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Report of the Working Group on the Universal Periodic Review*

South Africa

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document is being issued without formal editing.

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I. Introduction

1. The Republic of South Africa has considered the 4th Cycle Universal Periodic Review (UPR) recommendations and is pleased to present its Addendum to the Working Group Report titled *Report of the Working Group document number A/HRC/52/17* dated 6 January 2023. The Addendum was prepared following the review of South Africa which was held at the 15th meeting of the UPR Working Group of the Human Rights Council (HRC), on 16 November 2022. The responses provided in this Addendum are informed by the Constitution of the Republic of South Africa, national legislative and government policy framework, the State of the Nation Address (SONA), delivered by President Cyril Ramaphosa on 9 February 2023 which set out government's key policy objectives, programme of action and deliverables for the year ahead, flagged challenges and outlined interventions to unlock our nation's potential, Medium-Term Strategic Framework and the National Development Programme (NDP).

2. In terms of the methodological approach and in conformity with guidance provided for the preparation of the addenda, this document outlines the recommendation numbers as they appear in the Working Group Report, and the position of the State for those recommendations. Due to the word limit of 2675, comments are not provided on specific recommendations, but a broad Government policy perspective and position on some recommendation is provided. The recommendations and South Africa's responses thereto are thematically clustered and are either fully 'Supported' or 'Noted'.

3. Most importantly, the Government compiled this Addendum based on verified data or information drawn from various Government departments in line with their respective mandates and policy objectives. The departments will implement the recommendations progressively to the best availability of resources and in accordance with Constitutional imperatives. The Government also has a commitment to allocate resources for the realisation of the Sustainable Development Goals (SDGs) by 2030.

II. Government response to UPR recommendations

Ratification of outstanding international core human rights instruments and acceptance of international norms and standards

4. The South Africa is a constitutional democracy whose Constitution provides that the Bill of Rights, contained in chapter 2 of the Constitution is a "cornerstone of democracy in South Africa" and affirms the democratic values of human dignity, equality and freedom. Further, amongst its founding constitutional principles and values, it includes non-discrimination, equality, non-racialism and non-sexism, supremacy of the constitution and the rule of law. The Constitution further places an obligation on the State to "respect, protect, promote and fulfil the rights in the Bill of Rights".

5. Guided by the above normative principle, the South African Government has ratified most of the international and regional human rights instruments and continue to consider the outstanding instruments with a view of ratification or accession. South Africa has taken active steps towards the ratification of other instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid and the International Convention for the Protection of All Persons from Enforced Disappearance; and the Violence and Harassment Convention. Cabinet will first have to take a policy decision on other outstanding instruments before they are ratified or acceded to.

Recommendations supported/accepted

6. **143.1, 143.6, 143.7, 143.8, 143.13, 143.14, 143.15, 143.16, 143.18, 143.19, 143.20, 143.21, 143.22, 143.23.**

Recommendations noted

7. **143.2, 143.3, 143.4, 143.5, 143.9, 143.10, 143.11, 143.17.**

Recommendation supported/noted

8. **143.12** – Supported on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. Noted on the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

Strengthening of the South African Human Rights Commission and other human rights monitoring mechanism and government agencies

9. Government allocates sufficient resources to all Chapter 9 institutions within its means, and it will continue doing so taking into account other competing priorities. South Africa's stock of debt remains high, and prudent public financial management remains essential to reduce the proportion of revenue dedicated to servicing debt over time. Considering limited resources available, institutions must tailor implementation of mandates, projects and programmes to align these to available funding. They can also reprioritise existing baselines to fund priorities, and in many cases have successfully done so.

Recommendations noted

10. **143.24, 143.25, 143.26, 143.27, 143.82, 143.199, 143.270.**

National mechanism for reporting and follow-up

11. Preparations are underway to establish a fully functional and permanent National Mechanism for Reporting and Follow-up, with a permanent secretariat to be hosted by the Department of Justice and Constitutional Development.

Recommendations supported/accepted

12. **143.28, 143.29, 143.184.**

Hate Crime, Hate Speech Bill, national action plan to combat racism, racial discrimination, xenophobia and related intolerance

13. The Hate Crimes Bill is in Parliament for consideration. Promulgation of this specific legislation will have several advantages. It will assist in creating a shared definition of hate crime amongst all those involved in the criminal justice system; will send a clear public message that hate crimes will not be tolerated in South Africa and will provide additional tools to investigators and prosecutors to hold hate crime perpetrators accountable.

14 The Government established the National Anti-Xenophobia Task Team (NTT) in 2017 to focus on developing a programme that will facilitate ending attacks on foreign nationals. Furthermore, Government is a member of the United Nations Protection Working Group (UNPWG). The UNPWG's focus is on ensuring the promotion of social cohesion in our communities whilst ensuring that communities are safe for all inhabitants, both citizens and foreign nationals including refugees and asylum seekers alike. The UNPWG drafted Standard Operating Procedures (SOPs) in response to violence against foreign nationals in South Africa.

Recommendations supported/accepted

15. **143.30, 143.31, 143.32, 143.33, 143.34, 143.35, 143.36, 143.37, 143.38, 143.39, 143.40, 143.41, 143.42, 143.43, 143.44, 143.45, 143.46, 143.47, 143.48, 143.49, 143.50, 143.51, 143.284, 143.288, 143.290, 143.291, 143.292.**

Recommendations noted

16. **143.287.**

Prohibition of torture and improving prison conditions

Recommendations supported/accepted

17. **143.53, 143.54, 143.55, 143.56, 143.57, 143.58, 143.59, 143.60, 143.61, 143.62, 143.63, 143.64, 143.81.**

Recommendations noted

18. **143.52, 143.77.**

Law enforcement, crime and corruption

Recommendations supported/accepted

19. **143.65, 143.66, 143.67, 143.68, 143.69, 143.70, 143.71, 143.72, 143.73, 143.74, 143.75, 143.76, 143.78, 143.79.**

Prohibition of trafficking

Recommendations supported/accepted

20. **143.80, 143.99, 143.100, 143.101, 143.102, 143.103, 143.104, 143.105, 143.106, 143.107, 143.108, 143.109, 143.110, 143.111.**

Administration of justice and other measures to ensure the protection of human rights

Recommendations supported/accepted

21. **143.83, 143.84, 143.85, 143.86, 143.87, 143.88, 143.90, 143.91, 143.92, 143.93, 143.94, 143.95, 143.96, 143.97.**

Facilitation of Special Rapporteur visits

Recommendations supported/accepted

22. **143.89, 143.183.**

Non-discrimination and women empowerment

Recommendations supported/accepted

23. **143.98, 143.193, 143.194, 143.195, 143.196, 143.197, 143.198, 143.185, 143.200, 143.201, 143.202, 143.210, 143.266.**

Right to health, work and education

24. During the SONA, President Ramaphosa indicated that “our economy needs to grow much faster if we are to meaningfully reduce unemployment and that between the third quarters of 2021 and 2022, around one and a half million new jobs were created in our economy. The Presidential Employment Stimulus has provided work and livelihood opportunities to more than one million people. Furthermore, in order to address the challenge of youth unemployment, the Employment Tax Incentive has been expanded to encourage businesses to hire more young people in large numbers”.

Recommendations supported/accepted

25. **143.112, 143.113, 143.114, 143.115, 143.116, 143.117, 143.126, 143.127, 143.138, 143.139, 143.142, 143.143, 143.144, 143.145, 143.146, 143.147, 143.148, 143.149, 143.150, 143.151, 143.152, 143.153, 143.154, 143.155, 143.156, 143.157, 143.158, 143.159, 143.160, 143.161, 143.162, 143.163, 143.164, 143.165, 143.166, 143.167, 143.168, 143.169, 143.170, 143.171, 143.172, 143.173, 143.174, 143.175, 143.176, 143.177, 143.178, 143.179, 143.187, 43.251, 143.271, 143.273, 143.274.**

Social security, poverty alleviation measures and sustainable development

Recommendations supported/accepted

26. **143.118, 143.119, 143.120, 143.121, 143.122, 143.180, 143.181.**

Right to an adequate standard of living, right to land and food, drinking water, housing, sanitation and infrastructure development

27. During the SONA, President announced major projects that will be implemented to improve the standard of living particularly in rural areas. He mentioned that our infrastructure build programme is gaining pace through the work of the Infrastructure Fund and Infrastructure South Africa, which has been established to support strategic infrastructure projects. One of the greatest obstacles to infrastructure investment is the lack of technical skills and project management capacity. To fix this, Infrastructure South Africa has been allocated R600 million for project preparation, specifically in rural and under-resourced areas. The support and planning mechanisms that we have put in place over several years are now starting to bear fruit in increased public investment in infrastructure. By January this year, projects worth R232 billion were under construction and projects worth nearly R4 billion had been completed. The completed projects include new human settlements in Gauteng, road upgrades and the development of small harbours.

28. In a major development, the South African National Roads Agency – SANRAL – has awarded road construction contracts worth R18 billion over the last three months. The construction of the Msikaba Bridge and Mtentu Bridge will be finished and make travel in the Eastern Cape much better. This investment will substantially benefit the construction industry and enable large-scale job creation, skills development and poverty relief, especially in nearby rural communities.

Recommendations supported/accepted

29. **143.123, 143.124, 143.125, 143.128, 143.129, 143.130, 143.131, 143.132, 143.133, 143.134, 143.135, 143.136, 143.137, 143.140, 143.141, 143.182.**

Discrimination and violence against women

Recommendations supported/accepted

30. **143.186, 143.203, 143.206, 143.207, 143.208, 143.209, 143.211, 143.212, 143.213, 143.214, 143.216, 143.217, 143.218, 143.219, 143.220, 143.221, 143.222, 143.223, 143.224, 143.225, 143.226, 143.227, 143.228, 143.229, 143.230, 143.231, 143.232, 143.233, 143.234, 143.235, 143.236, 143.237, 143.238, 143.239, 143.240, 143.241, 143.242, 143.243, 143.244, 143.245, 143.246, 143.247, 143.248, 143.249.**

Recommendations noted

31. **143.215.**

Cultural practices and heritage

Recommendations supported/accepted

32. **143.188, 143.189, 143.190, 143.191, 143.192, 143.205.**

33. Supported on raising of the Minimum age for marriage to 18 years old, **143.285**.

Recommendations noted

34. **143.204.**

Civil and political rights

Recommendations supported/accepted

35. **143.250, 143.262, 143.263, 143.264, 143.265.**

Recommendations noted

36. **143.253.**

Protection of vulnerable groups falling within the following: Children, persons with disabilities and LGBTQIA+

Recommendations supported/accepted

37. **143.252, 143.254, 143.255, 143.256, 143.257, 143.258, 143.259, 143.261, 143.267, 143.268, 143.269, 143.272, 143.279, 143.280, 143.281, 143.282, 143.283.**

Recommendations noted

38. **143.260.**

Indigenous peoples

Recommendations supported/accepted

39. **143.275, 143.276, 143.277, 143.278.**

Refugees, asylum seekers and migrants

40. South Africa is a sovereign State with national laws, including those relevant to management of international migration, asylum seekers and refugee protection. International migration is therefore regulated in terms of the Immigration Act, Act 13, 2002. In terms of the Act, any person who needs to enter and sojourn in South Africa, must have a valid PASSPORT and should enter through a designated port of entry, consistent with the immigration requirements and international norms and standards. South Africa has promulgated various pieces of legislation aimed at ensuring that the rights of asylum seekers, refugees and migrants are protected. These interventions are supported by policy frameworks and programmes that seek to promote social cohesion at all levels. These positive developments have been achieved through collaborating and working in partnership with various partners both within government and in the broader society, as well as other stakeholders, including international organisations.

41. In terms of migration management, the South African government still believes in integrationist solutions to these challenges. This is in contradiction to the approaches that other governments have taken in recent years, which include measures to deport foreign nationals under the veneer of ‘bilateral cooperation in the field of migration’ or build more detention centres with the sole objective of squelching any possibility of integration with local communities.

42. Furthermore, it must be underscored that, in the quest to find solutions to all challenges associated with migration in South Africa, it is important to consider that all relevant actors need to play their part in changing perceptions and misinformation around the issue of migration, refugees, and asylum seekers as well as the facts regarding racism and xenophobia. All stakeholders within society, including Government, Civil Society, Non-Governmental Organisations, media, academia, business, religious and faith-based organisations as well as media, have a fundamental responsibility in combatting racism, racial discrimination, xenophobia and related intolerance. Similarly, the critical role of the UN Special Procedures in holding stakeholders accountable and monitoring violations of domestic and international law cannot go unheeded.

Recommendations supported/accepted

43. **143.286, 143.293.**

Recommendations noted

44. **143.289.**

III. Voluntary commitments and pledges

45. The Government has embarked on a consultative process towards the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and makes the voluntary commitment and pledge to process the ratification expeditiously.

46. The Government of South Africa attaches immense importance to the work of the HRC and in this regard pledge to consistently and progressively continue to receive the special procedures and mechanisms of the HRC wishing to visit South Africa in keeping with their various mandates (as per the commitment South Africa made in its standing invitation approved by Cabinet to all thematic special procedures which was submitted on 22 October 2002 to the UN.

47. The South African Government is currently processing the request for a visit by the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, the Subcommittee on Prevention of torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerances to South Africa to take place during 2023.

48. South Africa sees the HRC as an important multilateral forum where the international community can work together in a constructive and meaningful way to develop norms and standards in the field of human rights that will foster the promotion, protection and practical realization and enjoyment of all human rights by all people across the world.

49. South Africa further commit to work with all partners to strengthen the UN human rights system and to ensure that human rights are respected, promoted and protected everywhere and that they are enjoyed by all without discrimination. South Africa will play a constructive in developing norms, standards and values at the multilateral level (in this case, in the field of human rights) that will foster respect for human dignity, advancement of human rights and fundamental freedoms, and help bring an end to racism, racial discrimination and all forms of intolerance. The Government pledge to work collaboratively and through international cooperation with all partners to this end.

IV. Technical assistance and capacity building measures

50. The Government requires technical assistance and support from the international community as it embarks on the establishment of its National Mechanism for Implementation, Reporting, and Follow-up (NMIRF) and training and capacity-building of focal points of human rights monitors and report writers across departments.

V. Conclusion

51. As it can be deduced from the above responses, South Africa support the majority of the recommendations in line with its commitment to the Universal Periodic Review and the global agenda towards the advancement of the SDGs and protection, upliftment and fulfilment of fundamental human rights and freedoms. The noted recommendations will be subjected to further discussion within government and determine policy decision on those recommendations. South Africa commits to provide progress report in its next reporting cycle on the implementation of all recommendations, particularly the recommendations that enjoy the support of the implementing departments which they have committed to implement within their means and capabilities guided by the Constitution and the laws of the Republic.

52. The Government of South Africa wishes to acknowledge the excellent work undertaken by the HRC and the troika constituted by Armenia, Libya and Qatar in facilitating South Africa's 4th cycle review. Appreciation also goes to all the member states of the UN for engaging with South Africa's national report and for the many recommendations provided to South Africa in the spirit of constructive cooperation.