



REPUBLIC OF SOUTH AFRICA

STATEMENT BY THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA: OCCASION OF THE EXAMINATION OF SOUTH AFRICA COMBINED SECOND PERIODIC REPORT UNDER THE AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS AND THE INITIAL REPORT UNDER THE PROTOCOL TO THE AFRICAN CHARTER ON THE RIGHTS OF WOMEN IN AFRICA, BANJUL, 11-12 APRIL 2016

**Madam Chairperson of the AU African Commission
Members of the Commission
Ladies and Gentlemen**

1. Late President Nelson Mandela was correct when he once said:

“Africa shed her blood and surrendered the lives of her children so that all her children could be free.

She gave of her limited wealth and resources so that all of Africa should be liberated. She opened her heart of hospitality and her head so full of wise counsel, so that we shall emerge victorious. A million times, she put her hand to the plough that has now dug up the encrusted burden of oppression accumulated for centuries.

If freedom was the crown which the fighters of liberation sought to place on the head of mother Africa, let the upliftment, the happiness, prosperity and comfort of her children be the jewel of the crown.”

2. We wish to congratulate the Chairperson on her election to this esteemed body.

3. The South African delegation is honoured to appear before the African Commission to present South Africa's combined second periodic report under the African Charter on Human and People's Rights and our initial report under the Protocol to the African Charter on the Rights of Women in Africa.
4. We appreciate this opportunity for a constructive engagement with the commission. We have since increased our capacity to compile Treaty Reports with the requisite consultations with all stakeholders.
5. South Africa has made significant progress in the protection and promotion of civil and political rights as well as economic and social rights over the years since the presentation of our first periodic country report on **African Charter**.
6. Various legislative, policy and other measures have been implemented to ensure the substantive realisation of civil and political rights as well as socio-economic and cultural rights. In addition, our courts continue to deliver judgments and develop case law to enhance and protect these rights and to provide guidance on the interpretation of these rights.
7. Turning now to the merged report, we have tried to compile a thorough and comprehensive report for the Commission's consideration.
8. Our report highlights key law reforms, policies and administrative measures. As mentioned, our report is detailed. We have strived to present you with a holistic picture, of both our successes and where challenges remain.
9. We have also had insight into the shadow report which has been prepared by civil society for the Commission's consideration and would like to address some of the key issues raised therein.
10. With regards to the popularization of the African Charter and Protocol, In terms of government's constitutional and human rights education programme, the views and recommendations made in terms of the Charter and the Protocol will be published for public information, including the popularisation of the Charter and the Protocol.
11. This is all the more pertinent this year for South Africa, as we are celebrating the 20th Anniversary of our Constitution. It brings with it a renewed commitment and focus on human rights, not only in our country and region, but also on the continent and globally. The African Day of Human Rights is to commemorate the coming into force on 21 October 1986 of the African Charter on Human and

People's Rights. In South Africa, we are also planning to commemorate this day, reflecting on the solemn declaration by the African leaders to respect, promote and protect human rights on the continent.

12. Turning now, firstly, to the issue of ***civil and political rights***. Significant advances have been made in implementing these rights. As President Nelson Mandela, who has dedicated 67 years in the pursuit of justice, said: "*Freedom would be meaningless without security in the home and in the streets.*"
13. The 5 priorities of the South African Government are improving Education, Improving health care, Creating Decent Work, Fighting Crime, Rural & development Land Reform, and they reflect the values, the principles as addressed in the charter. This is in line with our country's National Development Plan (NDP).
14. One of the issues mentioned specifically in the shadow report is the issue of ***hate crimes***. Sadly our own country has seen its fair share of hate crimes and hate speech – racism, violence against LGBTI persons, attacks on foreign nationals. To address the scourge of hate crimes and hate speech, we have prepared the Prevention and Combating of Hate Crimes and Hate Speech Bill.
15. Hate crimes and hate speech have left tragic scars on individuals, communities and the country as a whole. The new Bill aims to create statutory offences of hate crimes and hate speech. It also aims to put in place measures to prevent and combat these offences. The Bill will be ready to go to Cabinet within weeks.
16. The need for legislative intervention is becoming increasingly necessary in order to address the growing number of intolerances in society on the grounds of Race, Nationality, Sexual Orientation, Gender Identity & Expression, HIV Status, Albinism, Religion, Belief, Culture, Occupation or Trade to mention but a few...
17. The base offences most often committed against victims of hate crimes are offences relating to the physical and emotional integrity of the person, as well as offences against the property of the victims, for instance murder, attempted murder, rape, assault in all its various manifestations, robbery, housebreaking, malicious damage to property, *crimen injuria* and arson.
18. Harm is defined to include damage to property – in other words, economic harm - in addition to physical harm. It also includes "mental or psychological" harm. The opinion is held that the phrase "by any means whatsoever" will include all forms

of communication, whether by statement, broadcast, advertisement, SMS, WhatsApp, Twitter, Facebook, photograph or Instagram, among others.

19. Regarding the issue of foreign nationals, we would like to state upfront that we condemn any form of violence or any form of intolerance against foreign nationals. The South African government is addressing these unfortunate incidencies with frankness and decisiveness. The South African government apologized unreservedly to all those that were affected in the attacks. We continue to express our heartfelt condolences to the families of the victims.
20. South Africa remains a welcoming country and acceded to the 1951 UN Convention on Refugees without any reservation and in this regard, refugees and asylum seekers are not kept in camps and they are allowed to integrate themselves into communities which results in competition for services, job opportunities and other opportunities between locals and foreigners which manifest in criminal elements of attacks against both locals and foreigners. The influx of migrants to our country has demanded a multi faceted response to the various challenges.
21. The legacy of apartheid has, however, left South Africa with deep structural disparities including high levels of unemployment, poverty and inequity. These difficult socio- economic disparities in South Africa have unfortunately led to tensions and violence.
22. The Provincial Government of KwaZulu-Natal which experienced some of the worst violence against foreigners last year, established a committee, called the Special Reference Group on Migration and Community Integration, led by former UN High Commissioner for Human Rights, Judge Navi Pillay, to assess reported causes and socio economic impacts of attacks against foreign nationals.
23. Their main focus was on attacks that took place between March and May in 2015 and was mandated to consider the successes and shortcomings of past-and-ongoing initiatives for reducing tensions between communities and outline immediate and long-term solutions in response to the violent attacks. The findings and recommendations of this committee was recently released. The key finding was that the attacks on foreign nationals was a direct result of a desperate competition for scarce resources, triggered by a sense of hopelessness at escaping the poverty trap.

24. It is therefore important for African continent to enhance collaboration in dealing with unregulated migration. These kinds of collaboration should include the countries of origin, transit and destination.
25. Regarding the processes relating to undocumented migrants, such persons are kept at Lindela Repatriation Centre, which is used as a transit point awaiting deportation to their countries of origin. Basic services are afforded to such undocumented migrants pending their deportation.
26. The law allows for the detention of undocumented migrants for a period of 30 days with a possible extension of 90 days subject to court approval for purposes of confirmation of nationality, issuing of travel documents and repatriation. Anyone who has not been appropriately identified within that time frame must be released.
27. The South African Human Rights Commission as well as the Parliamentary Portfolio Committee on Home Affairs have oversight over the Lindela Repatriation Centre. This Commission has a permanent office at the centre, and the International Red Cross regularly conducts inspections. A National Policy Framework on Intergration of Refugees into Local Communities has been developed in accordance with international standards.
28. The issues related to violence and discrimination regarding integration status of people are further addressed through three main Inter-Ministerial Committees. These IMCs are – The Inter-Ministerial Committee (IMC) on Migration, the IMC on Social Cohesion and the IMC on Population Policy.
29. It should be noted that as part of the work of the IMC, the President has convened meetings of stakeholders in South Africa to discuss the country's migration policy and discuss how various sectors can work with government to promote orderly migration and good relations between citizens and other nationals. The first such meeting took place in April 2015.
30. Every asylum seeker, who enters through a port of entry, is issued an asylum permit which allows him or her to travel to the nearest centre to apply for asylum. Refugees can not be arrested if they inform the official that they are in South Africa to claim asylum, even if they have no documents. It is up to the official to send them to the nearest asylum centre where they could apply for asylum.

31. With regard to the deportation from one centre to another centre, undocumented migrants are arrested and transferred directly to the nearby border centre if they come from a neighbouring country. There are various other places where migrants were kept before they were deported from South Africa. The right to work for asylum seekers was not curtailed. An issue that has been raised is the decrease from fourteen to five days to file for asylum, as per the amendment of the Refugee Act. This is because most asylum seekers entered through the North East border. The current refugee reception centre is in Musina, ten kilometers from the border, and can thus be reached within a period of five days.
32. Regarding the closure of the refugee reception centres in Johannesburg, Port Elizabeth and Cape Town, a report has been given to the Constitutional Court on the challenges of the reopening of those offices, but it is important to note that these are being reopened.
33. South Africa is also in the process of considering ratification of the two Conventions on Statelessness.
34. The shadow report mentions the matter of ***de facto impunity for law enforcement officials*** who make themselves guilty of human rights violations.
35. In this regard, the Civilian Secretariat for Police has been established as an independent entity with effect from 01 April 2015 so that it can effectively discharge its duty of civilian oversight over the police and inducing community activation.
36. We note and accept the criticism that Police Services have in some instances reacted in ways that are outside the law in dealing with protests related to service delivery issues. Those suspected or found to have acted outside the law are dealt with through the South African legal system and internal disciplinary processes. The conduct of some of the Police was criticized for Marikana tragedy. A Panel of International Experts has been established to consider recommendations of the Farlam Commission of Inquiry into Marikana incidents.
37. The President of the Republic of South Africa announced in December 2015 that Government was committed to seeking an expedited resolution of legitimate legal claims instituted as a consequence of the national tragedy. The Presidency appointed a senior counsel to initiate discussions with the legal teams representing all the claimants. The negotiations between the legal teams

representing the State and the claimants regarding the approach that may be adopted to accelerate early settlement of the claims are continuing and the outcome of the engagements is expected soon.

38. On 4 August 2015 dockets for decision were submitted to the National Prosecuting Authority for perusal and further directives with a view to ascertain criminal liability of all implicated persons, including members of the South African Police Service.
39. Furthermore, Government has introduced a holistic approach to strengthen policing. This approach takes into account the recommendations by the Farlam Commission, and includes a task team which will review training on crowd management, including public order policing.
40. A “Back-To-Basics” campaign was launched last year which included restructuring of the police management to deal with gaps, as well as the placement of people with skills where they can be utilised more effectively and recovery plans for the worst performing police stations. It is also intended to improve police visibility, to reduce opportunities for crime, and to provide oversight of special police station operations. A Task Team has been established with a special focus on public order policing.
41. **Prison overcrowding** is a challenge, not only in South Africa, but indeed across our continent. Unnecessary and arbitrary use of arrest, police custody and pre-trial detention is a major contributing factor to prison overcrowding across Africa. It also feeds corruption, exposes detainees to the risk of human rights violations, and has significant socio-economic impacts on detainees, their families and communities. The African Commission adopted the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (‘the Luanda Guidelines’) as part of its mandate to formulate standards, principles and rules on which State Parties to the African Charter on Human and Peoples’ Rights can base their national legislation.
42. The ACHPR provides all people with the rights to life, dignity, equality, security, a fair trial and an independent judiciary.
43. The **Luanda Guidelines** provide an authoritative interpretation of the application of these provisions, and are a guide to law and policy makers, and criminal justice practitioners, to strengthen day-to-day practices in terms of arrest, police custody

and pre-trial detention. In doing so, they reinforce the importance of a criminal justice system built on core human rights principles.

44. They aim to ensure fewer arbitrary arrests and a more rational and proportionate use of pre-trial detention to promote a more effective use of human and financial resources, for example targeted towards legal aid and crime prevention. The Guidelines are also a reflection of the collective aspirations of African states, national human rights institutions and civil society organisations in terms of normative standards for criminal justice systems in Africa.
45. I am pleased to advise that in this regard we are working closely with APCOF (African Policing Civilian Oversight Forum) to ensure we have joint approaches towards dealing with the challenges identified.
46. Another matter highlighted in the shadow report is the issue of **privacy, surveillance and cybercrime**. The Cybercrimes and Related Matters Bill has been drafted because South Africa needs an appropriate and adequate legislative framework to address national security in cyberspace, measures to combat cyber warfare, cybercrime and other cyber irregularities and the development, review and updating of existing substantive and procedural laws.
47. The Bill is therefore intended to review the cyber security laws of the Republic to ensure that they provide a coherent and integrated cyber security legislative framework for the Republic. The Bill will provide a legislative framework in order to address ever-increasing criminal activity in cyberspace.
48. There has been positive and negative feedback on the Bill after it was made available for public comment. The comments received have been evaluated and I am in a position to state that the comments, particularly those where concerns have been expressed, are being taken seriously.
49. A reference group, consisting of appropriate experts and civil society organisations has been established and is working hard, in conjunction with the Department of Justice, to ensure that the Bill eventually tabled in Parliament provides a legislative framework that is needed in order to address ever-increasing criminal activity in cyberspace.
50. Government, through the Justice Crime Prevention and Security Cluster (JCPS), continues to build an **integrated criminal justice system**. The fight against crime and corruption continue amidst difficult economic times, thus the JCPS Cluster is

to effectively do more with the resources at its disposal. The outcomes of these efforts are beginning to be visible in the work of our law enforcement agencies, after some struggles over the years. During the 2014/15 financial year the National Prosecuting Authority achieved 91% conviction rate in the High Courts, 76.6% in Regional Courts and 94.2% in the district courts. A conviction rate of 95% was achieved in respect of cybercrime. Working together with the Anti-corruption Task Team (ACTT), the Asset Forfeiture Unit (AFU) was able to recover assets valued at R1.717 million, which is deposited into Criminal Assets Recovery Account (CARA).

51. We are committed to the ***independence of the judiciary***. The Constitution Seventeenth Amendment Act and the Superior Courts Act led to the transfer of administrative functions and staff of the Superior Courts from the Department of Justice and Constitutional Development to the Office of the Chief Justice as from October 2014. The establishment of the Office of the Chief Justice to provide administrative support to the Superior Courts provides an opportunity for the Department to focus primarily on policy and legislative reform.
52. More courts are being built to **bring justice closer** to the people, especially in rural areas. Very soon there will be a High Court in every province of our country. Small claims courts are an important vehicle through which people continue to access justice speedily and at no cost. The number of small claims courts increased significantly. Legal Aid South Africa has done sterling work over the years in improving access to justice by affording indigent persons with legal aid.
53. With regards to ***indigenous groups***, South Africa's point of departure is the principle of inclusivity, non-discrimination and equality before the law. Government has developed the Traditional and Khoi-San Leadership Bill with the intention to recognize the Khoi-San communities, structures and leaders. The Pan South African Language Board promotes the development and use of Khoi, Nama and San languages.
54. Our report further details the progress made in the realisation of socio-economic rights in our country.
55. ***Health care*** in South Africa varies from the most basic primary health care, offered free by the state, to highly specialised, hi-tech health services available in

the both the public and private sector. The National Health Act provides a framework for a single health system for South Africa. The Act provides for a number of basic health care rights, including the right to emergency treatment and the right to participate in decisions regarding one's health.

56. South Africa has adopted a multi-sectoral approach to the challenge of HIV and the wide-ranging impacts of AIDS. Our policies and programmes have cut the mother-to-child transmission rate from 3.5% in 2010 to less than 2%. The rate of new infections had dropped from 1.4% to 0.8% in the 18 to 24 age groups.
57. The Department of Health will also celebrate the first Anniversary of “Mom-Connect”, it is a cellphone based app that provides information to registered pregnant mothers through an SMS service - according to the term of pregnancy up to a year after delivery. To date over 460 000 pregnant mothers have registered and are receiving messages.
58. On 11 December 2015, the Minister of Health released the White Paper on the National Health Insurance (NHI) as approved by cabinet for public comment ahead of the Universal Health Coverage (UHC) Day which was held on 12 December 2015. The NHI White Paper is a policy document that seeks to transform the South African health care system with emphasis on the promotion of health and the prevention of diseases. The NHI is a health system that seeks to provide access to quality and affordable health care services for all South Africans based on their health needs irrespective of their socio-economic status.
59. South Africa has continued to implement ***rights to work and the right to just and favourable conditions of work***, and bolster its efforts to ensure that its workers are accorded equitable and satisfactory conditions of work.
60. With an unemployment rate of around 25%, South Africa's biggest challenge is the creation of jobs. The global recession of 2008 had a negative effect on the local labour market. However, the market is gradually recovering and this is expected to help employment figures. South Africa has a workforce of more than 18-million

people (includes those either working or available to work and actively seeking work).

61. Government has undertaken various programmes and initiatives to create decent jobs. In the last five years of the review period alone, government has spent more than R100 billion on employment programmes.
62. There are also measures to increase opportunities for the youth Further Education and Training (FET) colleges are a resource of youth skilled in a number of areas. Through the Small Enterprise Finance Agency (SEFA) and the Industrial Development Corporation (IDC) close to R3 billion is available for youth entrepreneurship. In 2008, the Skills Development Amendment Act was enacted to broaden the scope of the Skills Development Act and to provide anew for the functions and composition of the National Skills Authority and in 2011 the Skills Development Amendment Act was enacted.
63. With regards to conditions of work, in 2010, the ILO adopted recommendations concerning HIV and AIDS and the world of work to guide member States on key principles to be taken into consideration when developing and implementing legislation, policies and programmes.
64. South Africa has reviewed its Code of Good Practice on Key Aspects of HIV/AIDS and Employment of 2000 and its Technical Assistance Guidelines (TAG) of 2003 in order to ensure alignment to the ILO Recommendations of 2010.
65. With regards to ***the right to education***, educational attainment outcomes continue to improve with improved access to educational facilities and services. Among individuals aged 20 years and older, the percentage who attained Grade 12 as their highest level of education increased from 21,9% in 2002 to 27,7% in 2013.

66. A significant development in the education sector since the presentation of the first periodic report has been the restructuring of the national department responsible for administering education in South Africa. In 2009, the Department of Education was split into two national departments, namely the Department of Basic Education and the Department of Higher Education and Training. This is meant to intensify and strengthen educational improvement initiatives at all levels of the education system, from foundation phase through to tertiary level.
67. Regarding the recent “Fees Must Fall” student protests, President Zuma has announced that government will allocate an additional US\$307million¹ funding to National Student Financial Aid Scheme (NSFAS) to provide loans amounting to US\$170million to assist 71,753 identified students, who qualified for NSFAS funding but were either partially funded or not funded at all over the three past academic years of 2013, 2014 and 2015.
68. An additional US\$137million has been made available to ensure that any of the NSFAS qualifying students, still in the university system in 2016, are supported financially to continue and complete their qualification. This funding is in addition to the US\$668million that we have been allocated in the 2016/17 financial year. In total, the budget that will be administered by NSFAS in 2016 comes to US\$978million. NSFAS has communicated administration guidelines with all 26 universities detailing the process to follow in the disbursement of the US\$307million of the additional funding made available as a result of the announcement by the President.
69. With regards to the ***Protocol***, South Africa ratified the Protocol on Rights of Women in Africa (Maputo Protocol) on 17 December 2004 and the Protocol entered into force in respect to South Africa on 25 November 2005.

¹ ZAR 14.98 = 1USD

70. Our initial report of South Africa under the Protocol captures progress on implementation of the said Protocol for the period 2005-2014, including recent developments up to 2015.
71. Information sought from Government departments and views of State Institutions and civil society have been incorporated, where appropriate, in the report. Consultations during different stages of the drafting of the report have been undertaken with the South African Human Rights Commission, the Commission for Gender Equality, as well as civil society organisations.
72. The majority of South African women, who are black, were the most oppressed section of our people, suffering under a triple yoke of oppression. The liberation of women was, and still remains, central to our people's struggle for freedom.
73. South African women have come a long way in the struggle for recognition, promotion, protection and realisation of their rights. This struggle was part of the larger struggle against apartheid, the consequences of which are still felt to date. Thus, the empowerment of women and the achievement of gender equality in South Africa also involve dealing with the legacy of apartheid and about the transformation of society, particularly the transformation of power relations between women, men institutions and laws. It is about addressing gender oppression, patriarchy, sexism, ageism and structural oppression, including the creation of an environment that is conducive to women taking control of their lives.
74. Gender issues have consistently, since the dawn of democracy in 1994, featured in various State of the Nation addresses. This commitment was further demonstrated by the establishment of the Ministry of Women, Children and People with Disabilities in May 2009. Following the National Elections in May 2014, the President pronounced on a self-standing, dedicated Ministry for Women to be located in the Presidency.
75. The mandate of the Ministry for Women is to promote the socio-economic empowerment of women and the advancement of gender equality; and the protection of the rights, freedoms and dignity of women. The location of this Ministry at the pinnacle of Government renders it authoritative enough to provide oversight, monitoring and evaluation on the progress made with respect to women's empowerment and gender equality.

76. In line with its commitment to gender equality, South Africa developed its National Policy Framework for Women's Empowerment and Gender Equality, which was adopted by Cabinet in 2000. Government also developed a Gender Policy Framework for Local Government, as well as the National Strategic Framework for Women's Economic Empowerment, among other sectoral policies and strategies guiding the mainstreaming of gender consideration across the work of government.
77. As part of its key commitments at the regional, continental and international, South Africa is signatory to a number of instruments; notably the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and have presented its combined 2nd, 3rd and 4th Periodic report to the UN CEDAW Committee in 2011.
78. One of the main issues highlighted in the shadow report is **violence against women**. Key law reforms aimed at fighting the scourge of violence against women include Children's Act, 2005; Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007; Prevention and Combating of Trafficking in Persons Act, 2013; and Prohibition and Prevention of Torture Act, 2013. Since 2013, 43 sexual offences courts were re-established in line with the recommendation of the Ministerial Advisory Committee on the Adjudication of Sexual Offences Matters (MACSO).
79. In the quest to reduce secondary victimization, Thuthuzela Care Centres (TCCs) were established. These centres provide dedicated services to victims of sexual violence. Dedicated and experienced prosecutors have been appointed to deal with matters at these courts. The conviction rate relating to sexual offences in 2014/15 stood at 69%; and in the first quarter 71.1% conviction rate.
80. A number of Victims Shelters, under the responsibility of the Department of Social Development, have been built across the country. Campaigns during 16 Days of Activism for No Violence against Women and Children, held during November/December yearly, contribute to the fight against violence against women. However, more is still to be done to reduce the level of violence against women significantly.
81. In terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, relevant role players in the criminal justice system are obliged to develop training material for functionaries which must be tabled in Parliament. An

Annual Report on the implementation of the above-mentioned, including statistics on training is tabled in Parliament.

82. In December 2014, Government finalised a National Strategy for inter-sectoral management of sexual offences which encourages the inter-sectoral approach to all matters relating sexual offences courts. It sets out clear duties and responsibilities of all stakeholders in the establishment and management of these courts.
83. Victims of gender-based violence are entitled to services such as court-preparation programme, information material in form of text, visuals and braille, allocation of food for children, vicarious trauma programme for personnel working with victims of gender-based violence as well as a case-flow management system and screening policy to direct gender-based violence cases to sexual offences courts where they are established.
84. Officials undergo formal trauma debriefing sessions to minimize and eliminate the trauma that they often suffer from dealing with cases of gender-based violence on a daily basis. Government developed the Debriefing Programme for the intermediaries and all front line staff servicing victims of gender-based violence.
85. The **right to dignity** is a non-derogable right enshrined in the Bill of Rights in the Constitution. The issue of **sex work** features strongly in the shadow report. Adult prostitution (sex work) is a highly contested issue in South Africa. The existing legal position is that it is totally criminalised through the Sexual Offences Act, 1957 and Criminal Law (sexual Offences and related Matters) Amendment act, 2007.
86. The Constitutional Court, in the *S v Jordan*, unanimously upheld the High Court's finding that the Sexual Offences Act's provisions on keeping and managing a brothel were valid (constitutional), but was divided (six to five) on the prostitution provision. Both judgments make it clear that the decision as to how to regulate prostitution is a matter primarily for the legislature.
87. The South African Law Reform Commission has been mandated to do a research and make recommendations on this matter. In their discussion Paper (Project 107) of 2009, they recommend four options: non-criminalisation, regulation, partial criminalization and total criminalisation. There is ongoing public debate on this matter. The South African National Aids Council (SANAC) continue to do excellent work in the area, ensuring the health of sex workers and their clients.

88. With regards to the **elimination of harmful practices** find expression in Section 8(d) of the Equality Act, which provides that unfair discrimination on the ground of gender include “any practice, including traditional customary or religious practice, which impairs the dignity of women and undermines equality between women and men, including the undermining of the dignity and well-being of the girl child”. “*Ukuthwala*”, a form of abduction that involves kidnapping a girl or young woman by a man and his friends as peers with the intention of compelling the girl or young woman’s family to endorse marriage negotiations, was traditionally intended for people of the same age group who would marry each other in the normal course of events. However, forced marriage of girls as young as 12 to adult man, is still practiced in some remote villages in the country.
89. The courts have also played a critical role in transforming societal beliefs and attitudes through some of their landmark decisions. For example, in *Jezile v State and Others*, a man convicted to 22 years imprisonment for abducting and raping a 14 year old girl with the intention of marrying her, appealed to the Western Cape High Court to set aside the sentence and conviction. The Appeal court dismissed the appeal and confirmed the initial court’s sentence and conviction. The appeal court held that the practice of *ukuthwala* could not secure protection under our law.
90. The Children’s Act, 2005 prohibits virginity testing of children under the age of 16. The Prevention and Combating of Trafficking in Persons Act, 2013 protects women and girl child from trafficking. Other measures to protect women and girl child have been highlighted.
91. The **right to education and training** for all is enshrined in our Constitution. The National Education Policy Act, 1996 and the South African Schools Act, 1996 were enacted to promote access to education for all. Significantly, women now outnumber male enrolments in higher education as shown by statistics in our report. The further Education and Training Colleges Act, 2006 addressed the advancement of women in further education as well as in previously male-dominated fields.
92. Gender parity access to primary and secondary education, including Early Childhood Development has almost been achieved. However, the proportion of males to females is marginally higher in primary schools, and that of females to

males is marginally higher in secondary schools. Other educational measures which are extended to women have been highlighted in our report.

93. The ***right to protection of family, including the right to housing and social security*** find expression in our Constitution. The equality clause in the Constitution expressly mentions marital status as one of listed grounds upon which unfair discrimination is prohibited. The Department of Social Development's White Paper on Families in South Africa provides that along with the economy, polity and education, the family is universally viewed as one of the essential sectors without which no society can function. The family influences the way society is structured, organised, and functions.
94. South Africa has a solid foundation for human settlements. A white paper has been prepared by the Department of Human Settlements with the following guiding principles, namely restoration of human dignity, value for money, exploiting economies of scale and self-reliance. We plan to build 1.5 million houses and create housing opportunities to accommodate the growing backlog.
95. To ***promote home ownership***, South Africa has a range of subsidies to assist people who do not qualify for the home loans. The Department of Human Settlements has taken significant steps in addressing the inequalities that existed in the past as a result of race and gender discrimination. Various regulatory measures have been put in place to encourage financial institutions to extend credit to historically disadvantaged groups.
96. One of these measures was the Home Loan and Mortgage Disclosure Act which sought to encourage financial institutions to provide credit to help historically disadvantaged persons to acquire housing. The Housing Consumers Protection Act Measures Act was amended during the period under review, in 2007, and provides for the protection of housing consumers and the establishment and functions of the National Home Builders Registration Council. The National Rapid Response Task Team has been set up to help communicate with communities before implementing policies.

97. The Social Housing Act establishes and promotes a sustainable social housing environment, provide for the establishment of the Social Housing Regulatory Authority in order to regulate all social housing institutions or housing obtained through public funds and allow for the undertaking of approve project by other delivery agents with the benefits of public money. Social housing means a rental or co-operative housing option for low to medium income households, and the social housing institution is accredited institution to carry out the business of providing social housing.

98. The Social Assistance Act provides a national legislative framework for provision of different types of social grants, social relief of distress, and the delivery of social assistance grants by a National Agency established in terms of the South African Social Security Agency Act, 2004. Government have been delivering social grants to those who qualify consistently over the years. However, Government is working on initiatives to reduce the level of dependency on grants, especially the creation of job opportunities.

99. An investigation of access to land, credit and property comprises the third section of the report. These areas relate to the ability of **women to engage in the economy and sustain livelihoods** through leveraging assets. South Africa has over the past 20 years been progressive in promoting access to credit for women. The evidence suggests that women within South Africa have relatively equal access to credit in various borrowing contexts, although barriers to business financing remain due to a lack of collateral and lower levels of financial literacy.

100. On the 9th of August 2015 H.E. President, Jacob Zuma launched the first report entitled “The Status of Women in the South African economy”. The Status report focuses on five critical areas: Education - access and attendance, outcomes and performance; Labour market; Access to land property and credit; changes in poverty and inequality and unpaid work and contribution to the Gross Domestic Product.

101. The report reveals that asset inequality in South Africa has declined during the post-apartheid period. Females and female-headed households have, on average, lower access to both private and public assets than males and male-headed households.

102. The improvement in access over time has been more rapid for female-headed households and we have therefore seen a narrowing of the gap between male- and female-headed households. In terms of public asset access, an area in which government is a significant role-player through its provision of services and housing, gender inequality is lower. The provision of public services or assets is an area of particular success for government over the past 20 years and has brought enormous benefits to ordinary South Africans.
103. The report investigates changes in poverty and inequality over the past several years. While poverty has declined since the end of apartheid, females remain more likely to be poor than males. The data suggests that the social grant system makes a significant impact in reducing poverty rates at both the household and the individual level, with female headed households considerably more reliant on grant income than male-headed households.
104. Women enjoy **health and reproductive rights** enshrined in our Constitution. The National Health Act, 2003 entrenches the principles for promotion of women's health. This Act is in line with the Policy on Universal Access to Primary Health Care (1994), it paved the way for effective health care delivery programmes. The policy provides for free health care to pregnant and lactating women and children under age of six.
105. The Gender Policy Guidelines for the Public Health Sector, 2002 were developed to ensure that an effective framework is in place to develop, implement and monitor laws, policies, programmes, procedures and practices for women's health.
106. Health care is one of the priorities of government, especially treatment of HIV and AIDS, Tuberculosis (TB) and malaria. Reproductive health services is part of South African health system. To improve access to contraception and family planning for women, our country recently launched the National Family Planning Campaign in February 2014 under the theme "My Responsibility, my Choice, Our Future- I choose dual protection". The aim of the campaign is to provide information and services about various methods that prevent HIV, STIs and unwanted pregnancies. Care of pregnant HIV infected women has focused on preventing transmission of HIV to the body and the Prevention of Mother to Child Transmission (PMTCT) Program has been highly successful. The Choice on Termination of Pregnancy Act, 1996 allows termination of pregnancy.

107. The **right to food and water** is an integral part of health care as enshrined in Section 27 of the Constitution. Women and girl child, especially those living in rural areas, are vulnerable groups faced with the challenge of lack of food, security and water. Female-headed families are the most vulnerable. The Department of Agriculture, Forestry and Fisheries (DAFF) has been mandated to develop agricultural policies and support programmes to ensure that South African citizens are given agricultural opportunities that will enable them to meet their basic food needs, including women.

108. In conclusion, South Africa has been on the path of freedom and significant progress has been made in addressing the trio challenges, namely inequality, unemployment and poverty. However, more is still to be done.

109. I want to conclude by sharing with you a few paragraphs from an open letter written by one of my Cabinet colleagues, the Minister of Social Development. It is an open letter, written to all men in South Africa. She writes –

“I am writing this letter foremost, in my capacity as a black woman, and as an activist.

Now is the time to focus on making our country a truly non-sexist one. I will not go into the numbers relating to the levels of violence against women in our society. We all know the numbers, and we all know that they are appalling and unacceptable. All women, irrespective of their race and class are vulnerable due to their being women in a fundamentally male dominated society.

This ideological brother (yes, the emphasis on the male description is deliberate) of racism, the ideology of male supremacy continues to sail comfortably through all sections of our society, in business, NGOs and in all political parties.

Part of our programme to dismantle patriarchy in all its forms must include dealing with this continuum of entitlement in all spheres of a male dominated society.

No, men, you are not entitled to have sex with women without consent. No men, you are not entitled to be the boss in the house, the corporate sector, or in government. In fact, men, you have to be conscious of this

entitlement derived from male privilege so that we can work together to eradicate all forms of discrimination and violence against women.

I hope that this letter sparks informed debate about all the ideologies of superiority prevalent in our society. These include the ideology of white superiority, the ideology of male superiority and the ideology of heteronormativity.

Despite my relative proximity to power I know I remain vulnerable. Think about how vulnerable a young woman with no political or economic currency must be and feel every day. That is what we must change if we are to have a peaceful and equitable society.”

Madam Chairperson, Members,

We look forward to sharing ideas with you in this forum and benefiting from your collective wisdom and insight. The Protocol, and our compliance in furtherance of its objectives, contributes significantly to the creation of such a peaceful and equitable society.

I thank you all.