



**Statement
on
behalf of the African Group**

by

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**Permanent Representative of the Republic of South Africa to the
United Nations**

in the Sixth Committee of the General Assembly

under Agenda Item 85

“Rule of Law at the National and International levels”

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Mr Chairman

Thank you for affording me the floor. My delegation, once again, has the honour to speak on behalf of the African Group. The African Group aligns itself with the Statement delivered by the distinguished representative of the Islamic Republic of Iran speaking on behalf of Non-Aligned Movement. At the outset, the African Group would like to thank the Secretary-General for his report which highlights United Nations rule of law developments and activities at the national and international levels over the past year. The report emphasizes developments related to “Sharing national practices of States in the implementation of multilateral treaties” and “Practical measures to facilitate access to justice for all, including for the poorest and most vulnerable”, the subtopic chosen for consideration at this 71st session of the General Assembly under agenda item 85 entitled “The rule of law at the national and international levels”.

Mr Chairman

The African Group is of the view that Multilateral treaties are an integral aspect of a comprehensive and robust international legal framework, as a mechanism to ensure that the rule of law governs the relations between States of all sizes. The importance of multilateral treaties had been emphasized already in the UN Charter, the Preamble of which underlines the collective resolve of Member States “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”. Multilateral treaty processes enhance universality, consolidate international consensus and provide certainty and accountability on rights and obligations of States. Underlying this is the fundamental international law principle of good faith. These are all critical elements of the rule of law. Multilateral treaties also facilitate peaceful settlement of disputes.

Mr Chairman

You are probably familiar with our continental instruments and groupings as well as the location of Access to Justice in their programmes. In this regard the African Union’s Goal 2063 talks about this. We also have the African Peer Review Mechanism which also tracks the issue as well as the Open Government Partnership which has added its voice on a broad range of issues including Access to Justice. The inclusion of Access to Justice in the global SDG framework was long overdue and must be welcomed. It’s a call

that has been made at countless fora over a long time¹. It is critical therefore that our efforts must be brought to bear in ensuring that meaningful, appropriate and effective indicators are crafted. All of us here are committed to the achievement of the SDGs. Our collective interest is to ensure that the indicators that are finally adopted cover the whole spectrum of Goal 16² but more particularly Goal 16.3. In considering what indicators are appropriate and to ensure that they will be effective it is necessary to remind ourselves that the twin evils of poverty and inequality remain real. I hold the strong view that effective access to justice is the catalyst towards the eradication of poverty and inequality. Meaningful indicators for Goal 16.3 will also contribute to a great extent towards the achievement of the targets for Goal 1 – ending Poverty in all its forms.

Mr Chairman

Our quest to come up with appropriate and effective indicators must focus on the following aspects –

- Meaningful access, particularly early access to justice encompassing access to legal aid and/or assistance at state expense, where required, and to a fair hearing - The hallmark of any country professing to be civilized can be gleaned from the manner in which the state deals with those who come into conflict with the law.
- Guaranteeing access to justice for persons with private/civil disputes. In developing indicators to measure progress on Goal 16.3, it is also necessary to remember that meaningful access to justice also includes justice in civil matters. This must of necessity include the recognition of the obligation of the State to provide the necessary mechanisms i.e. access and assistance for citizens to resolve private/civil disputes that arise between them. The Justice system is complex and very foreign to the ordinary man and woman. The poor face a myriad of important legal issues outside of the criminal justice system. It is thus important that legal assistance be placed at the disposal of those who require it.
- The UN Principles and Guidelines on access to Legal Aid In criminal Justice systems are explicit on all these aspects

Mr Chairman

¹ Lilongwe Declaration 2004 and Johannesburg Declaration 2014 and others

² Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Having said all this I return to Goal 16.3 – i.e. Promote the rule of law at the national and international levels and ensure equal access to justice for all – It is clear to the Group and should be to all of us here that this goal contains three objectives -

- Enabling Members of Society to access Legal Aid and/or Assistance to access the Justice System – encompass persons facing criminal charges and those having private/civil disputes;
- Building effective and efficient justice institutions – expeditious treatment of cases and matters coming into the justice system i.e. prevent delays in court processes and detentions; and
- Promotion and protection of the Rule of Law – the first two lead to the creation of confidence in the justice system and guarantees the rule of law.

We therefore hold the respectful view that the current draft indicators put forward by the expert group fall short of covering goal 16.3 as they leave out the most important component of access to justice – i.e. access to justice institutions and access to legal aid and/or assistance.

I thank you for your attention.