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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **South Africa**

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## **I. Methodology**

1. This Report is a culmination of an extensive national consultative process across government. It is a sequel to the 1<sup>st</sup> Universal Periodic Review (UPR) Report and sets out progress made in the implementation of the 22 recommendations emanating from the 1<sup>st</sup> Cycle of the UPR. All the detailed reports on progress made and further progress being made by national government departments with the requisite policy and legislative mandates are appended as Annexes to this Report.

2. Often by design or coincidence, the policy and legislative mandates of various government departments are cross-cutting and /or mutually reinforcing. In recognition of the fact, with a view to maximizing the benefits thereof, as will be discernible from the contents of the Annexes to this Report, government coordinates its policy and legislative work through a cluster system, which brings together government departments with policy and legislative mandates that tend to cut across or mutually reinforce each other. Similarly, government coordinates and integrates its planning and program execution through a system of Implementation Forums, which brings together government departments with mutually reinforcing outputs in respect of a common outcome. Accordingly, the Annexes attached to this Report must be read as a composite whole complementing the Report.

## **II. Developments since the last review**

3. Following the elections of 22 April 2009, a new government took office on 09 May 2009. Upon inauguration, the new government assessed the performance of government over a period of fifteen years since the dawn of democracy in 1994 and reaffirmed the existing good policies which deal with the domestic challenges facing South Africa and the fulfilment of its international obligations. The new government identified the need to improve its ability to implement its policies and programmes and identified five priorities for the Medium Term Strategic Framework period 2009–2014 in accordance with the electoral mandate, being education, health, growing the economy and creation of decent jobs, fighting corruption and crime, and rural development and land reform. Out of these priorities, the new government formulated twelve outcomes to focus key programmes of its work.

4. In order to deliver on these priorities and to fulfil its international obligations, the new government reconfigured its structures and methods of work to ensure that it is responsive, efficient, effective and accountable. To this end, the new government established new fully fledged departments and/or, in other instances, realigned the mandates of others in order to sharpen their focus, and strengthened its performance management system at both political and administrative levels. In this regard the new government established, among others, two new strategic departments, namely, (a) the Department of Performance Monitoring and Evaluation and (b) the Department of National Planning as well as the National Youth Development Agency (NYDA) in the Presidency. The Department of Performance Monitoring and Evaluation is established to monitor and evaluate performance across government departments, while the Department of National Planning supported by their National Planning Commission undertakes medium to long term planning in key strategic areas for the country. The NYDA is mandated to focus on the social and economic empowerment of the youth in South Africa.

5. Additionally, and with a view to enhancing its promotion, protection and fulfilment of human rights and fundamental freedoms, the new government established, among others:

a) a new Department of Women, Children & People with Disabilities to promote, facilitate, coordinate and monitor the realization of the rights of women, children and people with disabilities;

b) a new Department of Traditional Affairs to coordinate traditional affairs activities which are comprised of the institution of traditional leadership, Khoisan leadership, traditional communities, indigenous knowledge systems, traditional courts and indigenous law, indigenous languages and other valued community practices and protocols. The institution of traditional leadership including Khoisan leadership remains the centre pillar or fulcrum of traditional affairs;

c) new separate Departments of Basic Education and Higher Education & Training to focus on universal access to quality primary education and the acquisition of knowledge and job appropriate vocational skills in order to build the country's human capital to drive the knowledge economy, respectively;

d) the new Department of Military Veterans with the mandate to ensure the protection and safeguarding of the rights of those who were involved in the country's liberation struggle but were not absorbed in the armed forces and entrusted with the responsibility to "protect and defend the South African democracy, integrity and sovereignty of the State".

6. In order to strengthen the new performance monitoring and evaluation system, the President signed Performance Agreements with Cabinet Ministers to ensure the achievement of national goals and the fulfilment of South Africa's international obligations as a State Party to the South African Development Community (SADC), African Union (AU) and United Nations (UN) international human rights instruments and other multilateral bodies. Therefore, South Africa provides this 2<sup>nd</sup> UPR Report, being well positioned to deal with the issues of international human rights and fundamental freedoms.

## **A. Normative framework and human rights development**

7. The South African Constitutional framework on the respect for, promotion, protection and fulfilment of all human rights and fundamental freedoms is provided for under Chapter 2 (Bill of Rights) of the *Constitution of the Republic of South Africa Act*, No. 108 of 1996. The enabling legislation in the elaboration and substantiation of these rights was extensively reported on during the 1<sup>st</sup> Cycle of the UPR and these are accessible from the government official website (<http://www.gov.za>).

8. The South African Constitution is predicated on core values and principles of (a) human dignity, the achievement of equality and the advancement of human rights and freedoms, (b) non-racialism and non-sexism, (c) supremacy of the Constitution and the rule of law and (d) universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness. The South African Constitution has given international momentum to the evolution for universal recognition of the notion of justiciability of economic, social and cultural rights. In this context the South African Constitutional imperatives and national experience have inspired General Comments 9 and 12 of the Committee on Economic, Social and Cultural Rights.

9. The Constitution enjoins the three Branches of the State (the Government, Legislature and Judiciary) to give practical effect towards the fulfilment of these rights, consistent with their mandates in accordance with the doctrine of separation of powers embodied in the Constitution.

## **B. Administrative measures**

10. The Executive Branch has the power to determine policy, allocate adequate resources and implement programmes of government for the attainment of a better quality of life for all, without discrimination. To this end, several policies have been developed and are at an advanced stage of being translated into law. These key initiatives include:

- Policy on the prohibition and criminalisation of torture which has been developed and a draft bill is scheduled for consideration by Cabinet.
- Women's Empowerment and Gender Equality Bill for introduction into Parliament, which, among others, defines acts of discrimination against women and provides for enforcement mechanisms for compliance with the core provisions on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Government has approved policy on Comprehensive Social Security which integrates among others, the National Health Insurance and a mandatory system of retirement provision.
- The development of a draft cyber security policy to combat crimes committed through the cyberspace in violation of human rights, to regulate global internet governance and to impose permissible limitations on the exercise on the right to the freedom of opinion and expression.

11. In addition to the above developments, the South African government has also adopted seminal policies and strategies for the advancement of its human rights protection regime towards the goal of the realization of a better life for all. These include the development of (a) a draft food security policy informed by the existing Integrated Food Security Strategy (IFSS); (b) a Green Paper on Land Reform, intended to bring drastic changes in the implementation of land reform and overhaul the rural communities into vibrant, equitable and sustainable rural communities; and (c) Green Paper on Families aimed at promoting family life and strengthening families. A range of national strategies have also been adopted to reinforce and strengthen the South African legislative framework in the promotion, protection and fulfilment of human rights.

## **C. Legislative measures**

12. Child Justice Act, 2008 (Act No. 75 of 2008): to establish a criminal justice system for children, who are in conflict with the law and are accused of committing offences, in accordance with the values underpinning the constitution and the international obligations of the Republic.

13. Prevention and Combating of Trafficking in Persons Bill: prohibiting illicit trafficking in human beings and human organs. The Bill, once it becomes an Act of Parliament and is fully operational, will be one of the most comprehensive laws in the fight against human trafficking in South Africa.

14. National Health Amendment Bill: establishing Office of Health Standards Compliance.

15. Social Assistance Amendment Act, 2010 (Act No. 5 of 2010): to provide for the right to administrative justice and the right of appeal against adverse decisions pertaining to applications for social assistance.

16. Refugees Amendment Act, 2008 (Act No. 33 of 2008): determining of refugee status, to provide for the obligations and rights of asylum seekers and the establishment for the Refugee Appeals Authority.

17. The National Traditional Affairs Bill: aims, amongst others, to provide for the recognition of Khoi-San communities, leaders and structures; to establish their traditional and Khoi-San institutions in accordance with constitutional imperatives such as the Bill of Rights; to restore the integrity and dignity of the institutions of traditional and Khoi-San leadership in line with customary law and practices; to further protect and promote the institutions of traditional and Khoi-San leadership; and to make provision for the participation of Khoi-San leadership in governance structures.

18. Correctional Services Amendment Act, (Act No. 5 of 2011): provides for the new medical parole system, clarification of certain provisions relating to parole and the improved management of remand detainees.

#### **D. Judicial measures**

19. The Constitutional Court has powers to declare any legislation, to the extent that it is inconsistent with the constitution, invalid. The South African judiciary also continues to discharge its constitutional mandate impartially and independently, including adjudicating over seminal cases involving the promotion, protection and fulfilment of human rights. The contestations between the duty bearer and the rights holders before the courts have affirmed the notion of progressive realisation, in a balanced manner, of all human rights whose full enjoyment is subject to the availability of resources.

### **III. Promotion and protection mechanisms of human rights**

20. The negative societal impact emanating from the deep seated divisions occasioned by 350 years of discrimination, in particular racial discrimination and hatred are not easy to erase in 18 years. Cognisant of this reality, South Africans adopted a constitution whose fundamental values and principles represent a bridge between a divided past and a united future sensitive to the need for social cohesion, national reconciliation and identity, healing and nation building. The scourges of poverty and underdevelopment, the abuse of substances especially among the youth, the residual and subtle forms of racism, xenophobia and homophobia are some of the factors impeding the attainment of social cohesion.

21. The South African government has, over the past 18 years, worked consistently and tirelessly to ensure gradual improvement in addressing both procedural and substantive gaps in its quest for the promotion, protection and fulfilment of its national and international human rights obligations. In this regard, satisfactory progress has been made in the development of legislation in areas elaborated and substantiated in Section B of this Report. The attainment of social cohesion is one of South Africa's key priorities in its programmes for nation building.

22. In this regard the government has chosen to move decisively, systematically and progressively in the implementation of policies and programmes which have thus far helped the country to concretise its social contract with a plethora of multi-stakeholders to achieve social transformation and social cohesion in its nation building efforts.

23. The government departments represented in the Justice, Crime Prevention and Security (JCPS) Cluster bear the collective responsibility to combat all forms of crime and violence including other social ills afflicting the South African society. Similarly, these departments bear the responsibility and obligation in terms of the Constitution to ensure that South Africa, in its national sovereign jurisdiction, is a secure country where freedom of movement is assured in the context of a well-managed immigration system and regularisation programmes for asylum seekers and refugees consistent with the requirements of State security. The constitutional provisions as well as those of

international human rights and humanitarian law instruments, to which South Africa is a State Party, make it imperative that all persons deprived of their liberty are treated with dignity and are not subjected to cruel, inhumane, degrading treatment or punishment.

24. In the above context and emanating from the recommendations of the 1<sup>st</sup> UPR Report, the Lindela Repatriation Centre has been a source of concern where allegations of torture and ill-treatment had been sharply and consistently raised. For the record, the South African government wishes to underline that the Lindela Repatriation Centre is a transit facility for non-nationals on deportation programmes to the countries of origin. Lindela Repatriation Centre can therefore never be considered as a detention centre in the same vein as correctional facilities for convicted offenders and pre-trial detainees. The smooth and prompt deportation is sometimes impeded by delays in the verification of identities and nationalities of deportees as well as acquisition of travel documents from the country of origin. In the event that these delays should extend beyond requisite prescribed time frames, government is required to apply to a competent court for extension and obtain an appropriate court order in this regard.

25. The Lindela Repatriation Centre is equipped with a fully serviced medical centre operated by qualified health professionals with backup support from a nearby hospital. All the patients at the centre enjoy unfettered access to medical care and supplies on a non-discriminatory basis. The South African Human Rights Commission, recognised lawyers associations representing deportees, relevant international institutions and United Nations agencies also have unfettered access to the facility and deportees consistent with their mandates. The facility is well managed as attested to by the Special Rapporteur on the rights of migrant workers during his visit to South Africa in February 2011.

26. The Lindela Repatriation Centre is fully compliant with all the minimum standard rules for treatment of persons deprived of their liberties. Government is sensitive and responsive to the special situation and needs of children, juveniles and pregnant mothers who, as appropriate, are referred to places of safety managed or supported by government.

27. South Africa's national and international obligations alluded to in the preceding paragraphs are also applicable to incarcerated inmates, including foreign nationals in correctional facilities. South African correctional facilities have separate amenities for juvenile inmates, women, and have also established mother and baby units. All allegations of cruel, inhumane or degrading treatment or punishment are reported to the South African Police Service for criminal investigation and, where appropriate, referred to the National Director of Public Prosecutions for prosecution. South Africa fully complies with its international obligations insofar as persons deprived of their liberty are concerned. In this regard, South African law prohibits arbitrary detentions and all persons admitted into correctional facilities are granted the opportunity to access legal representation and to notify their next of kin. The *habeas corpus* principle is fully applied.

28. Additional to the measures elaborated above, the South African Constitution, under Chapter 9, provides for the establishment of independent institutions in South Africa as mechanisms underpinning constitutional democracy in South Africa. These include (a) the Office of the Public Protector; (b) the South African Human Rights Commission; (c) the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; (d) the Commission for Gender Equality; (f) the Auditor-General; and (g) the Electoral Commission. These institutions are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. Any person within the national jurisdiction of the Republic of South Africa who may feel aggrieved that their rights have been violated are entitled to approach these institutions and claim appropriate remedies. These institutions are very active in the fulfilment of their constitutional mandate.

29. The South African civil society organisations, in good standing and duly accredited in terms of relevant South African legislation, play an important part in advocacy for the promotion, protection and fulfilment of human rights and fundamental freedoms. These organisations operate freely and independently and government appreciates their complementary role, towards the achievement of the agenda for development and for defending the rights of those living in extreme poverty and hunger.

#### IV. Achievements, challenges and constraints to implementation

30. Since the 1<sup>st</sup> UPR Report and pursuant to its identified priorities, government accelerated the implementation of existing legislation and programmes and introduced numerous interventions which have had a positive impact on quality of life of South Africans and the promotion, protection and fulfilment of human rights and fundamental freedoms. These include, among others:

##### A. Achievements

31. **National Health Insurance:** The National Health Insurance (NHI) is being introduced, with the primary goal of ensuring that all citizens and residents of South Africa, irrespective of their socio-economic status, have access to good quality health services provided by both the public and private sectors. Policy proposals outlining the phased implementation of NHI were published in August 2011. NHI will be piloted in 10 of the 52 health districts in 2012.

32. **MDGs:** Since 1994, the government has been and remains firmly focused on the achievement of the Millennium Development Goals (MDGs) and the attainment of food security for its peoples. To this end, deliberate programmes for the empowerment of women in the key sectors of the economy have been adopted. Rural development and land reform are fundamental in this respect. South Africa is one of the leading countries advocating for the achievement of the MDGs at the international level.

33. **Universal primary education (enrolment rates):** South Africa's 2010 Millennium Development Goals (MDGs) Country Report confirms that primary education in South Africa is characterised by very high rates of enrolment and retention. These rates show strong gender equity and, where small differences do exist, they are in the favour of female learners. Universal primary education is already effectively a reality. The adjusted net enrolment ratios indicate that enrolment in primary education was close to 98 per cent by 2009 – up from 96 per cent in 2002. More recent data shows that participation rates have increased to 99 per cent. At this level, almost the same proportion of boys of school-going age as girls of school-going age, is attending school.

34. **Access to Higher Education:** The right to further education, which the State, through reasonable measures, must make progressively available and accessible, is enshrined in the South African Constitution. To this end, government has established the Department of Higher Education aimed at developing capable, well educated and skilled citizens that are able to compete in a sustainable, diversified and knowledge-intensive global economy, which meets the developmental goals of the country. In line with its mandate, the Department of Higher Education has set out to increase access to higher education to the poor by, among other, converting loans into bursaries for qualifying final-year students.

35. **The South African National Languages Bill** is currently being deliberated on by the Parliament and it is due to be passed into law shortly. The Bill promotes linguistic rights of communities, promotes multi-lingualism as well as the parity of esteem of all

official languages of South Africa. The Bill will also promote access to government services by providing for citizens to interact with government in a language of their choice.

36. **Income Support (Social Grants):** In line with the principle of equality the age of eligibility for the old age grant has been equalised at 60 both for men and women. This has allowed approximately 250,000 men between the age of 60 and 65 to qualify for the old age pension. Similarly, in line with the definition of a child as a person between 0 and 18 as set out in our constitution, the age of eligibility for the child support grant was, over the years, progressively extended from 0–6 and subsequently from 0–18. The child support grant reaches 10.3 million children. A total number of 15.3 million people are beneficiaries of social assistance constituting approximately 30 per cent of the South African population. The social assistance programme has contributed significantly to South Africa meeting MDG1. South Africa's 2010 Millennium Development Goals (MDGs) Country Report confirms that its Social Assistance Programme, with annual increases in excess of the inflation rate, has contributed significantly to the country achieving MDG1.

## B. Challenges

37. **Quality basic education:** Despite the achievements of almost universal primary enrolment and retention, the quality of basic education remains a significant challenge. In an effort to overcome this challenge, government has adopted a new strategy, *Action Plan to 2014: Towards the Realisation of Schooling 2025*, which aims to improve all aspects of education such as teacher recruitment, learner enrolment, school funding, mass literacy and numeracy and overall quality of education. There will be a strong focus on building the foundation of introducing children into the education system by expanding the establishment and registration of Early Childhood Development Centres (ECD), improving access to ECD Centres, standardising curricula for early learning stimulation and cognitive development of children and providing adequate training programmes for ECD practitioners.

38. **Health related MDGs:** South Africa faces a considerable challenge in relation to the child mortality rate (MDG 4), maternal mortality (MDG 5) and the prevalence rate of HIV and AIDS (MDG 6). There is evidence of a correlation between child and maternal mortality, and HIV and AIDS in the country. In response to this challenge, the government has introduced numerous strategies and treatment programmes, including the Comprehensive HIV and Aids Treatment and Prevention Programme, to combat the scourge of HIV and AIDS. These include, among others, the expansion of the Prevention of Mother to Child Transmission (PMTCT), which aims to reduce the risk of mother-to-child transmission of HIV. In addition, all HIV positive children are placed under treatment, irrespective of their CD 4 count. Two new child vaccines have also been introduced to the Expanded Programme of Immunisation (EPI), namely, the Pneumococcal Conjugate Vaccine to prevent pneumonia and the Rotavirus Vaccine to prevent diarrhoea. South Africa has also launched a Campaign on the Accelerated Reduction of Maternal Mortality in Africa (CARMMA) as part of the programme of action of the African Union. Furthermore, the government in partnership with the UNDP has introduced a collaborative programme, namely, the MDGs Acceleration Framework (MAF), which is designed to help governments and partners systematically identify and prioritize bottlenecks to progress on particular MDG targets that are off track and find 'accelerated' solutions to these bottlenecks. In the case of South Africa, the MAF will be used to improve progress in achieving the health related MDG.

39. **Overcrowding in correctional facilities:** Government aims to upgrade existing as well as build new correctional facilities to meet the conditions as stated in the White Paper on South African Corrections, 2005. The Correctional Services Amendment Act, 2011 (Act



No.5 2011) recognises and elaborates on the rights and treatment of Remand Detainees, who contribute significantly to overcrowding levels at some correctional facilities and provides for the expedition of cases, through a Case Flow Management System in order to relief overcrowding in correctional facilities. In addition, government has adopted a multi-pronged strategy which is already proving effective in reducing the high levels of overcrowding.

40. **Xenophobia:** The challenges of unemployment, poverty and inequality have given rise to xenophobic tendencies among South Africans. Government has put several measures in place to mitigate the scourges of xenophobia which include among others, visible policing, community awareness programmes, promotion of tolerance and cultural diversity. It should be noted in this regard that the position of the South African Government has always been focused on embracing diversity and tolerance as the core values of its constitutional democracy. The government hosted the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Outcome of this Conference, namely, the Durban Declaration and Programme of Action (DDPA) is regarded by the international community as the only instructive document encapsulating measures and remedies to effectively mitigate all the manifestations of the scourges of racism and xenophobia. South Africa is leading international efforts for the effective implementation of the DDPA by all States at the national level. The xenophobic incidents which occurred in South Africa since May 2008 have been limited to certain areas of the country and were ostensibly motivated, in most cases, by criminal elements. The State, working closely with its organs of state security and law enforcement agencies, has been able to stem the tide of xenophobia. Public awareness programmes are also been rolled-out nationwide to education all South Africans on the evils of xenophobia and on the imperative need to promote and embrace the constitutional values of diversity and tolerance.

41. **Social Cohesion:** Government continues to grapple with challenges relating in particular to the achievement of social cohesion, tolerance and embracing of diversity. In order to mitigate these challenges, government has embarked on various programmes in collaboration with communities, civil society organisations and other relevant social partners to address challenges impeding the achievement of social cohesion. These programmes take the form of, among others, grass-roots community dialogues, inter-cultural activities such as Africa Day, National Heritage Day, national campaigns and conferences on reclaiming positive values (Ubuntu), moral regeneration campaigns and inter-generational dialogues intended to address xenophobia. In this regard, national colloquiums were convened in 2009 as precursors to the National Summit on Social Cohesion to be held this year. This Summit will draw inspiration from the lessons learnt in major conferences and sporting tournaments held in South Africa, including the 2010 FIFA Soccer World Cup, which played a catalytic role towards social cohesion and national building in our country.

42. Poverty, unemployment and inequality are manifestations of the historical injustices of colonialism and apartheid resulting in the marginalisation and social exclusion of vulnerable groups, thereby deepening economic disparities in society. These triple challenges are an affront on human dignity and undermine the full enjoyment of all human rights and fundamental freedoms. In his 2012 State of the Nation Address, President JG Zuma confirmed increased social spending over the last few years and announced major investment in infrastructural development programmes planned for the next three (3) years in order to alleviate these through a carefully balanced interplay between social and economic policy interventions.

### **C. Constraints to implementation**

43. The implementation of human rights programmes with the view to making rights a reality for all South Africans requires enhanced and effective coordination. Although the Department of Justice and Constitutional Development is the national custodian of South Africa's human rights law and policy, the actual implementation of a range of human rights enshrined in the South African Constitution and the core United Nations human rights covenants (International Covenant on Economic, Social and Cultural Rights and International Covenant of Civil and Political Rights) lies in the purview of several government departments in accordance with their legislative mandates.

44. In the above context, there are 3 critical clusters of government which have committed to place human rights issues, in particular South Africa's compliance with its international obligations as standing items on the agenda and work programmes of their meetings. These clusters are: (a) Social Sector Cluster, (b) Justice, Crime Prevention and Security Cluster and (c) International Cooperation, Trade and Security Cluster. It is trusted that this approach will ensure improved and effective coordination of South Africa's international human rights programmes at the highest level of policy planning and implementation within government. All the important issues in this regard such, as the implementation of (a) the concluding observations/recommendations of UN human rights treaty monitoring bodies, (b) the recommendations of the Special Procedures of the UN Human Rights Council, (c) the timeous response to the "urgent communications" by the UN human rights system and (d) compliance with treaty body reporting system and (e) other related issues, will receive prompt and appropriate attention by government at the highest level.

45. South Africa has entered into an effective and practical partnership with the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Department of Economic and Social Affairs (UN-DESA) aimed at providing capacity and training to the relevant public servants in the compilation of country reports to the UN human rights treaty monitoring system. This partnership has resulted in a hugely successful training programme for approximately 85 South African public servants held on 16 – 18 November 2011 in Pretoria. Follow-up programmes to this excellent beginning are anticipated to continue in due course. The OHCHR is also working closely with the South African government in the convening of several human rights seminars for the Southern African Development Community (SADC) reflecting on the regional approach on the effective implementation of human rights obligations. Another seminal development in this regard relates to the SADC-UNODC regional seminar on 15–16 November 2011 held in Pretoria at which the SADC countries adopted a Regional Programme aimed at making the region safe from the scourges of drugs and crime.

### **V. Key national priority**

46. As stated earlier, the South African government has identified five key national priorities for 2009 to 2014, in keeping with its electoral political mandate. These are (a) Job Creation; (b) Health; (c) Education; (d) Fighting Corruption and Crime; and (e) Rural Development, Land Reform and Food Security. These have been carefully coordinated and integrated into the following 12 Outcomes for implementation and achievement by 2014.

47. For the effective implementation of the above priorities, government has reconfigured the Cluster system which brings together government departments with policy and legislative mandates that tend to cut across or mutually reinforce each other. Similarly, government coordinates and integrates its planning and programmes execution through a

system of Implementation Forums, which brings together government departments with mutually reinforcing outputs in respect of a common outcome.

48. The 12 Outcomes are as follows:

- a) **Basic Education:** Right of access to quality basic education;
- b) **Health:** A long and healthy life for all South Africans;
- c) **Safety:** All people in South Africa are and feel safe;
- d) **Employment:** Decent employment through inclusive economic growth;
- e) **Skills:** Skilled and capable workforce to support an inclusive growth path;
- f) **Economic Infrastructure:** An efficient, competitive and responsive economic infrastructure network;
- g) **Rural Development:** Vibrant, equitable, sustainable rural communities contributing towards food security for all;
- h) **Integrated Human Settlements:** Sustainable human settlements and improved quality of household life;
- i) **Local Government:** Responsive, accountable, effective and efficient local government system;
- j) **Environment:** Protect and enhance our environmental assets and natural resources;
- k) **National and International Relations:** Create a better South Africa, a better Africa and a better world;
- l) **Public Service:** An efficient, effective and development oriented public service and an empowered, fair and inclusive citizenship.

49. The achievement of the above coincides with the fulfilment and progressive realisation of human rights and fundamental freedoms enshrined in both the South African Constitution and the United Nations core human rights covenants, including, but not limited to (a) the right to education, (b) the right to healthcare, food, water and sanitation, (c) the right to work, (d) the right to adequate housing, (e) the right to social security, (f) the right to a clean and healthy environment, (g) the right to an adequate standard of living and (h) the right to citizenship.

50. Government has recognised that the fulfilment of these human rights and fundamental freedoms require proper policy and programme planning short, medium and long term, and the requisite resource mobilisation at all levels. In this regard, government has, since 2009, moved away from piecemeal planning by establishing a National Planning Commission mandated to produce a National Development Plan with a long term vision and projection to 2030 and, in 2010, launched the New Growth Path framework and identified infrastructure development, tourism, agriculture, mining, manufacturing and the green economy as key job drivers.

51. The South African government's Cluster System is a coordination mechanism that is designed to effectively implement programmes towards the attainment of national priorities and the fulfilment of South Africa's regional, continental and international human rights obligations. To this end, international human rights obligations are imbedded as standing items on the agenda and work programmes of relevant Clusters of government.

## VI. Expectations of technical assistance

52. The South African government is committed to the realisation of the objectives of the New Partnership for Africa's Development (NEPAD). This commitment is undertaken at three critical levels, with unique sets of partners at each level, aimed at the mobilisation of the necessary resources, political will and international cooperation. At the domestic level, government has entered into a social contract with all the relevant multi-stakeholders (civil society, business, labour, academia and research institutions) to improve on the implementation of its programmes on human rights. In this regard, government has established the National Economic Development and Labour Council (NEDLAC) which involves government, organized labour and the private sector, to among others, deal with issues relating to the acquisition of priority skills, the reprioritization of the education system directed at ensuring enhanced quality in education with appropriate training and skills – in order to effectively drive the knowledge economy.

53. South Africa is in the process of building strong regional partnerships and introducing regional programmes with the relevant United Nations agencies, programmes and funds. The critical areas identified in this respect entail, among others, effective border control measures, transnational organized crime (illicit trafficking in human beings and human organs, small arms, drugs, cyber crime and money laundering), regional economic integration and regional food security. The South African government, and indeed the countries of the region (SADC) have entered into partnerships with the relevant agencies, programmes and funds to provide the requisite capacity through technical cooperation to mitigate these scourges. The classical cases in point in this regard include the SADC-UNODC Regional Programme to make the region safe from the scourges of drugs and crime, the SADC-UNFAO to achieve food security in the region and the impending SADC-OHCHR aimed at putting into operation the SADC shared values and principles in respect of human rights and the SADC-UNHCR to develop uniform standards for dealing with migrants, refugees and asylum seekers.

54. In line with South Africa's foreign policy priority of 'contributing to the development of a better Africa and the better world', several government departments are collaborating with countries of the region, on a range of programmes, aimed at assisting countries in emerging from conflict in their post-conflict reconstruction programmes to deepen democracy, rule of law and accountable governance. The exchange of experience and technical assistance between South Africa and these countries is proving mutually beneficial to all the parties concerned.

55. The South African government is in the process of establishing the South African Development Partnership Agency (SADPA), which will create the opportunity for South Africa to work with its immediate neighbours and other countries far afield in Africa, towards the realisation of their development objectives. It is anticipated that the SADPA will focus and anchor its programmes on key issues such as the achievement of the Millennium Development Goals by 2015 as well as responding positively and effectively to humanitarian crises and natural disasters. The South African government is currently utilising the African Renaissance Fund (ARF) to realise some of these objectives. In its vision for the advancement of economic, social and cultural rights in Africa, the South African government, through the ARF, has recently concluded a partnership with the Community Law Centre at the University of the Western Cape, to assist the Special Rapporteur of the United Nations Human Rights Council on Extreme Poverty and Human Rights to popularise the Draft Guiding Principles on this issue within the African continent prior to their adoption by the UN Human Rights Council at its 21<sup>st</sup> Session in September 2012.

56. On cross border migration, given the data limitation and incompatibility on migrants (especially undocumented migrants), it is not possible to provide a detailed overview of all migration flows into and out of the South Africa, nor between South Africa and other Member States. Therefore, South Africa will require technical assistance from UN agencies to find ways to manage and facilitate migration in a manner that alleviates the burden placed on South Africa's social services, establishing evidence-based financing model for migrants and other mobile populations, the impact of some key communicable diseases (HIV&AIDS, TB, malaria and sexually transmitted infections) on South Africa's health systems, especially for irregular travellers or visitors.

57. Hence it is important that UN agencies such as the World Health Organisation (WHO), the International Labour Organisation (ILO), the International Organisation for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR), and other regional and international stakeholders share information and develop a better understanding of available policy options and interventions aimed at ameliorating the negative impacts of migration.

## **VII. Conclusion**

58. As stated at the beginning of this Report, South Africa will be undergoing a 2<sup>nd</sup> Review by the UNHRC UPR Mechanism. Government is gradually gaining insights into the procedural requirements of this process and internalising these effectively at the national level. As part of its approach to coordinating its work effectively around the UPR, government will continue to develop effective partnerships with its civil society actors to improve national dialogue on protection and promotion of human rights and fundamental freedoms. The South African government considers it important to work in this manner, as the practical enjoyment of human rights and fundamental freedoms is, first and foremost the responsibility of government's at the national level. The roles of regional and international human rights mechanisms in complementing national efforts in this regard are appreciated in the South African government system.

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