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**STATEMENT**

**BY**

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**IN THE  
SIXTH COMMITTEE  
DURING**

**THE SIXTY-EIGHTH SESSION OF THE UNITED NATIONS  
GENERAL ASSEMBLY**

**ON AGENDA ITEM 86:  
The Scope and Application of the Principle of  
Universal Jurisdiction**

**18 OCTOBER 2013  
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**Mr. Chairman,**

Lesotho welcomes the opportunity to contribute to this important subject on the scope and application of the principle of universal jurisdiction, as it is a concept of international law that demands legal rigor.

I associate myself with the statements made by the distinguished representatives of Iran and Egypt on behalf of the Non-Aligned Movement and the African Group, respectively. However, I would like to make some comments on a national perspective.

My delegation welcomes the establishment of a Working Group to continue discussions on this agenda item. We also welcome the report by the Secretary-General contained in document A/68/113, prepared on the basis of information and observations received from Member States.

**Mr. Chairman,**

In recent years, international law has moved towards concretizing the need for justice, and the question of impunity is one that has assumed great prominence. Universal jurisdiction is one way to achieve accountability and deny impunity to those accused of serious international crimes. This principle is rooted in the belief that certain crimes are so serious that they amount to an offence against the whole of humanity, and that therefore all States must have a responsibility to bring perpetrators to justice.

The principle of universal jurisdiction has consequently given rise to many discussions amongst lawyers, diplomats and civil society. However, it does not yet enjoy a common or precise definition. There are difficulties as to when it should be invoked, and which crimes it should apply to. Perceptions that it is selectively applied are many and so are concerns about its abuse. The importance of a need for a precise universally agreed definition of the principle cannot be overemphasized.

**Mr. Chairman,**

Universal jurisdiction is a unique and evolving concept of international law and issues of its scope and application will continue to involve complex questions. We take the view that, in its application, it is important to have regard to other well-established international law norms, including the sovereign equality of States, territorial jurisdiction and immunity of State officials. In our view, a norm being developed in response to contemporary sentiment must always be sensitive to the reasons behind existing rules.

Moreover, the principle must not be used as a political weapon intended to annihilate the sovereignty of weaker States and the legitimate right of State officials to immunity. It should be used “to serve the collective needs of the international community and not the caprices of individual States.” The principle of universal jurisdiction, when used in good faith, is a powerful tool for the preservation of the international community’s fundamental values, for the protection and promotion of the rule of law and human rights, and for the advancement of the fight against impunity. Due caution must always be exercised each time this principle is invoked.

**Mr. Chairman,**

Our understanding of the principle of universal jurisdiction is that it authorizes States to take measures to prosecute perpetrators of the gravest crimes of international concern, regardless of the location of the commission or the nationality of the offender or that of the victim. Furthermore, no State may exercise its criminal jurisdiction over crimes committed in the territory of another State unless there is a *nexus* with either the offender or victim, or if the crime is universally recognized or is established in a treaty and the territorial State is unwilling or unable to carry out prosecution.

We find it productive that, as a result of the discussions within the Sixth Committee and the information provided by Member States in their reports, several delegations have expressed the view that universal jurisdiction should not be confused with the “obligation to prosecute or extradite”. In our view, although the aim of both concepts is to combat impunity for certain types of crimes established in international legal instruments, a clear distinction must be made between them. In this regard we welcome efforts made by the International Law Commission (ILC) regarding the viability of the relationship between universal jurisdiction and the obligation to prosecute or extradite. And we therefore hope that the ILC will continue to assist in paving the way forward in this regard.

**Mr. Chairman,**

Lesotho favours the continuation of this debate in the Sixth Committee with a view to reaching a common understanding on different aspects of the principle of universal jurisdiction, in particular the conditions for application and the nature of crimes, which could be so prosecuted.

We are currently at a stage that requires more dialogue particularly within the framework of the Working Group. We should strive to identify issues on which there is common understanding, and agree on those which we should deepen our

study. We are confident that our commitment to this process will bear fruition in not so distant a future. Continued discussions in the Working Group will be useful to allow the Sixth Committee to focus more on issues through well-structured and informed discussions, thus avoiding political sensitivities normally generated by the topic.

In conclusion, **Mr. Chairman**, I wish to point out that my delegation remains convinced that universal jurisdiction is an important tool for States to ensure that the most serious crimes do not go unpunished. Emergence of new treaties, State practice, judicial decisions and juristic writings will gradually provide more clarity and more substance on the principle.

**I thank you.**