exercise of jurisdiction. Ordinarily, state courts may legitimately assert jurisdiction over conduct only when it has a significant link to their own territory or to their nationals.\(^5\) When a national court exercises jurisdiction over a crime committed in the forum state’s own territory, it exercises core prerogatives of statehood. When, instead, a court asserts jurisdiction over a foreign national for crimes committed a world away against foreign victims, it challenges bedrock principles of sovereignty.

And so it is hardly surprising that governments have often objected when a foreign court claimed jurisdiction over their own nationals for crimes committed outside the forum state’s territory and against victims who have no substantial link to that state.\(^6\) Indeed Belgium, until recently the world capital of universal jurisdiction, was forced to amend its expansive law of universal competence in the face of strenuous protests by foreign governments whose officials had been named in criminal complaints before Belgian magistrates,\(^7\) eventually settling on legislation that significantly scaled back the reach of Belgian jurisdiction.

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\(^6\) See, e.g., *Israel slams general arrest bid* (Sept. 14, 2005), BBC News, available at http://news.bbc.co.uk/2/hi/uk_news/4246848.stm (reporting that Israel’s foreign minister condemned as an “outrage” a British magistrate’s issuance of an arrest warrant against an Israeli military commander traveling to England alleging that the commander committed war crimes against Palestinians in Gaza).

\(^7\) Although other governments had protested Belgium’s law, the United States mounted a particularly effective campaign against it, warning that Belgium risked losing its status as the headquarters of the North Atlantic Treaty Organization (NATO) and threatening to withhold further funding for a new NATO headquarters building in Brussels. See Orentlicher, *Whose Justice?*, supra note 3, at 1062. The Democratic Republic of the Congo (DRC) also dealt a major blow to Belgium’s exercise of universal jurisdiction through a case instituted against Belgium before the International Court of Justice (ICJ). In *Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, the ICJ ruled that Belgium had violated rules of international law concerning official immunities when a Belgian magistrate issued an international arrest warrant against Abdulaye Yerodia Ndombasi, the