

The Johannesburg Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems

Johannesburg, South Africa

June 24-26, 2014

We, the participants of the *International Conference on Access To Legal Aid In Criminal Justice Systems*, assembled on 24-26 June 2014 in Johannesburg, South Africa to discuss effective strategies to improve access to justice in criminal justice systems consistent with the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (UN Principles and Guidelines)* unanimously adopted by the General Assembly in its resolution 67/187 in December of 2012.

The Conference brought together over 250 participants from 67 countries who are legal aid policy makers and practitioners including Ministries of Justice, the Judiciary, bar associations, as well as legal aid lawyers, community based paralegals, civil society members, and experts to discuss common challenges in providing access to effective legal aid services in criminal justice systems and to propose practical and achievable solutions.

The three days of deliberations produced this declaration, which was adopted at the closure of the Conference, with the request that it be publicised widely to legal aid networks and forwarded to national governments, the UN Human Rights Council, regional commissions, the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice to be held in Doha in April, 2015, and shared in discussions on the post-2015 sustainable development agenda on eradicating extreme poverty and inequality worldwide.

Without access to effective legal representation millions of poor, vulnerable, and marginalised persons face the risk of arbitrary, extended, or illegal pre-trial detention, as well as torture, coerced confessions, wrongful convictions, social stigma, detrimental impacts on health and livelihood and other abuses. In this regard, these groups also have many unmet legal needs in civil matters, which need to be addressed. We acknowledge that in post-conflict and developing countries people who are provided free legal aid and representation are less apt to resort to non-lawful self-help alternatives and thereby, avoid situations which erode security and lead to conflict.

Moreover, the cost of *not* providing free legal assistance supersedes the cost of its provision and has significant financial ramifications for individual pre-trial detainees, their households, and communities - and for states processing large numbers of pre-trial detainees. Legal aid and early assistance schemes reduce excessive and arbitrary pre-trial detention, improve the administration of justice, increase public trust in justice and can boost socio-economic development at the family and community level.

We reaffirm that 'legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law and that it is a foundation for the enjoyment of

other rights, including the right to a fair trial...’ and should be guaranteed by the State as set forth in the *UN Principles and Guidelines*.

We are convinced that speedy and effective implementation of the *UN Principles and Guidelines* is crucial to the improvement of the functioning of criminal justice systems worldwide as violations of human and legal rights of those caught in criminal justice systems have reached a grave scale in most parts of the world.

In line with the recommendations of the participants attending the Conference we resolve the following:

I. We call upon all States to proclaim and demonstrate political will and commitment to achieve the aspirations and objectives as set out in this declaration and fully implement the provisions of the *UN Principles and Guidelines*, as well as the related provisions under other relevant international and regional instruments.

II. We call upon all legal aid service providers to continue providing meaningful legal aid services for people who would otherwise not be able to access justice by properly monitoring and evaluating the quality of all services. Furthermore, we encourage legal aid systems to utilise lawyers and also paralegals, civil society organisations, university legal aid clinics and other services and develop partnerships with each other to facilitate access to legal aid services for poor, vulnerable and marginalised groups.

III. We call upon the international community, including regional cooperation mechanisms, international and regional civil society networks and organisations, international donor organisations, bi-lateral agencies and the UN system to support implementation of the *UN Principles and Guidelines* by the means of financial and technical assistance, in particular in developing and post-conflict countries, in order to build their capacity to provide and ensure access to effective legal aid in all matters and in all its forms.

Action Points:

- A. Support the application of existing international standards and best practices, including through the provision of technical support to develop systems for legal aid delivery and prioritisation of national budgets for legal aid programmes, with mechanisms to assess and evaluate the effectiveness of these standards on a regular basis.
- B. Engage in international forums to ensure that the recommendations from this meeting are taken forward and to advocate for the inclusion of equal access to legal aid as part of the international development and crime prevention agendas in a concrete and measurable manner.
- C. Establish international and regional cooperation mechanisms among legal aid authorities and defence services, including for the purpose of international assistance and cooperation in the representation of persons detained, arrested, suspected of, or charged with a criminal offence or imprisoned.
- D. We encourage the Doha Congress delegates in 2015 to recognise the importance of effective application of the *UN Principles and Guidelines* in its final declaration and to recommend the development of a mechanism on international cooperation among

defence services or address the needs of the defence in the review process of existing mechanisms.

- E. In line with *UN GA resolution 67/187* operative paragraphs 6-9, we ask the UN to continue to report on the implementation of the *UN Principles and Guidelines* and further request the Commission on Crime Prevention and Criminal Justice to consider the establishment of a mechanism for continuous assessment of the implementation of the *UN Principles and Guidelines* and the collection of relevant statistical information.
- F. We ask States to collect on a continuous basis relevant statistics and information concerning the provisions of legal assistance in criminal matters and provide that information to the UN system. The data collected should be instrumental in targeting policy and budget priorities, tailoring technical assistance and ensuring accountability for the implementation of the UN Principles and Guidelines and promoting equal access to legal aid services.
- G. We call on States to include the rule of law and access to justice, including equal access to legal aid as a target of the post-2015 development agenda.