



PERMANENT MISSION OF SOUTH AFRICA  
TO THE UNITED NATIONS  
333 EAST 38TH STREET 9TH FLOOR  
NEW YORK, NY 10016  
Tel: (212) 213-5583 Fax: (212) 692-2498  
E-mail: pmun@southafrica-newyork.net

**STATEMENT  
BY**

**ADV THEMBILE JOYINI,  
LEGAL ADVISER  
PERMANENT MISSION OF SOUTH AFRICA  
TO THE UNITED NATIONS**

**IN THE SIXTH COMMITTEE  
OF THE GENERAL ASSEMBLY  
UNDER AGENDA ITEM 83  
"RULE OF LAW AT THE NATIONAL AND  
INTERNATIONAL LEVELS"**

**UNITED NATIONS  
NEW YORK  
10 OCTOBER 2014**

*Check against delivery*

## **Mr Chairman**

Once again, thank you for affording us the floor to deliver a statement in our national capacity. Let me start by associating this delegation's statement with the statement delivered by this delegation speaking on behalf of the African Group and the statement delivered by the distinguished representative of the Islamic Republic of Iran speaking on behalf of the Non-Aligned Movement. My delegation attaches great importance to this agenda item, the rule of law at the national and international levels. As requested by the General Assembly, our comments will focus more on this year's theme "Sharing States' national practices in strengthening the rule of law through access to justice". This theme is in line with the 2012 Declaration on the Rule of law, paragraph 14, which reads "We emphasize the right of equal access to justice for all, including members of vulnerable groups, and the importance of awareness-raising concerning legal rights, and in this regard we commit to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.

## **Mr Chairman**

The provision of legal aid is a concrete way in which access to justice and the rule of law can be strengthened. States must provide legal aid to the poor and vulnerable. As an original sponsor of the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*, which the sixty-seventh session of the United Nations General Assembly adopted by consensus on 20 December 2012, South Africa has been a leading voice on the need to improve access to counsel for indigent and marginalized accused persons. An effective legal aid scheme that provides access to quality defense counsel is an integral part of guaranteeing the right to access to justice which includes the right to a fair trial, and it protects the rights of society's most vulnerable members by safeguarding against illegal, extended or arbitrary pre-trial detention, torture, corruption, coerced confessions, wrongful convictions and other abuses. On 24-26 June 2014, over 250 national-level representatives, civil society members and experts from almost 70 Member States gathered in Johannesburg, South Africa, to attend the International Conference on Access to Legal Aid in Criminal Justice Systems, the first large scale conference to address challenges in implementing the right to legal aid for the criminally accused. The Government of South Africa wishes to thank the co-hosts of this

conference, the International Legal Foundation, the United Nations Development Programme, and the United Nations Office on Drugs and Crime, and the many participants and donors that helped to ensure the success of this Conference. The Conference participants discussed their experiences and common challenges in providing access to effective legal aid services in criminal justice systems, and proposed practical and achievable solutions, with a particular focus on the need to develop more effective and sustainable strategies to meet the criminal legal aid services needs of the poor. After three days of meaningful discussion, the participants produced an outcome document called the Johannesburg Declaration. In it, the participants reaffirmed that “legal aid is an essential element of a fair, humane and efficient justice system based on the rule of law” and called for support for the application of existing international standards and best practices. Action points included a decision to engage in international forums to advocate for equal access to legal aid and a call to establish international and regional cooperation mechanisms.

### **Mr Chairman**

Access to justice and the rule of law at the national and international levels have also featured strongly in the ongoing discussions on the post-2015 development agenda, and are a central element in the preparations for the 13<sup>th</sup> UN Congress on Crime Prevention and Criminal Justice to be held in Doha in April 2015. It is also interesting to note that number 16 in the List of Proposed Sustainable Development Goals to be attained by 2030 reads “Achieve peaceful and inclusive societies, access to justice for all, and effective and capable institutions”. South Africa remains of the firm view that rule of law and development are inextricably linked. The rule of law should contribute to the upliftment of the disadvantaged in society through the provision of essential services and the fulfilment of socio-economic rights. Promoting access to justice is a high domestic priority in South Africa as a means to enhance the rule of law. While efforts at enhancing the rule of law are necessary at the national level, they are equally important at the international level. The international community must also be governed by a system in which all role players are accountable under international law which is equally enforced and independently adjudicated. International law norms must also be shaped through a system and process that is democratic, representative and legitimate. South Africa recognises that there are differences in the judicial systems of member states with respect to approaches, priorities and cultures, which may make a uniform understanding of the rule of law difficult. Yet, the right to free legal

assistance for criminal defendants who are unable to afford a lawyer is a widely accepted principle of law and an essential component of the right to a fair trial. For this reason, legal aid is an ideal topic for this year's theme of, "Sharing States' national practices in strengthening the rule of law through access to justice". All countries face challenges in implementing the right to legal aid, and have much to learn from each other about how to strengthen our respective legal aid systems. Only by working together can we bring attention to this critical global issue and ensure the poor and vulnerable have meaningful access to justice.

**I thank you for your attention.**