

**Statement on behalf of the Republic of South
Africa**

by

Ms Keke Mantshe Annastacia Motsepe

Counsellor: Legal

**Permanent Mission of South Africa to the
United Nations**

**Before the Resumed 78th Session of the Sixth
Committee of the of the United Nations General
Assembly**

Thematic Cluster 3

Agenda Item 80:

Chairperson,

Thank you for affording us the floor to make a few observations on Cluster 3.

South Africa supports the content and spirit of draft Article 6. Crimes Against Humanity was criminalised in 2002 through the enactment and entry into force of the Implementation of the Rome Statute of the International Criminal Court Act. The purpose of that enactment, in addition to providing for a framework to ensure the effective implementation of the Rome Statute, was among others, to provide for the criminalisation of genocide, crimes against humanity and war crimes; to provide for the prosecution in South African courts of persons accused of having committed those crimes in South Africa and beyond the borders of South Africa in certain circumstances; and to provide for the arrest of persons having been accused of such crimes and their surrender thereof.

We welcome the inclusion of draft Article 6 sub-Articles 4 and 5 as they relate to accountability irrespective of having carried out an unlawful order or holding a certain position. Carrying out unlawful orders is not permitted in South African law and any official abiding thereto is eligible