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**UNIVERSAL PERIODIC REVIEW**

**Report of the Working Group on the Universal Periodic Review**

**South Africa \***

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## **Introduction**

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of South Africa was held at the 14th meeting on 15 April 2008. The delegation of South Africa was headed by H.E. Ms. Glaudine J. Mtshali, Ambassador, Permanent Representative of South Africa in Geneva. For the composition of the delegation, see annex to the present report. At its 17th meeting held on 18 April 2008, the Working Group adopted the present report on South Africa.

2. On 28 February 2008, the Human Rights Council selected the following group of Rapporteurs (troika) to facilitate the review of South Africa: Zambia, Guatemala and Qatar.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of South Africa:

(a) An oral national report submitted in accordance with paragraph 15 (a);

(b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/ZAF/2);

(c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/ZAF/3).

4. A list of questions prepared in advance by Ireland, Germany, Portugal, Canada, Denmark, the United Kingdom of Great Britain and Northern Ireland, Finland and Sweden was transmitted to South Africa through the troika. These questions are available on the extranet of the Universal Periodic Review.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. At the 14th meeting, on 15 April 2008, H.E. Ms. Glaudine J. Mtshali, Ambassador, Permanent Representative of South Africa to the United Nations Office at Geneva introduced the national report. She indicated that the 1996 Constitution guarantees all human rights and fundamental freedoms and also internalizes all the core provisions of the International Bill of Rights. The Bill of Rights of the South African Constitution is the cornerstone of democracy in South Africa. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom. There is a clear separation of power between the judiciary, legislature and executive branches of the State. The judiciary is empowered to uphold the Constitution, and both the legislative and executive branches are required to uphold the authority of the judiciary. The Constitution recognizes traditional leadership and makes provision for the House of Traditional Leaders. A notable practice by the legislature is that of "Taking Parliament to the People." Following the first democratic elections in 1994, the South African Government adopted a reconstructive framework whose primary goal was to address the historical legacy of inequality, create an integrated service delivery system and improve the quality of life of all South Africans. In order to accelerate the achievement of this objective, the Government subsequently introduced complimentary economic and development frameworks aimed at overcoming the challenges of extreme poverty and hunger, underdevelopment, unemployment and lack of priority skills. As one of the first countries in the world, South Africa has introduced justiciable socio-economic rights in its Constitution. The Government fulfils its obligations taking due consideration of its available

resources and the progressive realization of human rights. Socio-economic rights have been placed on an equal footing with the more traditional civil and political rights. Judgements emanating from the South African Constitutional Court dealing with constitutionally guaranteed socio-economic rights have led to the evolution of pioneering jurisprudence, which is well regarded by the international community.

6. The country is financially self-reliant in that it funds 99.6 per cent of its development expenditures. However, institutional and human capacity is not optimal in meeting all the service delivery goals contained in the Government's policies and programmes. The legacy of apartheid continues to manifest itself in many fields of human and social endeavour. Equitable social development aimed at transforming South Africa, is a major long-term challenge. The Government's efforts to stimulate the economy have been relatively successful in consistently maintaining overall economic growth above four per cent per annum, however, the economy still manifests major imbalances, especially between the wealth and quality of life of people in South Africa's "first economy" (formal economy) and the poverty and lack of economic empowerment of people living within the "second economy" (informal entrepreneurial economy). Besides, structural unemployment remains high. A major contributing factor is the socially engineered educational remnants of the apartheid past which resulted in a significant number of economically active persons lacking the necessary capacity and needed skills to compete in the digitally advanced global economy. In its commitment to the practical achievement of all human rights, in particular social, economic and cultural rights and the right to development, the Government has entered into a social contract with civil society, the corporate sector and organized labour in a public-private partnership to generate the requisite domestic capital as well as to re-invigorate the economy to make this goal realizable.

7. To address the deep-seated inequalities and to bridge the socio-economic gap between the first and second economy, the Government launched a national framework, the Accelerated and Shared Growth Initiative for South Africa (ASGISA) aimed at addressing the challenges of poverty, structural unemployment, skewed income and wealth distribution. The ASGISA Task Force is led by the Deputy President and includes broad-ranging consultations with relevant ministries, provincial and local government, organized business and labour, religious leaders, youth, and women in various groupings and forums. The Joint Initiative on Priority Skill Acquisition (JIPSA) is aimed at addressing the acute shortage in designated skills required for optimal service delivery and economic development. South Africa has followed a coherent and structured approach to tackling poverty and underdevelopment by integrating measures into sectoral policies, strategies and budgetary allocations. South Africa has in some cases exceeded the targets it had set during the past 12 years in social service delivery (water, electricity and housing). The Government has been commended for its "indigent policy" that has allowed mass access to basic services within such a short period. The challenges to ensure effective service delivery are being addressed. In terms of regional partnership, as a member of the African Union (AU), during 2006 and 2007, South Africa participated in the African Peer Review Mechanism (APRM), an instrument voluntarily acceded to by member States of the AU as a self-monitoring initiative for good governance. The Government's strategic approach to implementing the outcome of the APRM process will be to contribute to setting precedents in good practices by establishing benchmarks that can be used in future review processes. During the relatively short period as a constitutional democracy, the Government has signed, ratified or acceded to a substantive number of the major international human rights treaties without any reservations. South Africa has played an active role in the shaping of the international human rights agenda including the constant development of international human rights and humanitarian law norms and standards. In 2002 South Africa extended a standing invitation to the special procedures, and since issuance of this open invitation, many of them have visited

South Africa without any restrictions or impediments. South Africa is committed to address the recommendations made by them, within the constraints that it faces.

8. The South African Constitution makes provision, in its Chapter 9, for the establishment of a number of independent institutions to strengthen constitutional democracy in South Africa, which are actively involved in monitoring South Africa's compliance with the international human rights instruments to which it is a party. The South African Human Rights Commission's competencies and responsibilities are in full compliance with the Paris Principles. South Africa hosts the OHCHR Regional Office for Southern Africa, which covers the 14 countries in the Southern African Development Community (SADC) region. It has also regularly contributed financially to OHCHR and supported important funds and programmes of OHCHR aimed at globally advancing the cause of human rights. A noteworthy achievement in South Africa's portfolio of constitutionally guaranteed rights is the Housing Policy and Strategy for South Africa, built on a national consensus in 1994. The construction of 2,355,913 houses over a period of 12 years has been recognized by UN-Habitat as "unprecedented both nationally and internationally". In South Africa's estimate, more than 9 million people in both urban and rural areas have benefited from the programme by receiving a fixed asset, security of tenure, basic services such as water and sanitation and basic shelter.

9. South Africa is one of the few countries in the world that recognizes access to water as a basic human right, taking into account the fact that access to water was one of the defining racial divides of the apartheid regime. Since the implementation of a free basic water supply to the indigent began in 2003, 66 per cent of the served population has been catered for by the end of April 2004. Thus South Africa has already achieved the Millennium Development Goal by halving the water backlog since 1994. The percentage of the rural population with access to a basic supply of water has increased from 51 per cent to 64 per cent in a period of three years between 2001 and 2004. A significant characteristic of South African society is its racial, ethnic and cultural diversity. The Constitution provides that everyone is equal before the law and is protected against any unfair discrimination. To promote the achievement of equality, the Government has enacted legislative and designed specific measures in order to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination. The Employment Equity Act, 55 of 1998 and the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 both give effect to the value of equality which lies at the heart of the Constitution. The Constitution guarantees equality between men and women and prohibits discrimination on the basis of, inter alia, sex, pregnancy and marital status. Gender equality and provisions for affirmative action have also been constitutionally entrenched. Women's participation in political processes and decision-making is evidenced by their representation in parliamentary structures and ministries at more than 30 per cent. However, deeply entrenched patriarchal, customary, cultural and religious practices still result in discrimination against women.

10. South Africa's ratification at an early stage of both the International Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto on 30 November 2007, speaks of the importance attached by the Government to the position of persons with disabilities in society. At present, the Office on the Status of Disabled Persons in the Presidency is reviewing the National Disability Policy Framework. Some of the best practices in South Africa include the development of a socio-economic jurisprudence. Judgements delivered by the South African Constitutional Court relating to constitutionally guaranteed socio-economic rights have been acknowledged by constitutional lawyers and researchers as pioneering jurisprudence that is evolving in South Africa. South African case law is currently being used at the international level to give impetus and momentum to the strengthening of the international human rights instruments dealing with economic, social and cultural rights. Leading decisions include the *Grootboom* case that dealt with

access to land rights. A further example of a best practice is the establishment of a social security network that had not existed before. The social security programme supports 10 million children through child support, foster care and care dependency grants. Access to the child support grant expanded from about 1 million children in 2001 to more than 7.5 million in 2006. South Africa recognizes that international partnerships with United Nations structures are crucial to deal with the challenge of development and has established such partnerships. South Africa has initiated the Restorative Justice Project, a problem-solving approach to crime which involves the affected parties and the community in general working in an active relationship with statutory agencies. The Truth and Reconciliation Commission (TRC) was set up in terms of the Promotion of National Unity and Reconciliation Act, with the mandate to bear witness to, record, provide reparation and rehabilitation and in some cases grant amnesty to the perpetrators of crimes relating to human rights violations. The South African TRC has become a model for countries all over the world that are seeking to come to terms with dark periods in their recent history.

11. The Government faces the challenge of generating an outcome in terms of the quality of education provided and the acquisition of skills that is commensurate with the significant percentage of the national budget allocated to education. It has introduced new measures over the past few years to improve the quality of educational curricula and teachers' competencies, and South Africa is deemed to be well prepared to meet Millennium Development Goal 2 by 2015. The Government remains committed to the effective implementation of the multi-stakeholder designed National Strategic Plan (2007-2011) aimed at addressing HIV and AIDS, tuberculosis and malaria. A principal focus of the strategic plan is to prevent infection in the first place. It further includes clear targets for the provision of antiretroviral (ARV) drugs, care for vulnerable children, and improving prevention of mother-to-child transmission (PMTCT). In partnership with other stakeholders, and within the context of the establishment of 62 Sexual Offences Courts, the Government has set up one-stop service centres (Thuthuzela Centres) where survivors of sexual assaults can report the crime, access specialist investigators and prosecutors, and obtain medical care and counselling. It was indicated that much more needs to be done to address the root causes of crime and violence against women and girls. In conclusion, South Africa has made huge strides in the 14 years of its democracy, but much more remains to be done to eradicate and reverse the devastating legacy of apartheid. The South African Government is continually and earnestly undertaking an ongoing review of policies and their implementation in order to address the challenges of providing access to basic services and shelter to the poor.

12. H.E. Ms. Glaudine J. Mtshali also referred to the voluntary commitments made by South Africa and as contained in the annex of her oral presentation.

### **B. Interactive dialogue and responses by the State under review**

13. During the ensuing interactive dialogue, 45 delegations made statements praising South Africa for both the quality of their presentation and their national report.

14. Guinea noted South Africa's efforts in promoting human rights since the end of apartheid, its achievement in establishing the rule of law and its success in promoting socio-economic and cultural changes. It requested information on the most recent steps taken by the TRC to reinforce peace, human rights and national harmony, as well as on the challenges encountered. Information was also requested on the steps taken to overcome the injustice left from apartheid.

15. Slovenia commended South Africa on gains made in strengthening legislation and policies for children. It regretted that corporal punishment remains lawful in the home, and that it is also widely practised in schools despite the prohibition in law. Slovenia recommended to South Africa to

commit not only to removing the defence of reasonable chastisement but also to criminalize corporal punishment concomitant with the pledges towards raising awareness and providing the necessary resource to support parents in adopting positive and alternative forms of discipline. Referring to positive steps in the campaign against torture, Slovenia was nevertheless concerned about the absence of a specific offence of torture or a definition of torture in criminal law. It recommended South Africa to enact such legislation which would, in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), prevent and eliminate torture and combat impunity. It asked if the Government has taken into consideration the recommendation of the Committee against Torture to adopt legislation implementing the principle of absolute prohibition of torture, and if so, how far along in the process the country is. It recommended South Africa to systematically and continuously integrate gender perspective in the follow-up process to the UPR review.

16. Canada noted the transformation of South Africa over the past 14 years in the area of human rights and its achievements. It also noted reports that abuse of documented and undocumented migrants has been widespread. It noted that the Committee on the Elimination of Racial Discrimination (CERD) has made recommendations in this area. Canada recommended the follow-up to these recommendations and that the rights of migrants be respected, particularly by law enforcement officials. Canada also noted that the South African Police Services statistics for reported cases of rape continue to be high. It noted however that police handling these cases of sexual and domestic violence is often wanting. Canada therefore recommended that concrete measures be taken to improve handling by police of these cases and to curb rates of violence, particularly against women and girls. It also recommended that the South Africa Law Reform Commission's proposals on the Criminal Law Amendment Act 2007, aimed at supporting and prosecuting complaints in court and at providing comprehensive State-funded post sexual assault medical care and treatment services, be implemented. While Canada noted improvements in combating HIV/AIDS, it stated that there is still inequitable access to ARV treatment and a lack of support services, particularly for rural women. Canada recommended that measures be taken to address inequities in access to HIV/AIDS treatment and support, particularly in rural areas.

17. Norway stated that in the peaceful transition after apartheid, South Africa has clearly demonstrated its commitment to the realization of all human rights for all, and that the 1996 Constitution with its Bill of Rights could be identified as a best practice in this respect. It referred to a review by an ad hoc parliamentary committee released on 21 August 2007, which recommended that several commissions be merged into a "super-institution" called the South African Commission for Human Rights and Equality, and invited for comments on the status of this recommendation. It noted challenges in some provinces of access to information, and asked what steps South Africa is taking to ensure the effectiveness of the Promotion of Access to Information Act.

18. Malaysia noted South Africa's achievements in the peaceful and democratic transition from the apartheid regime. It noted the numerous constitutional and legislative measures being taken to promote human rights and that the people enjoy a better standard of living, with an excellent social security system. Malaysia also recognized South Africa's successes in redressing the legacy of apartheid and racial segregation and in eradicating extreme poverty through judicial reform and socio-economic development. Malaysia commended South Africa on its leading role in fighting against racism and racial discrimination and its hosting of the Durban Conference in 2001, and requested more information on the successes as well as challenges the country faces in relation to the implementation of the Durban Declaration and Programme of Action.

19. United States of America enquired on the measures taken to protect the rights of Zimbabwean refugees, migrants and asylum-seekers, and to address reports of increased violence against Zimbabweans in South Africa. It asked what is done to improve the treatment of asylum-seekers by law enforcement personnel and to increase the access of asylum-seekers to the asylum system. It noted that South Africa has taken numerous steps to address the high incidence of sexual violence in the country, including the establishment of 52 specialized sexual offences centres. The Thuthuzela Care Centres, in particular, are well known as international models of good practice in the fight against rape linked to HIV and AIDS. The United States asked what resources South Africa will put into implementing the new Sexual Offences Bill and Related Matters Amendment Bill, and how South Africa expects the implementation of this law will reduce the level of sexual violence in the country.

20. China noted the completion of the peaceful transition from apartheid to a democratic society and the establishment of a comprehensive national system to promote human rights. It noted that South Africa has hosted historic conferences against racism and noted its cooperation with treaty bodies of the United Nations. South Africa has established many institutions to promote human rights which have adopted positive measures in promoting reconciliation and combating hatred. China requested further information on the specific achievements in this regard. It noted the significant progress and accumulated experience in promoting equality and eliminating discrimination and asked if South Africa has specific plans to disseminate these experiences.

21. Angola stated that in spite of all efforts undertaken by South Africa, inequality in access to education still remains in some areas. It recommended to South Africa to continue its efforts to promote and facilitate school attendance, particularly among children from economically disadvantaged families. It noted that South Africa is on track to achieve universal primary education by 2015, though achieving a quality education for all children will be a challenge, and asked how South Africa is addressing this particular issue. It welcomed the policies undertaken by South Africa to promote gender equality, and encouraged the Government to continue on this path.

22. The Democratic Republic of the Congo noted South Africa's success in its peaceful transition from apartheid to the establishment of a democracy through a policy of reconciliation and national unity. It noted the Truth Commission, the Human Rights Commission, the Independent Directorate for Complaints, and the equality tribunals for the most underprivileged. It noted that South Africa is party to various international instruments and is open to various others, and stated that it is looking forward to South Africa's adherence to the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Democratic Republic of the Congo noted that despite the end of apartheid, de facto segregation remains and it requested information on the measures adopted by the Government to eradicate the legacy of apartheid. It noted that prisons have become overcrowded and requested information on what is envisaged to prevent this issue. It also noted that some agglomerations are known for the incidence of crime and it requested information on measures taken to tackle this phenomenon.

23. Cote d'Ivoire noted that South Africa for decades was faced with a situation which allowed the authorities of that time to ignore any human rights. One of the most difficult consequences is that the need for proper education for children was not taken into account, which led to another problem in the country with violence in all its forms. It welcomed legislative acts to protect economic and social rights and also the guarantees given by the police to respect human rights standards. It emphasized that with regard to the right to housing, more than 9 million persons who live in urban and rural areas benefit from the Government's housing programme. It welcomed efforts to set up a State that is free from any forms of discrimination, and asked about the

Government's strategy to enable the South African population to live together in spite of their differences.

24. Senegal noted South Africa's efforts to end apartheid and to establish a democratic and multicultural society. It encouraged South Africa to continue this path dedicated to the cause of human rights. Senegal asked if South Africa intends to ratify the ICESCR and the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families (ICRMW).

25. Cuba noted that South Africa is an icon in the long struggle of humanity against discrimination and inequality. South Africa of today has nothing to do with the unworthy regime of apartheid, after which South Africa became free and democratic, and is a point of reference for all those who still struggle for justice and freedom. Cuba is well aware of the enormous achievements of South Africa, its tireless efforts for equality, integration and development. It is well aware, too, of South Africa's challenges, many of which are shared by all developing countries, in the context of an international economic order which is unjust and unequal.

26. The Russian Federation noted the changes that have taken place since apartheid was abolished and noted South Africa's efforts to build a democratic, multicultural society. It also noted the efforts to eliminate racial segregation and discrimination. Russia welcomed the measures of the Government on preventing torture and for the proper treatment of persons in detention. It noted as an important step the establishment of the Independent Directorate for Complaints, which, in their understanding, will have full authorization to investigate cases of torture. Russia requested more information on the results of its work and if it has contributed to the prevention and eradication of this torture.

27. Egypt recognized that the South African democracy is relatively young, and that over a period of 350 years, South Africans were subjected to successive repressive regimes ranging from conquests, colonialism to apartheid, which is the worst form of institutionalized racism and racial discrimination. It welcomed the numerous legislative measures taken to build a democratic and multicultural society, to achieve necessary social healing and to effectively combat segregation and racial discrimination. It expressed interest to learn more about the measures and policies taken by South Africa to rectify the inherited socio-economic inequalities, in the framework of a truly admirable spirit of social harmony and national reconciliation.

28. The delegation of South Africa responded to the questions raised during the interactive dialogue. In reference to the many questions raised about racism and that racist attitudes that still exist in South Africa, the delegation acknowledged that some remnants of attitudes from the colonialist and apartheid era linked to racial superiority remained in South Africa, as no country can be expected to easily reverse 300 years of repression and apartheid in 14 years. Measures taken to address this issue include the Equality Courts established within the mandate of the South African Human Rights Commission, which can hear complaints relating to discrimination and were designed to be accessible to all, acting without a lawyer. There were also specific initiatives in the workplace to protect women and persons with disabilities so as to ensure that they are not discriminated against. The Government is primarily ensuring the achievement of equality in society through legal and policy-oriented measures, including opportunities to apply for employment and to be treated fairly. In addition, lending facilities have been established to access loans for housing, including low-cost housing. Regarding questions and allegations of torture, South Africa has ratified CAT and has adopted the Policy on the Prevention of Torture and Treatment of Persons in Custody of the Police, including Standing Orders. The aim is to provide both for prompt steps to be taken so that complaints about torture are investigated by an independent complaints directorate and

for accountability for the safety of detainees. A human rights-based approach has been introduced to enhance accountability through civilian oversight of the police service. In addition, there is provision for the appointment of independent prisons visitors who report to the Judicial Inspectorate of Prisons.

29. On the questions about freedom of expression and the rights of human rights defenders, the delegation explained that the South African democracy has been founded on the struggle of human rights defenders. The Constitution guarantees that everyone has the right to freedom of expression, the right, peacefully and unarmed, to assemble, picket and present petitions. Everyone has the right to freedom of movement and the freedom and security of the person to be free from all forms of violence from either public or private sources. Whereas the South African Bill of Rights entrenches the right to freedom of expression, it does not extend to propaganda for war, incitement of imminent violence or advocacy of hatred based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm. Civil remedies are available to victims of racial hate speech under relevant legislation. The right to freedom of expression includes the freedom of the press and other media. The media in South Africa is not State-owned. Concerning questions raised about refugees, including from Zimbabwe, it was explained that the legislation on refugees was not nationality-specific. Due to the extensive occurrence of mixed migratory flows, South Africa's asylum system had been prone to abuse by visitors other than genuine refugees who apply for asylum permits in large numbers. A critical side effect had been a serious clogging of the asylum system, resulting in a backlog of some 100,000 applications. The Department of Home Affairs introduced incisive action to address the situation and as a result the backlog had been reduced to 8,000 at present. An advanced integrated biometric refugee identification system is currently being installed. This will prevent the recurrence of a backlog build-up.

30. Regarding the questions raised on access to services on HIV/AIDS, the delegation pointed out that this issue was addressed in its statement and added that a significant amount of resources had been put aside to ensure there is equal access to health-care facilities and services so as to ensure appropriate access to treatment for health-related conditions. The delegation also explained that the issue of corporal punishment came before the Constitutional Court as early as 1995 with the landmark case *The State v. Williams*. The Court held that juvenile whipping was a dehumanizing form of punishment and did not warrant the overriding of constitutionally entrenched rights. This led to the enactment of the Abolition of Corporal Punishment Act in 1997. In South Africa, corporal punishment was considered a form of degrading, cruel, and inhumane treatment and punishment and perpetrators were dealt with according to the Criminal Code. It was further explained that torture had been used by the apartheid regime in a systematic way to instil fear in the Black majority of the nation and to terrorize them. Torture had been dealt with in the institutional and legislative framework, and the challenge was to repeal all internal security laws which were inconsistent with the Constitution of South Africa. Thirty-six laws were repealed in 1996. These repealed acts provided for detention without trial, various administrative actions against the media, organizations, demonstrations and persons. The South African Constitution outlaws torture, even during a state of emergency. Currently the Government is finalizing the torture criminalization bill, which was at the stage of being responded to by civil society, and it would criminalize torture in accordance with CAT. With regard to the work of the TRC, the delegation provided information that the interim constitution of the Republic of South Africa in 1993 paved the way for the opening of a dialogue between the Government and the liberation movements as well as an unbanning of the latter. The Commission had a mandate to hold hearings on past atrocities committed by the apartheid regime and to heal and reconcile the nation. Amnesty was and is still being granted to deserving applicants. The Commission also dealt with the issue of reparations and remedies for victims. With regard to compensation, 90 per cent of applicants have been paid 30,000 South African rand. The remaining 650 cases presented a challenge, as they could not be traced or had

died. The priority of the Government in this context had been to ensure a smooth transition without bloodshed, to break away from the painful past and to establish a new nation founded on the values of human dignity and equality. The Commission concluded its work in 1999. Positive developments have occurred in the protection of women and children such as the development of the Victim Empowerment Programme and the Service Charter for Victims of Crime which indicates a commitment by the relevant Departments in the Justice, Crime Prevention and Security Cluster, in addressing the rights of victims. A significant number of programmes which are aimed at assisting victims of crime have also been introduced. This includes the introduction of Family Courts aimed at dealing exclusively with family disputes and more than 60 Sexual Offences Courts which accord special protection to rape victims when their cases are heard. The Thuthuzela Care Centres which offer additional support to victims of crime, provide a multiple role of safety where victims may lay a charge, be examined and counselled in a safe and secure environment. Last year South Africa engaged in systematic interaction with business and other sectors of the population, to develop a holistic approach towards revamping the criminal justice system.

31. Pakistan commended South Africa on the establishment of the Human Rights Commission, Public Protector, Commission for the Promotion and Protection of the Cultural, Religious and Linguistic Communities, the Commission on Gender Equality and the Independent Electoral Commission, and on all its efforts. It requested further details on efforts to deal with the legacy of a racially divided economy and resulting challenges of poverty, and information on South Africa's efforts to deal with issues related to refugees and asylum-seekers.

32. Mexico valued the efforts to reform its legal framework internally to protect human rights, which is seen in measures to fight racial segregation and discrimination in its broadest sense and to abolish the death penalty. It recognized South Africa's commitment to its obligations under the various international instruments on refugees. However, there are various reports of cases of migrants and asylum-seekers being returned to countries when there are good reasons to believe that they may be subjected to torture. It recommended that the mechanisms for supervising procedures be established or strengthened, including the procedure for recognition of the status of refugees and deportation of foreigners, with a view to ensuring the right to a hearing and thus close the door to possible abuses and complying with the principle of non-refoulement. It also referred to the major efforts undertaken by the Government to ensure the right to health, and in particular its campaign against HIV/AIDS. Mexico requested more information in this respect on ethnic minorities, on measures to combat HIV/AIDS and access to medicine for their treatment.

33. Australia requested information regarding South Africa's views, approach and support for national human rights institutions and noted that South Africa has an institution compliant with the Paris Principles. Australia wanted to know the role that it has played in the promotion of human rights.

34. Algeria appreciated the way South Africa has, inter alia, recognized the right to water as a human right, mainstreamed poverty reduction into sectoral policies, strategies and budgetary allocations, and was impressed by the country's achievements in providing housing for six million people in 12 years at a rate which is unprecedented internationally. Algeria would like to learn from this record performance and asked for further clarifications as it is confronted with a similar challenge. It also noted the decrease in HIV/AIDS prevalence thanks to widespread introduction of ARV therapy, and recommended that South Africa further intensify its efforts in this regard in the context of its National Health Charter, with a special focus on teenagers.

35. Ghana commended South Africa on the elaboration of numerous legislative measures aimed at building a democratic and multi-sectoral society and on the efforts to eliminate segregation and

racial discrimination and to strengthen legislation and policies for children. Ghana noted the challenges and encouraged South Africa to continue to address domestic violence and the alleged ill-treatment of non-citizens by law enforcement officials. It also noted that segregation still exists, particularly regarding ownership of property and access to social services such as education, health and housing. It requested more information on the specific measures taken to facilitate the enjoyment of economic, social and cultural rights by disadvantaged groups.

36. Sri Lanka noted that redressing the apartheid legacy, and achieving human development and the realization of all human rights remain major challenges in South Africa. South Africa has become a party to a number of key human rights treaties, particularly since the introduction of democracy in the country. International human rights law is applied by a range of institutions and actors in South Africa, including the courts, Parliament, the South African Human Rights Commission and organizations of civil society. The identified lack of capacity is a major constraint in the efforts to improve the quality of governance and deliver services at optimal levels in light of the country's socio-economic challenges. Sri Lanka asked what steps South Africa has taken to address this issue, and what its suggestions are to the international community to address this issue by way of international cooperation.

37. Germany noted that health care and treatment, as well as prevention, are important areas of action in regard to HIV/AIDS. It asked which measures are envisaged to improve equal access to health care and treatment by women suffering from HIV/AIDS. It also noted that crime rates are high and requested information on the measures the Government intends to take to improve the security of citizens and to enhance the protection of vulnerable groups, such as women and children. Germany noted that South Africa's Constitution is one of the most progressive regarding access to safe drinking water and noted that it was able to substantially increase the number of people with access to water. Germany asked how this could serve as an example of best practices and about the advantages of the human rights approach to the water issue. Germany noted that South Africa has signed ICESCR but has not yet ratified it and recommended to do it as soon as possible.

38. New Zealand noted significant progress in trying to address the injustices caused by the legacy of the apartheid system. It noted that South Africa has been unable to submit a number of reports to treaty bodies, and enquired about the major obstacles encountered in this regard, and what steps South Africa has taken or plans to take to overcome them. New Zealand asked whether South Africa has established time frames for the submission of its treaty body reports and whether it has given thought to the preparation of a common core document. New Zealand welcomed the delegation's comments on the submission by South Africa of its outstanding treaty body reports, in particular its initial reports, within its period of membership of the Human Rights Council. It also welcomed any comments on possible technical assistance that South Africa might require to meet its treaty body reporting obligations.

39. The Netherlands commended South Africa on its Constitution which strongly protects human rights. It noted however that although women's rights are protected in the Constitution and some actions have been undertaken, more efforts are needed to prevent gender-based violence. The Netherlands recommended to take increased measures to protect and provide redress to women at risk of or subjected to gender-based violence. It noted South Africa's large inflow of immigrants and wanted to know more about actions and programmes undertaken in regard to the integration of these groups into society, specifically on the human rights perspectives in these efforts.

40. Zimbabwe noted that South Africa is still facing extreme challenges in reversing the colonial apartheid legacy. It was encouraged by the concrete measures taken to ensure enjoyment of the

right to adequate housing at the national, provincial and local level and the measures towards establishing a statutory social housing rental regime for vulnerable groups who cannot afford to own their own houses, and noted the great progress in the health delivery sector and in the ensuring of the right to education. It recommended that South Africa expedite the process of ratification of ICESCR, considering that these rights are already justiciable in terms of the Constitution. It also encouraged South Africa to continue in its pursuit of ensuring that the marginalized and previously disadvantaged members of the community participate in the political, social and economic life as equal partners.

41. Mauritania noted that South Africa's legal and institutional instruments for the promotion of human rights have been reinforced since the end of apartheid, including within the civil, political, social and economic spheres. Mauritania welcomed the progress made in the areas of health, education, freedom of expression and poverty eradication. It asked about measures taken to fight xenophobia against non-nationals that persists, according to the CERD, and recommended to maintain and intensify efforts regarding the elimination of poverty and social inequality.

42. Denmark acknowledged the wide range of improvements by South Africa in the human rights area since the end of apartheid. In light of the continued allegations of acts of torture, cruel, inhuman and degrading treatment by security personnel, Denmark took due note of the information provided by South Africa to the effect that a specific offence of torture, as required by CAT, will be introduced in South Africa's criminal law. As recommended by the Committee against Torture, it urged South Africa to adopt the appropriate legislation at an early date, and requested the delegation to elaborate on the concrete measures the Government intends to take to ensure that the reported systematic use of torture be abolished in practice.

43. France welcomed the efforts and progress made in recent years in promoting human rights, including economic, social and cultural rights and civil and political rights. France noted that over the recent years South Africa has become an important immigration country and France requested more clarification and asked how the rights of migrants and/or asylum-seekers are guaranteed. It also recommended to South Africa to sign and ratify the International Convention on the Protection of All Persons from Enforced Disappearance.

44. The Libyan Arab Jamahiriya noted that South Africa is one of the countries that ratified the majority of international human rights conventions and has opened its doors to invite all special procedures. South Africa had suffered from the scourge of apartheid; however, after its establishment as a democratic State, every national enjoys civil, political, social, cultural and economic rights. In the field of education, UNICEF has noticed that South Africa is about to reach universal access to primary education for all, and equality between the girl and boy child. It asked what measures South Africa is taking to reach a new qualitative mode of education for all children.

45. Palestine welcomed the efforts made by South Africa and noted its leadership role in the field of human rights. Palestine noted its efforts to overcome the legacy of racial discrimination and provide protection of human rights to all citizens without discrimination, including economic, social and cultural rights, the right to development, as well as civil and political rights. It noted South Africa's excellent achievements regarding equality for women, equality to work, education, and food security as well as its challenges in health. It noted South Africa's openness to all special procedures and its vital role in settling disputes and peacekeeping.

46. Botswana recognized the many achievements made by South Africa in the promotion and protection of human rights, particularly following the painful transition from the end of the apartheid era. It commended South Africa on successfully setting up an institutional framework and

congratulated for its continuing efforts in the various sectors to achieve equality. South Africa's record in promoting gender equality provides inspiration to the subregion, and its commendable efforts in meeting its international obligations and its cooperation with human rights mandate-holders is an inspiration for all.

47. The delegation of South Africa responded to questions on socio-economic improvement and referred to numerous reforms and measures undertaken to redistribute wealth as well as to the various policies serving to enhance the standard of living for all. It was emphasized that without State-driven interventions aimed at directly addressing South Africa's historical inequalities, economic growth would not be feasible, and reference was made to the Reconstruction and Development Programme (RDP), Accelerated and Shared Growth Initiative for South Africa and within it, a skills building programme. Most recently the broad-based Black Economic Empowerment Act has become one of the most important determinants of transformation in the economic sphere. There had been a proliferation of Black Economic Empowerment (BEE) Charters, and BEE companies have shown tremendous growth since 1994, when the first Black consortium was listed on the Johannesburg stock exchange. These BEE companies were well represented in the financial services, the media, forestry, etc. The delegation reiterated the point that State intervention was often needed to redress inequalities.

48. With regard to HIV/AIDS and to improving access to treatment, the delegation explained that the Government had created Medicine Pricing Regulations in 2004 to make medicine affordable. The entire system was challenged in the courts, which upheld the system. This pricing regulation will facilitate access to cheaper drugs and assist in providing treatment regimes to those in need. The Government conducts annual assessments of the HIV prevalence in the population. Recent studies indicate a decrease in rates among the younger population, which shows that preventive programmes are taking root. Concerning housing issues, the delegation explained that prior to 1994, 15 per cent of the population occupied almost all of the land (up to 87 per cent), which meant that homelessness was linked to landlessness. Thus, several pieces of legislation had to be put into effect in order to address the issue of land reform. South Africa has strong constitutional protection and legislation to prevent illegal evictions and to provide judicial recourse for victims of illegal evictions. This was referred to extensively in the delegation's prior statement. The Department of Home Affairs recognized that xenophobia has become an issue that needed attention. A Counter-Xenophobia Unit has been established with other stakeholders and was mandated by the Immigration Act as amended, which stipulated that in terms of refugees, South Africa needed to promote a human rights-based culture in both Government and civil society in respect of its approach to immigration control. In this regard, the Government has started introducing various training programmes for officials interacting with refugees and migrants. Measures had been taken to facilitate and simplify the issuance of permanent and temporary residence permits to those entitled to them and to detect and deport illegal foreigners, as is the practice in most developed countries.

49. The delegation indicated that South Africa is on track to achieve Millennium Development Goal 2 by 2015. The Constitution guarantees that everyone has the right to basic education, including adult basic education and further education, which the State, through reasonable measures, must progressively make available and accessible. South Africa has made great strides in widening educational opportunities to previously disadvantaged groups, mainly black South Africans. With almost 5.4 per cent of gross domestic product, South Africa has one of the highest rates of government investment in education in the world. University education is fee-based, but poor students are assisted through the National Student Financial Aid Scheme (NSFAS), which disburses over R1 billion annually. With good performance, a portion of the loan can be converted into a grant. With regard to the reproductive rights of women, the delegation indicated

that by law women have the full right of say over their bodies. The law on the Choice on Termination of Pregnancy provides a choice to women based on their personal circumstances. On the question of treaty body reporting, the delegation clarified that there was no political obstacle to the preparation of reports, but rather that it consumed a considerable effort, and South Africa was seeking ways to optimize the preparation of such reports. Regarding treaty ratification, the delegation confirmed that it had listed the instruments in the process of signing and ratifying, and that South Africa will inform the Working Group of the instruments it would have become party to when it reports back in four years. The delegation also stated that it had taken note of recommendations made, which it would examine. It also took note of the positive comments made by States which had experienced similar challenges in the past.

50. Tunisia expressed its appreciation to South Africa and stated that its approach in the area of human rights was a source of inspiration. Tunisia noted with interest the national report which provides exhaustive presentation of instruments adopted in various areas to protect human rights. Tunisia commended South Africa on the very important achievements in particular in the field of education where there has been remarkable development, and on its activities in particular for children with special needs and in ensuring general equality for education. Tunisia sought more information in these areas, and recommended to South Africa to persevere in its efforts to promote the rights of education and to pay particular attention to continuing and disseminating the culture of human rights among young people as part of its educational and pedagogical programme.

51. Brazil acknowledged the achievements to overcome the great challenges imposed by the unique history of the country, specially the long years under institutionalized racial discrimination, the scourge of apartheid. Brazil praised South Africa for its commitments to human rights and stressed the achievements in the area of protection against racial discrimination and expected an important participation of South Africa in the preparatory process of the Durban Review Conference. Brazil also commended South Africa on its political will to face human rights challenges but expressed concerns about the promotion of the right to health and the rights of women. In this context, two specific questions were put forward on how South Africa was assessing its policies to the prevention of HIV/AIDS and the policies or measures South Africa has adopted to promote the rights of women, especially women's reproductive rights. Also, Brazil recommended to South Africa to consider ratifying the ICESCR and the OP-CAT.

52. Sudan noted that the elimination of apartheid in South Africa was a source of pride and that the transition period to a democratic society was achieved through persistent and determined efforts by the people of South Africa. It commended South Africa on its efforts in succeeding to reduce the prevalence of HIV/AIDS. Sudan expressed its conviction that economic rights in their various forms can only be realized through international cooperation especially between developed and developing countries under the umbrella of the United Nations and its programmes, notably to achieve the MDGs. In view of the leading role it played at both the regional and international level, Sudan recommended that South Africa give special attention to the role of international cooperation for the enjoyment of economic, social and cultural rights and recommended to South Africa to share its experience, programmes and plans in this field with other developing countries. Sudan also commended South Africa on its decision to host the Durban Review Conference and its historical role in this regard.

53. Zambia commended South Africa for the major strides that the country has made in terms of promoting and protecting human rights, especially considering its history with apartheid. Zambia noted the positive strides South Africa has made in terms of human rights, such as the establishment of the South African Human Rights Commission; the promulgation of a national Constitution which caters for both civil and political rights and economic and social rights; the establishment of

specialized Sexual Offences Courts; the creation of equality courts that are designed to be accessible to average unrepresented South Africans and the enactment of the Promotion of Access to Information Act. Zambia also noted the challenges faced by South Africa on HIV/AIDS; provision of accessible and quality health care and congestion in prisons. In that respect, Zambia encouraged South Africa to pursue its efforts to meet international human rights obligations by continuing with the programmes it has in place for this purpose.

54. India noted that the emergence of South Africa as a mature democracy with an unwavering commitment to democratic principles and ideals was inspiring and commended on the fact that this has been achieved by preserving and promoting the multicultural and pluralistic character of the society. India also noted that education was one of the most powerful tools to engender social change and open up avenues for economic advancement. In that regard, India noted with great interest that South Africa was set to achieve MDG 2 by 2015. In that respect, India indicated its interest in hearing from the delegation about steps taken or planned to be taken to promote universal primary education, especially among the disadvantaged sections of the society.

55. Nigeria referred to the extraordinary history of South Africa through the apartheid regime, noted the harmful consequences of over 300 years of colonial and apartheid control and commended the laudable strides made since 1994 to transform the State and deploy resources to give all citizens equal access to rights and provide equal services for all. Nigeria also noted the new challenges South Africa continues to face in areas such as housing, HIV/AIDS and unemployment, but expressed its confidence that South Africa will successfully overcome these challenges. In that respect, Nigeria urged the support of the international community to South Africa in overcoming the natural consequences of the apartheid regime. Nigeria also encouraged the South African authorities to continue the realization of economic and social rights of its citizens with a view to eradicating poverty and thus meeting other MDGs. Similarly, Nigeria called on the international community to continue providing necessary assistance to South Africa in order to realize these goals and objectives.

56. The United Kingdom of Great Britain and Northern Ireland noted that South Africa's liberal Constitution provides a strong institutional structure for the protection and defence of human rights. It indicated that South Africa has the opportunity to share its best practice to improve the human rights situation in all countries of the world, including in its own region. The United Kingdom noted that South Africa has signed most of the international human rights instruments and has made good progress in ratifying them. It also noted the response to its question on the ratification of the OP-CAT and in this context recommended that South Africa ratify it at the earliest opportunity. The United Kingdom indicated that South Africa deserves credit for the progress made in reversing the legacy of apartheid and recognized the many challenges such as poverty, HIV/AIDS and corruption South Africa has to face. The United Kingdom stressed that it supported South Africa's work in these areas through, for example, a number of projects supporting young people in disadvantaged communities. It congratulated South Africa on its progressive stance domestically on the rights of lesbian, gay, bisexual and transgendered people and commended it on its leadership in this area. In this regard, the United Kingdom recommended to South Africa to continue to promote and protect the right of all persons to equality without discrimination based on sexual orientation, at both the national and international levels.

57. Belgium noted the important achievements of South Africa in the field of human rights, notably in areas of economic, social and cultural rights. It also welcomed the commitment by South Africa to present its report to CERD and to draw up a national plan of action for the implementation of the Durban Declaration and Plan of Action. In this regard, Belgium sought further information on the implementation of these commitments and indicated that these

commitments certainly deserve highlighting in the conclusions and recommendations of the present report. Belgium also welcomed the progress made by South Africa by banning, in the Constitution, all discrimination on the basis of sexual orientation. According to information provided by representatives of civil society as contained in the stakeholders' summary report, this category of the population nevertheless remains vulnerable. Belgium noted that the South African Human Rights Commission has developed a programme of action to combat hate crimes against this category of the population and Belgium sought more information on its implementation. Belgium recommended to South Africa to increase its efforts to provide mediation machinery to provide victims of discrimination on the basis of sexual orientation more accessible and rapid remedies. It also recommended to make efforts on the sensitization in education to strengthen the prevention of these forms of discrimination.

58. Switzerland noted the impressive achievements made by South Africa on the basis of its multicultural and democratic society and noted that after four decades of apartheid, the elimination of racial discrimination is a foundation on which South Africa is built. Switzerland also noted that CERD has welcomed the special measures to fight the effects of segregation, but also noted that the manifestation of racism and xenophobia still exist. In this regard, Switzerland sought further information on any campaign by South Africa to reduce xenophobia and if any evaluation of the impact of such campaign has been undertaken. It also indicated that one of the challenges South Africa still had to face was the violence against women and children. It noted with concern the high number of cases of rape, especially of children, and that the number of proceedings on complaints of rape was still very low. It thus recommended to South Africa to follow-up on the recommendation made by the Committee against Torture to adopt all necessary measures to prevent, combat and punish violence against women and children. Switzerland also encouraged South Africa to do everything in its power to make sure that sex offences in the Criminal Code be effective at the earliest opportunity. Switzerland was also interested to know about measures taken to sensitize the population to prevent such violence within the society but also in schools.

59. Romania commended South Africa on the tremendous efforts made in reforming the legislation in order to enable the substantiation of all rights provided by the Constitution, in particular equality and non-discrimination as a core element of the consolidation of constitutional democracy in South Africa. While congratulating for its achievements in enforcing the right to adequate housing, Romania sought further information on the consequences of the amendments to the 1998 Act on Prevention of Illegal Eviction currently under review in Parliament. It also asked whether the South African authorities were aware of the consequences of the recently enacted legislation of Kwa Zulu Natal Province regarding the eradication of slums and its consequences on the increase of eviction procedures. Also, while commending South African authorities for the policies adopted in the field of public health and the measures taken to fight against HIV/AIDS, Romania recommended to South Africa to increase its measures to eliminate the discriminatory barriers to access health services for people living with HIV/AIDS. Romania also recommended that South Africa consider accelerating the ratification of ICESCR and the Optional Protocol to CAT.

60. Jordan commended South Africa on the ongoing efforts to further improve the situation of human rights which were instrumental for the successful and peaceful transition from the apartheid regime to a multicultural and democratic society, and on the work of the TRC. Jordan further praised the accession by South Africa to a large number of international human rights instruments complemented by a legislative and institutional framework, including the establishment of the South African Human Rights Commission. It also noted that South Africa is hosting the OHCHR Regional Office for Southern Africa, which demonstrates its strong political will to enhance the promotion and protection of human rights in South Africa and the region. Jordan also stressed that

because of its unique experience in combating racism and xenophobia, South Africa is morally and politically equipped to assume a leading regional and worldwide role in promoting tolerance and coexistence among ethnic and religious minorities. Jordan thus recommended that South Africa make available to the Human Rights Council, as an example of sharing best practices, some of its initiatives in this regard.

61. The United Republic of Tanzania commended South Africa on promoting and protecting human rights in a multicultural nation that has seen varied historical dynamics. Tanzania noted the performance of South Africa and its efforts in the area of human rights, as well as the immense challenges that impinge on the realization of all human rights, especially those emanating from an historical past. It welcomed the frankness and inclusiveness which characterized the preparation of the national report and the information provided by a significant number of stakeholders. It also noted with satisfaction the steps undertaken by South Africa to implement regional and international treaty obligations in the area of human rights as well as its intention to sign and ratify yet a number of other international human rights instruments. In this respect, Tanzania enquired about the ratification of ICESCR by South Africa.

62. Indonesia commended South Africa on its ongoing ratification of ICESCR, ICRMW and the Optional Protocol to CAT. It also indicated that South Africa is a country that has been able to rise from the legacy of its painful past and construct a modern democracy which is itself an exceptional model. Indonesia noted that South Africa's Constitution provides guarantees for fundamental freedoms. In respect of social and cultural rights, it noted that South Africa has been actively implementing strategies to improve availability and access to housing and health care as well as equality and empowerment of women and the disabled within the workplace. Indonesia indicated that South Africa continues to champion the fight against HIV/AIDS in Africa. Indonesia also applauded South Africa for its ongoing and progressive realization of human rights through its existing national mechanisms and institutions such as the Law Reform Commission and the South African Human Rights Commission. Indonesia sought further information on its strategies to promote education and health-care facilitation.

63. Bangladesh noted the encouraging picture of the situation of human rights in South Africa as described in the national report. It also referred to South Africa's struggle against the apartheid regime and the transition to a non-discriminatory and democratic society. Bangladesh noted that South Africa has adopted a large number of international human rights instruments, a new Constitution and a legal framework, demonstrating a clear commitment to the promotion and protection of human rights. Bangladesh commended South Africa on its acknowledgement of the difficulty it faced in ensuring the practical enjoyment of all human rights for all citizens. It also commended South Africa on the measures taken to address challenges and redress inequalities. Bangladesh noted in that regard that South Africa has made efforts, inter alia, to tackle poverty, social insecurity and HIV/AIDS, and universal primary education should be achieved by 2015. While noting that South Africa has achieved gender parity, it sought further information on the concern expressed by the CRC that inequality still exists in accessing education in some parts of the country.

64. The Islamic Republic of Iran noted the strong commitment and positive approach showed by South Africa and commended it on its valuable efforts and constructive measures for the promotion and protection of all human rights. Iran noted the long struggle the South Africans faced during the apartheid regime for social justice, human rights and fundamental freedoms. Iran noted with interest and appreciation the various measures and initiatives taken by South Africa to realize civil and political rights as well as economic, social and cultural rights, including the right to development. It sought further information on the concrete measures taken by South Africa to eradicate poverty and

to fight HIV/AIDS. Iran also noted that in 2007, South Africa undertook, inter alia, to submit a national action plan exclusively covering the area of racism and racial discrimination, as required by the Durban Declaration and Programme of Action. Iran sought further information on this national action plan.

65. On the question of illegal evictions, the delegation of South Africa responded that it has a strong constitutional protection and legislation in place to prevent illegal evictions and provide judicial recourse for victims of such evictions. It noted that two recent landmark judgements have clearly affirmed that it is the State's duty to provide housing for people in desperate circumstances and to have an emergency plan in place, and that people cannot be evicted if they do not have alternative accommodation. South Africa has welcomed these court decisions and has already taken steps to implement them. Regrettably, there have been evictions which have taken place outside the legal prescripts. However, resettlements where the State has been involved have been carried out on the basis of court judgements or have been negotiated with the affected communities. A new and significant partnership has been developed between the Department of Housing, banks and financial services, whereby an amount of 42 billion South African rand in financing for low-cost housing will be made available in 2008 which will address or redress some of these concerns. On the question on whether South Africa is aware of the recent Kwa Zulu Natal programme legislation, it was re-emphasized that South Africa's Government is composed of three spheres: national, provincial and local government, and that work programmes and legislative measures taken in these spheres all feed into the Cabinet and Parliament. The South African authorities are fully aware of any legislation enacted within its borders. On the issue of unequal access to health-care services, the head of delegation reaffirmed that in 1994, when President Mandela took office, there was a requirement to introduce free health-care services to people who cannot afford to pay for it in the private market, including women and children. She thus underlined that access to health-care services is not unequal per se between men and women. She further indicated that when South Africa introduced legislation in order to access cheap drugs in the international market, President Mandela was taken to court by pharmaceutical companies based in developed countries and it took several years before that court action was withdrawn, a period of time during which South Africa could not afford to provide expensive drugs to people who needed them. She again referred to the recent regulation pertaining to the pricing of medicines, which will make them cheaper. On the issue of the ratification of additional international instruments, she indicated that South Africa will report back in due time when it will be in a position to ratify those instruments and reaffirmed that there was no political hurdle. On the issue of sexual orientation, she indicated that there is no specific legislation pertaining to it and that South Africa prohibits discrimination on any ground irrespective of a person's sex or gender.

66. In her closing remarks, H.E. Ms. Mtshali, Permanent Representative of South Africa to the United Nations Office at Geneva, welcomed the active participation and collaborative spirit in which South Africa's review was conducted, including the insightful comments and questions. She noted with appreciation the very positive and constructive statements made in support of South Africa's efforts to firstly achieve economic, social and cultural rights, since civil and political rights are already largely achieved. In that respect, she indicated South Africa's ongoing commitment to focus on these rights. She also indicated that this young democracy has been founded on the unwavering struggle of South African and international human rights defenders. The South African Government was mindful that despite these great strides, much more needs to be done, and will remain committed to continue building a future founded on hope, prosperity and opportunities for our people, because "where there is hope, there is a future."

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

67. In the course of the discussion, the following recommendations were made to South Africa:

1. Recommended to South Africa to commit not only to removing the defence of reasonable chastisement but also to criminalizing corporal punishment with the concomitant pledges towards raising awareness and providing the necessary resource to support parents in adopting positive and alternative forms of discipline (Slovenia);
2. Recommended to South Africa to enact a legislation which would, in line with article 1 of the Convention against Torture, prevent and eliminate torture and combat impunity (Slovenia);
3. Recommended to South Africa to systematically and continuously integrate a gender perspective in the follow-up process to the UPR (Slovenia);
4. Recommended to take increased measures to protect and provide redress to women at risk of or subjected to gender-based violence (The Netherlands);
5. Recommended South Africa to follow up on the recommendation made by the Committee against Torture to adopt all necessary measures to prevent, combat and punish violence against women and children (Switzerland);
6. Recommended that concrete measures be taken to improve the handling by police of rape cases and to curb rates of violence, particularly against women and girls (Canada);
7. Recommended to South Africa to ratify the International Covenant on Economic, Social and Cultural Rights (Romania, Germany, Zimbabwe, Brazil) and the Optional Protocol to the Convention against Torture (Romania, Brazil and the United Kingdom) at the earliest opportunity (United Kingdom);
8. Recommended to South Africa to sign and ratify the International Convention on the Protection of All Persons from Enforced Disappearance (France);
9. Recommended follow-up to the recommendations of the Committee on the Elimination of Racial Discrimination and to ensure that the rights of migrants are respected, particularly by law enforcement officials (Canada);
10. Recommended that the mechanisms for supervising procedures be established or strengthened, including the procedure for recognition of the status of refugees and deportation of foreigners, with a view to ensuring the right to a hearing and thus close the door to possible abuses and complying with the principle of non-refoulement (Mexico);
11. Recommended the implementation of the South Africa Law Reform Commission's proposals on the Criminal Law Amendment Act 2007, with a view to supporting and prosecuting complaints in court and to providing comprehensive State-funded post sexual assault medical care and treatment services (Canada);
12. Recommended South Africa to take measures to address inequities in access to HIV/AIDS treatment and support, particularly in rural areas (Canada);

13. **While commending South African authorities for the policies adopted in the field of public health and the measures taken to fight HIV/AIDS, recommended to South Africa to increase its measures to eliminate the discriminatory barriers to access health services for people living with HIV/AIDS (Romania);**
  14. **Recommended to South Africa to further intensify its efforts to decrease the HIV/AIDS prevalence in the context of its National Health Charter, with a special focus on teenagers (Algeria);**
  15. **Recommended to South Africa to continue its efforts to promote and facilitate school attendance, particularly among children from economically disadvantaged families (Angola);**
  16. **Recommended to South Africa to persevere in its efforts to promote the rights of education and to pay particular attention to continuing and disseminating the culture of human rights among young people as part of its educational and pedagogical programme (Tunisia);**
  17. **Recommended to South Africa to maintain and intensify the efforts regarding the elimination of poverty and social inequality (Mauritania);**
  18. **Recommended to South Africa to give special attention to the role of international cooperation for the enjoyment of economic, social and cultural rights and recommended South Africa to share its experience, programmes and plans in this field with other developing countries (Sudan);**
  19. **Recommended that South Africa make available to the Human Rights Council, as an example of sharing best practices, some of its initiatives relating to combating racism and xenophobia as well as promoting tolerance and coexistence among ethnic and religious minorities (Jordan);**
  20. **Recommended to South Africa to continue to promote and protect the right of all persons to equality without discrimination based on sexual orientation, at both the national and international levels (United Kingdom);**
  21. **Recommended to South Africa to increase its efforts to provide mediation machinery to provide victims of discrimination on the basis of sexual orientation more accessible and rapid remedies (Belgium);**
  22. **Recommended to make efforts on the sensitization in education to strengthen the prevention of these forms of discrimination (Belgium).**
68. **The response of South Africa to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.**
69. **All conclusions and/or recommendations contained in this report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.**

### **III. VOLUNTARY COMMITMENTS OF THE STATE UNDER REVIEW**

70. Reference is made to the commitments made by South Africa to the UPR as referred to in paragraph 12 above.

**Annex**

**Composition of the delegation**

The delegation of South Africa was headed by H.E. Ms. Claudine J. MTSHALI, Ambassador, Permanent Representative of South Africa to the United Nations Office at Geneva, and composed of:

Mr. J. FICK (Minister: Department of Home Affairs);

Mr. J. KELLERMAN (Counsellor Political: Department of Foreign Affairs);

Ms. B. NAIDOO (Counsellor Political: Department of Foreign Affairs);

Ms. S. MATLHAKO (First Secretary Political: Department of Foreign Affairs);

Mr. S. QOBO (First Secretary: Department of Foreign Affairs);

Ms. S. CHUNG (First Secretary: Department of Foreign Affairs).

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