



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of South Africa and welcome your constructive engagement and that of your Government during the 27th session of the UPR Working Group in early May 2017.

As the final outcome report on the review of South Africa was recently adopted by the Human Rights Council at its 36th session, I am writing to follow up on a number of areas raised in two reports that my Office prepared for the review – the compilation on South Africa and the summary of stakeholders' submissions on South Africa – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations and statements made by 102 countries, South Africa's presentation and responses, and the action taken by South Africa to implement the recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I would like to highlight one issue that was raised during the review of South Africa and which I am particularly encouraged by, namely the enactment of the Prevention and Combatting of Torture of Persons Act so as to give effect to South Africa's obligations under the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Government's support to recommendations relating to the ratification of its Optional Protocol.

I encourage your Government to develop a national human rights action plan in order to achieve concrete results in the areas contained in the annex and to facilitate South Africa's preparations for the fourth cycle of the UPR. The development of the national human rights action plan should include consultations with all stakeholders, in particular the NHRI and civil society organisations, and, where necessary, the support of international organisations, including my Office and other United Nations (UN) entities, under the leadership of the UN Resident Coordinator.

I also encourage South Africa to strengthen its national mechanism for comprehensive follow up and reporting in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend to South Africa the use of the practical guide that my Office released in 2016 on this topic and which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

H.E. Ms. Maite Nkoana Mashabane
Minister of International Relations
and Cooperation.
South Africa

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Please be advised that I will be sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them to begin implementing recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage South Africa to submit a mid-term report for the third cycle, by September 2019.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): "The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."

I look forward to discussing with you ways in which my Office may assist South Africa to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

cc: Mr. John Jeffery, Deputy Minister of Justice and Constitutional Development
Mr. Luwellyn Landers, Deputy Minister of International Relations and
Cooperation



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratify the International Convention on the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; ; the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization; the Optional Protocol to the Convention against Torture; the Optional Protocol to the International Covenant on Economic Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and continue to uphold its commitment to and obligations under the Rome Statute of the International Criminal Court.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Continuing efforts to combat racism and racial discrimination and hate speech including by expediting the process for the approval of the draft national action plan to combat racism, racial discrimination, xenophobia and related intolerance and the Prevention and Combating of Hate Crimes and Hate Speech Bill; and adopting awareness raising initiatives on the issue;
- Strengthening the protection of persons from vulnerable groups, including persons with albinism and LGBTI persons, from violence and discrimination.

Development, the environment, and business and human rights

- Improving the effectiveness and implementation of legislation on development of mining resources and extractive companies and ensuring that companies comply with international and national standards relating to, among others, human rights, labour and the environment.

B. Civil and political rights

Right to life, liberty and security of person

- Strengthening measures to prevent violence against non-nationals, including migrants, refugees and asylum seekers, by among others, better implementation of existing mechanisms and policies and holding perpetrators of such violence to account;
- Strengthening efforts to reduce the use of excessive force by police and holding law enforcement officials responsible for such acts accountable;



- Improving conditions in detention centres, including migration detention centres, and addressing overcrowding.

Administration of justice, including impunity and the rule of law

- Improving access to justice, particularly for persons in vulnerable and marginalized situations and persons in rural areas, as well as the functioning of the justice system.

Fundamental freedoms and the right to participate in public and political life

- Continuing to guarantee freedom of expression including by ensuring that all legislation is fully in compliance with international human rights standards and guaranteeing that all journalists can work freely.

Right to privacy and family life

- Ensuring that all surveillance of communications requires a test of necessity and proportionality and that all operations of intelligence agencies are monitored by an independent oversight mechanism.

Prohibition of all forms of slavery

- Continuing efforts to combat human trafficking and strengthening measures to protect victims.

C. Economic, social and cultural rights

Right to an adequate standard of living

- Continuing to take measures aimed at eliminating injustices and inequalities in all sectors, in particular with regard to economic, social and cultural rights including by: continuing to implement measures to reduce poverty, particularly of vulnerable groups, and to reduce unemployment.

Right to health

- Improving the quality of health care across the country and increasing efforts to fight against HIV/AIDS and tuberculosis and to reduce maternal, infant and child mortality and to improve knowledge about sexual and reproductive health and rights.

Right to education

- Improving the quality and accessibility of education for all, in particular in rural areas.

D. Rights of specific persons or groups

Women

- Strengthening efforts to promote gender equality and to eradicate harmful practices against women and girls;



- Significantly strengthening measures to combat violence against women and sexual violence by, among others: ensuring the implementation of the Domestic Violence Act; promoting further training of the police, prosecutors and judges to better address such cases; improving the functioning of the courts charged with trying such cases as well as of relevant institutions, and increasing the provision of shelters for victims; and considering how to guarantee the allocation of adequate resources for the implementation of such measures.

Children

- Stepping up efforts to prevent harmful practices against children and developing measures and enforcing legislation addressing the practice of ukuthwala and other customary practices leading to forced or child marriage. Ensuring in law and practice that the minimum age of marriage is eighteen years for both boys and girls;
- Reviewing legislation and regulations relevant to birth registration and nationality to ensure their full conformity with the Convention on the Rights of the Child.

Persons with disabilities

- Ensuring access to inclusive education for persons with disabilities;
- Establishing a monitoring mechanism in accordance with the Convention on the Rights of Persons with Disabilities.