

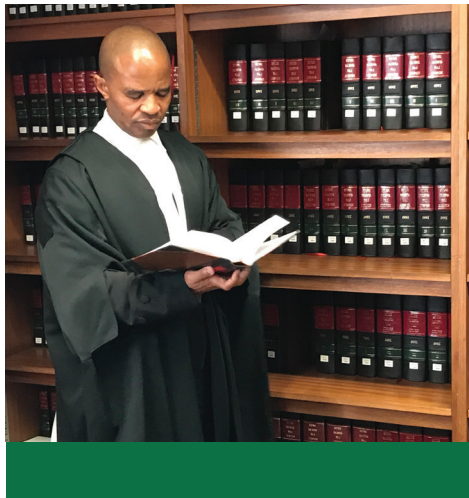


South Africa's candidature for election to the
International Tribunal for the Law of the Sea

Adv Thembile Elphus Joyini



Adv Thembile Elphus Joyini is South Africa's
candidate, duly nominated by South Africa's
Cabinet to stand for election as Judge of the
International Tribunal for the Law of the Sea.



Adv Joyini has been endorsed by the African Union. Elections are scheduled for June 2023 at the Headquarters of the United Nations (UN) in New York.

Personal

Name and surname : Thembile Elphus Joyini
Family : Married with two children

Academic qualifications

- LLM, University of South Africa (International Law) (2007)
- LLM, University of South Africa (Labour Law) (2000)
- LLB, Walter Sisulu University (1995)
- B Juris, Walter Sisulu University (1993)
- BA, University of South Africa (1989)

Professional qualification

- Admitted as Advocate of the High Court of South Africa (2007)

Relevant hands-on experience in adjudication

Adv Joyini had the honour and privilege of acting as Judge of the High Court of South Africa in Pretoria in 2019. During his acting stint, he presided over a number of cases and penned the following 12 judgments:

- *City of Tshwane Metropolitan Municipality v. Amanda Naude*, Erf 1654, 41 Koggelaar Road, Rooihuiskraal Extension 6, Case Number: 24281/2018

- *Pedro Sitoe v. Road Accident Fund*, Case Number: 17723/2016
- *Adv M Van Antwerpen No obo Hennie Van Jaarsveld v. Road Accident Fund*, Case Number: 48826/2015
- *Henry Cyril Swindon v. Road Accident Fund*, Case Number: 67796/2017
- *Mvula Koos Mtolo v. The State*, Case Number: A74/2018
- *Mahlatse Stephen Lekgwathi v. Road Accident Fund*, Case Number: 8922/2015
- *Thumo Petrus Radebe v. The State*, Case Number: A200/2017
- *Concise Consulting Services (PTY) Limited v. King Price Insurance Company Limited*, Case Number: A88/2018
- *Deon Thom Witkoei v. Road Accident Fund*, Case Number: 96201/2016
- *Buti Martin Kumba v. Road Accident Fund*, Case Number: 84761/2017
- *South African Legal Practice Council v. Thabiso Martin Maseko, Thabiso Maseko (PTY) LTD trading as Thabiso Maseko Attorneys*, Case Number: 37661/2018
- *Kagiso Samuel Mogamme v. The State*, Case Number: A269/16.

Other relevant hands-on experience in adjudication

- Commissioner at the Commission for Conciliation, Mediation and Arbitration (CCMA) (Johannesburg Office) from 1999 to 2001. Arbitrated a number of cases.

Current relevant international leadership positions

- Vice-Chairperson of the Legal and Technical Commission (LTC) of the International Seabed Authority (ISA). Term as LTC member is from January 2017 to December 2022.
- Facilitator of the institutional arrangements in the negotiations of the Intergovernmental Conference that is currently developing/ elaborating an international legally binding instrument under the 1982 United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (since March 2022 to date).
- Leading in the negotiations on cross-cutting issues on behalf of the African Group in New York in the Intergovernmental Conference that is currently developing/elaborating an international legally binding instrument under the 1982 UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (since 2020 to date).
- Leading in the negotiations on behalf of the African Group under the auspices of the ISA Open-ended Working Group in respect of the development of the payment regime of the draft regulations for exploitation of mineral resources in the area (since 2022 to date).
- Leading the South African delegation in the Intergovernmental Conference on the development of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (from 2018 to date).

- Leading the South African delegation in the Council and Assembly meetings of the ISA in Kingston, Jamaica (from 2017 to date).

Previous relevant international leadership positions

- Coordinator of the African Group for the Sixth Committee, which deals with the progressive development of international law and its codification at the UN Headquarters in New York (from 2013 to 2016).
- Coordinator of the Group of 77 and China for the Sixth Committee, which deals with the progressive development of international law and its codification at the UN Headquarters in 2015 when South Africa was chairing the group.
- Coordinator of the African Group in the Council and Assembly meetings of the ISA in Kingston, Jamaica (from 2013 to 2016).
- Coordinator of the Omnibus Resolution on oceans and the law of the sea at the UN Headquarters for two years (from 2016 to 2017).
- Facilitator of the rates of payment and percentages in the negotiations under the auspices of the ISA Open-ended Working Group in respect of the development of the payment regime of the draft regulations for exploitation of mineral resources in the area in February 2020.
- Chairperson of the Working Group on Diplomatic Protection in October 2016, elected by the Sixth Committee, which is the primary forum for the consideration of legal questions in the General Assembly of the UN.
- Coordinator of Resolution A/C.6/68/L.16, entitled "Diplomatic Protection" in October 2016, elected by the Sixth Committee.
- Chairperson of the Working Group on criminal accountability of UN officials and experts on mission, which was established by the Sixth Committee in October 2015, pursuant to the General Assembly Resolution 69/114, to continue the consideration of the report of the Group of Legal Experts (A/60/980), in particular its legal aspects.

- Rapporteur elected by the Special Committee on the Charter of the UN and on the strengthening of the role of the organisation convened in accordance with General Assembly Resolution 68/115 from 18 to 26 February 2014 at the UN Headquarters. Led the South African delegation at the Ad Hoc Working on Marine Biodiversity in Areas Beyond National Jurisdiction, New York (2013 to 2014).
- Led the South African delegation and spoke and negotiated on behalf of the African Group in his capacity as a coordinator of the group during the first and second sessions of the Preparatory Committee established by General Assembly Resolution 69/292 on the development of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, held in New York from 28 March to 8 April 2016 and 26 August to 9 September 2016, respectively.
- Led the South African delegation in the third and fourth sessions of the Preparatory Committee established by General Assembly Resolution 69/292 on development of an international legally binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, held in New York from 27 March to 7 April 2017 and 10 to 17 July 2017, respectively.
- Led the South African delegation at the UN Informal Consultative Process on Oceans and the Law of the Sea, New York (2013 to 2016).
- Led the South African delegation at the Meeting of States Parties to the UNCLOS, New York (2013 to 2016).
- Led the South African delegation during the debates of the Sixth Committee matters in the UN General Assembly, New York (2013 to 2016).
- Led the South African delegation during the meeting with the Commission on the Limits of the Continental Shelf (CLCS) Sub-Commission to discuss South Africa's submission on the

continental shelf mainland claim (2016). He was also part of the South African delegation and acted (2013 to 2016) as focal point during meetings with the CLCS Sub-Commission and with the French Delegation to discuss a joint submission on continental shelf claims and mainland claims (2013 to date).

- Co-Chair of the Final Clauses Committee elected at the Diplomatic Conference for the Adoption of a Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Mining, Agriculture and Construction Equipment, held in Pretoria, South Africa, from 11 to 22 November 2019. The Diplomatic Conference referred to above was under the auspices of the International Institute for the Unification of Private Law (UNIDROIT).

Invitations by governments, UN agencies, universities, law firms, Commonwealth and civil-society organisations, among others

Invited as **expert** to participate in a debate/dialogue in a conference on the following topic:

THE 10x20 INITIATIVE
Conference on Marine Protected Areas:
An Urgent Imperative
A Dialogue Between Scientists and Policymakers
Ministry of Foreign Affairs
and International Cooperation
Rome (7 to 9 March 2016)

The conference was organised by the Government of Italy, the Ocean Sanctuary Alliance and the UN Environment Programme (UNEP) to support the achievement of a globally agreed target to conserve at least 10% of coastal and marine areas by the year 2020. This was part of the 10X20 Initiative, which was launched in October 2015 by the Government of Italy and the Ocean Sanctuary Alliance.

Invited as **speaker** to make a presentation on the "Overview of the Preparatory Committee Process in the Development of an International

Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of Marine Biological Diversity of Areas beyond National Jurisdiction" from 18 to 21 May 2016, St George's, Grenada. The workshop was organised by the Global Ocean Forum (GOF) and Food and Agriculture Organisation (FAO) of the UN, together with the partners of the Global Environment Facility (GEF)/FAO/GOF/ABNJ Capacity Project hosted by the Government of Grenada.

Invited as **speaker** to make a presentation on "International Cooperation, Regulations and the Role of the ISA as Regulator" in a workshop on processing technologies, metal recoveries and economic feasibility of deep sea mining in Warsaw, Poland, at the Ministry of the Environment from 3 to 6 September 2018. The workshop was jointly organised by the ISA, Kingston, Jamaica; Interoceanmetal Joint Organisation (Bulgaria, Cuba, Czech Republic, Russian Federation, Slovak Republic and Poland); and the Ministry of the Environment, Republic of Poland.

Invited as **speaker** to make a presentation on "Marine Genetic Resources, including Questions on the Sharing of Benefits in the Context of the Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction" during a symposium held in Xiamen, China, on 26 November 18. The symposium was co-organised by the Third Institute of Oceanography and the China Institute for Marine Affairs and sponsored by the Ministry of Natural Resources and the Ministry of Foreign Affairs of China.

Invited as **speaker** to make a presentation on "Deep Sea Minerals and the Role these Minerals could Play in the Context of the Ocean Economy" in a stakeholder workshop scheduled for 5 to 6 February 2020 in San Diego, California, at the Pendry Hotel on invitation by the Republic of Nauru and Nauru Ocean Resources Inc.

Invited as **speaker** to make a presentation on "The Role of Equity in the Governance of Biological Diversity in Areas beyond National Jurisdiction", held on 12 February 2020 at Utrecht University in the Netherlands. The workshop was organised by the Netherlands Ministry of Foreign Affairs, Netherlands Institute of the Law of the Sea (NILOS) and Utrecht University Centre for Water, Oceans and Sustainability Law (UCWOSL).

Invited as **speaker** to make a presentation on "Protecting Deep Seabed Ecosystems under the Future Agreement on the Conservation and Sustainable Use of BBNJ and by the ISA – Perspectives of Government, Civil Society, Stakeholders and Law and Science" in the online workshop held from 13 to 15 December 2021. The workshop was organised by NILOS, UCWOSL of Utrecht University and the Netherlands Ministry of Foreign Affairs, in collaboration with The Royal Netherlands Institute for Sea Research.

Invited as **moderator and rapporteur** by the ISA to participate in the workshop on the "Development of a Framework for Regional Environmental Management Plans for Polymetallic Sulphide Deposits in Mid-Ocean Ridges", held at the University of Szczecin-Geocentrum, in Szczecin, Poland, from 27 to 29 June 2018. The workshop was organised by the ISA and the University of Szczecin.

Invited as **facilitator** of a meeting on "Development of a Strategic Roadmap for the Formulation of Deep-Seabed Mining Regulations in the Framework of Africa's Blue Economy", held in Addis Ababa, Ethiopia, from 28 to 29 January 2020. The meeting was organised by the UN Economic Commission for Africa.

Invited as **co-chair** to preside over Session Eight of the Workshop on "Linking Global and Regional Levels in the Management of Marine Areas Beyond National Jurisdiction" from 17 to 20 February 2015, FAO, Rome, Italy. The workshop was organised by the GOF and the FAO of the UN and the project partners of the GEF/FAO/GOFProject on Strengthening Capacity to Effectively Manage ABNJ as part of the GEF/

FAO Programme on Global Sustainable Fisheries Management and Biodiversity Conservation in Areas Beyond National Jurisdiction ("Common Oceans," <http://www.commonoceans.org>).

Invited as **panellist** to the workshop on the role of regional governance with respect to deep-seabed mining activities in the area that took place in Berlin, Germany, from 30 September to 2 October 2019. The workshop was organised by the Marine Regions Forum in partnership with the Institute for Advanced Sustainability Studies (IASS).

Invited as **speaker to a moderated discussion** on South Africa's perspective on "Transforming the Investment Treaty System through Joint Termination and Amendment", held at Chadbourne & Parke, 30 Rockefeller Centre, New York. The discussion was organised by the Columbia Centre on Sustainable Investment, the Centre on International Commercial and Investment Arbitration and Chadbourne & Parke's Public International Law and International Arbitration practice group.

Invited as **speaker** to the International Expert Workshop on benefit-sharing mechanisms appropriate for the Common Heritage of Mankind that took place in Potsdam, Germany, from 26 to 29 November 2018. The workshop was part of a three-year research project funded by the German Environment Agency and carried out by the IASS.

Invited as **speaker** to the Ninth Annual Law Conference for Government and State-owned Enterprises and the topic was "Outlining the Legal Departments' Role in Protecting the Image of Government", held in Pretoria, South Africa, from 13 to 4 October 2020.

Invited as **speaker** to make a presentation on the "Operationalisation of the Enterprise" during a side event on 26 February 2019 at the ISA in Kingston, Jamaica, where the IASS and University of Würzburg were presenting the results of a Potsdam-Workshop (Germany) on "A Benefit-sharing Mechanism Appropriate for the Common Heritage of Mankind".

Invited as **speaker** to make a presentation on the "Role and Responsibilities of Sponsoring States" in a workshop in Mauritius that was held from 1 to 3 June 2021 in the context of the Africa's Deep-Seabed Resources (ADSR) Project, which is implemented jointly by ISA, the African Union (AU) and the Norwegian Agency for Development Cooperation (NORAD). The project referred to above is for the promotion of sustainable development of Africa's deep-seabed resources in support of Africa's blue economy.

Invited as **speaker** to make a presentation on "Negotiations in the Intergovernmental Conference on an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ)" in a STRONG High Seas Capacity Development Workshop, held in Cape Town, South Africa, from 27 to 28 November 2019. The workshop was the first of two workshops being held for the Southeast Atlantic region under the STRONG High Seas Project, and organised by the International Ocean Institute, African Region, in collaboration with BirdLife International.

Invited as **speaker** to make a presentation on the "African Perspective on the BBNJ Negotiations" in the workshop under the STRONG High Seas Project held in Abidjan, Côte d'Ivoire, from 17 to 18 June 2021. The workshop was organised by the International Ocean Institute, African Region, in collaboration with BirdLife International.

Invited as **speaker** to make a presentation on "The Perspective from a Non-Sponsoring State" in a workshop on the ISA Draft Regulations on Exploitation of Mineral Resources, held from 12 to 13 February 2018 at Carlton House Terrace in London, United Kingdom. The workshop was organised by the Royal Society and the Foreign and Commonwealth Office.

Invited as **speaker** to make a presentation at a webinar on "Deep-Seabed Mining: Pulling the Trigger – What's Next now that Nauru has Triggered the Two-year Countdown for Deep-Seabed Mining. The Effects of Nauru's Request to the International Seabed Authority to finalise the Deep-Seabed

Code, i.e., the Regulations for the Exploitation of Minerals in the International Seabed, by mid-2023", held on 16 February 2022. The webinar was organised by Volterra Fietta, an elite global law firm that is specialising entirely in public international law based in the United Kingdom.

Invited as **speaker** to make a presentation on "High Hopes for the High Seas: Protecting Biodiversity in the Global Ocean with Specific Focus on Marine Genetic Resources in Areas Beyond National Jurisdiction", held on 4 September 2021, Virtual Channel 3 – International Union for the Conservation of Nature World Conservation Congress.

Invited as **speaker** to make a presentation on "A Comprehensive Approach to the Payment Mechanism for Deep-Seabed Mining" during a webinar held on 25 March 2021 during the launch of IASS-UBA Policy Brief. The webinar was co-hosted by IASS and UBA.

Publication

Co-authored a manuscript that was published in 2022, entitled, "Assessment of Scientific Gaps Related to the Effective Environmental Management of Deep-Seabed Mining".

Work experience

- Case Management Officer at the CCMA (Johannesburg Office) from 1996 to 1999
- Director: Labour Relations at the Department of International Relations and Cooperation (DIRCO) from 2001 to 2004
- Corporate Services Manager at the South African Embassy in Lisbon, Portugal, from 2004 to 2007
- Principal State Law Adviser (International Law) in the Office of the Chief State Law Adviser (International Law), based at DIRCO from 2008 to 2012
- Legal Adviser at the Permanent Mission of South Africa to the UN in New York, United States of America, from 2013 to 2016
- Principal State Law Adviser (International Law) in the Office of the Chief State Law Adviser (International Law), based at DIRCO from 2017 to date etc.

Adv Joyini's portfolio as Principal State Law Adviser (International Law) entails, *inter alia*, the following:

- To provide specialised, professional and efficient legal advice to all spheres of government on matters pertaining to international law and to the department on matters pertaining to domestic law.
- To provide legal advice and inputs to the South African Government as a whole on international law to ensure that international agreements are not in conflict with international law and South Africa's international obligations.
- To provide legal advice and inputs to DIRCO and all Missions abroad to ensure that within the domestic context, in particular in respect of departmental matters, including policy, the department acts in conformity with South African law. To participate as a member of the South African delegation, in the capacity of legal adviser, in international conferences, meetings and conventions locally and abroad.
- To negotiate, draft or make inputs in the negotiations of international agreements, contracts and related documents.
- To manage litigation and act as an intermediary between DIRCO and the State Attorney or legal representatives in foreign countries, as the case may be, when the department is involved in litigation abroad.
- To draft or participate in the drafting of South African legislation, including amendments thereof based on international law and/or South African law.

References

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REPUBLIC OF SOUTH AFRICA