



Human Rights Watch Statement

Item 6: UPR outcome report of South Africa

11 June 2008

HRW welcomes the UPR outcome report on South Africa, which includes numerous important recommendations to address the problems of sexual violence, equal access to HIV retroviral treatment and the enhanced protection of those seeking safety from persecution on South African territory. Recommendations relating to the treatment of migrants and asylum seekers in South Africa have become particularly pertinent given the surge in xenophobic attacks which the government has been tackling since May.

Emerging from a history of institutionalized racial inequality, South Africa has made admirable progress in transforming the state and society to ensure respect for fundamental rights, including freedom of expression, an independent judiciary, and free and fair elections. Nevertheless, widespread poverty, unemployment, persistently high levels of violent crime, and gender inequality continue to inhibit the full enjoyment of human rights.

As emerged during the review process and as recognized by the government, poverty in South Africa has a strong rural dimension: the rural poor suffer from higher unemployment rates, lower educational attainment, and lower access to essential services. During the review governments recognized that South Africa's Bill of Rights provides for binding and justiciable rights for all South Africans to education, housing, health care, food, water, and social security. Indeed in this regard South Africa's constitution is widely acknowledged as one of the most advanced in the world.

A priority concern for the nongovernmental human rights sector in South Africa is therefore to ensure that the government continues to address the progressive realization of socioeconomic rights and to hold the government accountable to fulfill these rights as binding obligations rather than programmatic aspirations.

Human Rights Watch strongly encourages South Africa to take up the recommendation to ratify the International Covenant on Economic, Social and Cultural Rights, thereby confirming its commitment to fulfilling its socioeconomic obligations to its people.

We encourage South Africa's to take up recommendations aimed at ensuring equitable access to anti retroviral treatment by all sectors of society, particularly vulnerable groups,

and to work with civil society to address the challenges regarding the equitable roll-out of Anti Retroviral Treatment across the country, particularly to vulnerable groups, including prisoners, children, people with disabilities and rural residents.

In implementing the recommendation put to it by Mauritania to maintain and intensify the efforts regarding the elimination of poverty and social inequality, we encourage the South Africa government to institute measures to discourage evictions, including prosecuting farmers who evict farm workers illegally and providing legal aid to people who have been victims of evictions or face evictions. Legislation protecting against arbitrary evictions has been enacted in South Africa, yet forced evictions, both legal according to South African law, and illegal, continue, in particular amongst farm workers. The government must therefore ensure that evictions are subject to the constitution and the judgments of the Constitutional Court. We regret that a specific recommendation to that effect was not formulated during the UPR review, but are hopeful that the South African government will do everything in its power to prevent such evictions.

South Africa Constitution protects its citizens from discrimination on the grounds of sexual orientation. HRW supports the recommendation made to South Africa to provide victims of discrimination on the basis of sexual orientation more accessible and rapid remedies particularly given the increased number of killings and reports of violence suffered by gays and lesbians in the country and the delays experienced securing effective remedy for these violations.

Lastly, in line with recommendations formulated during the UPR aimed at improving the protection of women and children's rights, particularly from sexual and gender based violence, HRW encourages South Africa to strengthen the Sexual Offences Bill to include a comprehensive package of services and protections for child victims in courts and urges for steps be taken to ensure no further delays to its enactment.

Finally Mr. President regarding lessons learnt and good practices in the UPR review process HRW strongly believes that, in the future, the UPR of South Africa would be enhanced by broad and substantive participation and consultations with civil society as well as all branches of government.