

**Statement by Dire Tladi, Legal Adviser of the South African Permanent Mission  
to the United Nations, to the Sixth Committee of the General Assembly of the  
United Nations, on the Rule of Law at the National and International Level  
October 2012**

Mr Chairman

I thank you again for affording us the floor and allowing us the opportunity to share some thoughts on the very important question of the rule of law at the national and international level.

I associate myself with the statements delivered by the representatives of the Islamic Republic of Iran on behalf of the Non-Aligned Movement and Egypt on behalf of the African group.

Barely three weeks ago, our Heads of State and Government were gathered here to consider the very issue under consideration today. In the course of the national and international level.

At the outset I wish to reiterate that the rule of law is alive and well in South Africa. Our Constitution is rooted in the democratic values of human dignity, equality, freedom and the rule of law. Our constitutional order, founded on the principles of deliberative democracy and a culture of justification, holds public institutions and officials accountable, insists on the equality of all and enshrines a set of human rights protections designed to protect the dignity of all who live in South Africa. And while, like all democracies we face challenges from time to time, the constitutional and legislative framework, coupled with a strong judiciary have proven the ability to overcome these challenges.



operationalise the crime of aggression which we hope will enter into force in 2017 in accordance with the entry into force requirements. We are steadfast in our confidence that the ICC has the potential to turn the tide against impunity and, as a consequence, the commission of egregious international crimes.

Mr Chairman,

While exerting efforts to promote the rule of law at the national level equal attention must be paid to the rule of law at the international level. If not, the United Nations runs the risk of being accused of double standards and hypocrisy. We need to ask whether the international community can be said to be governed by the rule of law.

As we stated previously, for us, the rule at the international level is not just about the number of international instruments that are adopted, ratified or even implemented – although this is certainly part of it. It is just as much about the normative content of international law. A case has been made in academic literature by authors such as the late Thomas Franck, Philippe Sands, Emmanuelle Jouanette and South Africa's own John Dugard, amongst many others, that the assessment of international law, in its post-ontological state, has to be undertaken with reference to its fairness, equity and justness. We need to ask ourselves, therefore, whether we are contributing to a fair, just and equitable international order based on the respect for international law and the adherence to the rule of law.

In assessing the rule of law at the international level it is perhaps appropriate to begin by asking whether the United Nations, the pre-eminent international organisation, whose Charter could be conceived of as the constitution of modern international law, reflects principles of deliberative democracy and a culture of justification, holds its organs accountable for adherence to its foundational values and insists on the equality of all its members. An attitude



Mr Chairman,

Questions relating to the implementation of Security Council mandates – indeed questions pertaining to the mandates themselves – will continue to exist, because, as one author has observed “legal criteria [as to the jurisdictional limits of the –

