



# ITALY

## GENERAL ASSEMBLY

68<sup>th</sup> Session

Sixth Committee

14<sup>th</sup> meeting

Agenda item n. 86

The Scope and Application of Universal Jurisdiction

## STATEMENT BY

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(NEW YORK, OCTOBER 18<sup>th</sup>, 2013)

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Mr. Chairman,

Having had the privilege to listen to numerous interventions during this debate I will try to avoid repeating what my delegation already stated in 2009 when we first tackled this issue in the Sixth Committee, as well as the many important notions that have been recalled by several delegations in this debate, but I would like to focus my comments on three aspects.

First it seems to me positive that there is unanimous recognition of the principle of universal jurisdiction as a fundamental tool in ensuring that perpetrators of heinous crimes are brought to justice and the renewed commitment of all States to the fight against impunity.

In this regard, I note as a positive aspect that some delegations while criticizing the exercise of universal jurisdiction in some instances, which they considered inappropriate, seemed on the other hand to be favorable to a more widespread use of such a mechanism in other instances (where an impunity gap exists), as alternative to extradition, for example. Judicial cooperation is a key aspect in this area.

Secondly, although we must admit that there still are differences of views on the crimes covered by UJ, there is also a large consensus on the idea that this notion comes into play when fundamental values of interest for the international community as a whole are breached. In this regard there are a number of extremely serious international crimes for which treaties codifying international norms have recognized the principle of UJ. The relationship between custom and treaties in this regard is mutually enriching and one source does not exclude the other, although it may seem accurate to say that in many cases in the implementation of provisions at the national level - for reasons of specificity and precision linked to fundamental criminal law principles - the existence of an international convention as a basis for the enactment of UJ principles, plays an important role: e.g. in Italy, as per information also contained in SG report A/65/181 and more specifically in A/66/93, Article 7.5 of the criminal code allows UJ when provided for in international treaties.

Thirdly, the rich discussion (taking out the inevitable political dimension) shows great need for more in depth study and consideration. This is a subject that involves deep examination of notions of at least three branches of law with their respective complexities and guiding principles: international law (including international humanitarian law and human rights law), criminal law, and criminal procedure. In this regard, four more specific areas come to my mind but there are certainly more and several of them have already been mentioned by colleagues.

(i) the relationship of UJ with the principles and rules on the independence and impartiality of prosecutors and judges; (ii) the links with the national procedural systems of states which may grant prosecutors with broad discretion in opening cases or, on the contrary, may not allow for such discretion (I refer to the notions of mandatory v. discretionary prosecution); (iii) the links between UJ and mechanisms of international cooperation; and (iv) the role granted to victims as plaintiffs in some national systems which must also be seen as part of the equation.

In this vein, we thank the Secretariat for the subsequent Reports prepared in these years on the basis of comments received by States, which are informative and can assist our deliberations. However, it is also possible that we have now reached a stage where more complex analysis is needed; in this area I believe the suggestions made by our colleagues from the Czech Republic now joined by Liechtenstein and Switzerland, if I understand well, to involve the ILC in this matter can certainly be useful, as soon as the Committee considers that the time has come. At the same time more work in this Committee will also be important and can contribute to the broader picture.

To this end, I would like to underline the role of the Working Group, ably chaired by Amb. Ulibarri of Costa Rica whom we thank together with his delegation, has played and continues to play a crucial role and we are ready to give our contribution.

Thank you Mr Chairman