



Closing Statement

**by the Deputy Minister of Justice and Constitutional Development of the Republic of South Africa,
the Hon JH Jeffery, MP**

on the occasion of the Republic of South Africa's Review

**at the 27th session of the Human Rights Council's Universal Periodic Review (UPR) Working Group,
held at Room 20 at the Palais des Nations,**

Geneva

12 May 2017

President of the Council, Mr Joaquín Alexander Maza Martelli

The 4 Vice-Presidents of the Council representing the regional groups

Members of the Working Group

We would like to respond, on behalf of the Government of the Republic of South Africa, by thanking the Council and yourselves - the President and the 4 vice-Presidents of the Council – for what we deem to be very fruitful and important discussions and deliberations on matters of vital importance.

We also want to thank the many states for their constructive participation and inputs in the Working Group for our Universal Periodic Review as well as the Troika –Burundi, Germany, Iraq - and the Secretariat staff.

This experience is one that enriches our country and its peoples and once again commits us to the attainment of human rights – not only in our own country, but on our continent and the world over.

We also want to thank all institutions and civil society organisations for their contributions and submissions to our Review.

We appreciate the many observations and comments made regarding South Africa's efforts towards the realisation of human rights and fundamental freedoms.

Many of the issues raised here are issues that rank high on our Government's agenda: such as the recommendation that South Africa speed up the process to finalise the National Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance as well as the Prevention and Combating of Hate Crimes and Hate Speech Bill.

Matters raised here such as the human rights and wellbeing of foreign nationals in our country, eradicating sexual and gender-based violence, ensuring the attainment of socio-economic rights for all, protecting the rights of LGBTI persons and combating torture are all matters that we, as Government, consider to be of primary importance.

With regards to **sexual and gender-based violence**, combating sexual and gender-based violence is priority for our Government and our people.

It requires from us a two-pronged approach: it entails, on the one hand, Government making the infrastructure and the services available to respond to gender-based violence, whilst on the other hand, simultaneously addressing attitudes and raising awareness about the fight against gender-based violence.

With regards to **infrastructure and services**:

- By April this year, we had upgraded 60 Regional Courts into Sexual Offences Courts. In this financial year alone, we had set a target to deliver 8 sexual offences courts, and this target was exceeded by 3 courts.
- We have 8 Khuseleka One Stop Centres which offer a continuum of support services to victims of crime as a single service point. We are funding 102 Shelters for victims of gender-based violence and have established 19 White Doors (Safe Houses) to provide safety and shelter services to victims of domestic violence.
- Our Gender-Based Violence Command Centre has a toll free number and ‘a please call me’ service. The Centre is capacitated by skilled social workers to provide telephonic counselling services and other interventions. The system is able to track the physical location of the callers to facilitate speedy interventions and referrals, where necessary. In 2016, the Command Centre obtained an award for technical excellence. In 2015/2016, the GBV Command Centre registered 8 929 calls of which 137 were related to sexual offences.
- As at 31 March 2016, the South African Police Services (SAPS) established 1 027 Victim-Friendly Rooms at certain police stations. The VFRs are private rooms where victims of gender-based violence are interviewed for the taking of statements. They provide a friendly environment that assures confidentiality, respect and dignity.
- In addition, the SAPS Family Violence, Child Protection and Sexual Offences (FCS) Units are capacitated by investigation officers with specialised skills to deal with cases of gender-based violence, including sexual violence. In the previous financial year, 176 FCS Units had been established nationwide.
- We have 55 Thuthuzela Care Centres which provide medical and psychological services to victims of sexual violence in one location whilst evidence is gathered for the criminal case. Thuthuzela is the isiXhosa word for “comfort”. These care centres

are a best practice model and a pride of our country that should be extended to all victims of gender-based violence.

With regards to **raising awareness**, we continue to run awareness campaigns such as the 16 Days of Activism for No Violence against Women and Children, and in particular, campaigns against intimate femicide.

We will also be engaging relevant government departments and civil society organisations with a view to sharpening and strengthening our implementation of the Sexual Offences Act.

We would also like to make use of the opportunity to provide further clarity on our approach to **migration** and the challenges our country faces in this regard.

South Africans and citizens from our neighbouring countries have lived closely together in harmony for centuries. Communities are integrated and citizens move across our shared borders on an ongoing basis.

In recent years, due to a range of factors such as economic challenges, unemployment and food insecurity, citizens from other countries on the African continent and further afield have come to South Africa seeking a better life.

Human rights enjoyed by South Africans apply equally to foreign nationals with three exceptions namely political rights, citizenship and freedom of trade, occupation and profession.

Delegations will be aware that South Africa confronts the triple challenges of poverty, inequality and unemployment and, as Government, we are having to do more with less. The 2008-9 global financial crisis resulted in sizeable job losses in our economy, on top of our long-term unemployment challenges.

At the same time as we grapple with unemployment, contestation between migrants and locals for scarce resources increased, particularly with regard to employment opportunities, health care, education and housing.

This contestation has manifested, among others, in protest action and attacks on foreign nationals in working class areas and other poorer areas.

Our firm position is therefore that what we have seen in our country is not xenophobia, but rather an outcome of this heightened contestation for scarce resources.

There is thus an urgent need to address poverty, both in South Africa and on the continent as a whole, so that the poor do not have to fight each other for scarce resources or perish on the seas in their quest to finding a better life.

Our government has responded swiftly and appropriately to these attacks.

The President established an Inter-Ministerial Committee to address both the attacks, but also designed long-term measures required to properly integrate migrants into our society.

Government is also interacting on an ongoing basis with the Diaspora Forum to ensure open communication and improve cooperation.

It will be important as we work to ensure the safety and rights of émigré communities in our country, that countries of origin and transit also fulfil their obligations under international human rights law and international humanitarian law, and in terms of international migration instruments.

With regards to the rights and protection of **LGBTI persons**, even before the dawn of democracy in South Africa in 1994, the African National Congress fought for universal human rights for all South Africans.

In a document, which preceded the country's Constitution, the ANC's Draft Bill of Rights – which was prepared by the Constitutional Committee of the ANC in February 1993 – it states that we are all “born free and equal in dignity and rights.”

In fact, Article 8 of that document stated that -

- “1. Discrimination on the grounds of gender, single parenthood, legitimacy of birth or sexual orientation shall be unlawful.*
- 2. Legislation shall provide remedies for oppression, abuse, harassment or discrimination based on gender or sexual orientation.*
- 3. Educational institutions, the media, advertising and other social institutions shall be under a duty to discourage sexual and other types of stereotyping.”*

This led to the equality clause in our Constitution, which guarantees that no person may be discriminated against, directly or indirectly, on a number of listed grounds, including gender and sexual orientation.

We were the first country to provide constitutional protection for Lesbian, Gay, Bisexual and Transsexual persons and we urge, in particular, our developed country partners to follow our example so that rights of LGBT persons are not subject to the whims of populist politics.

Since the advent of democracy we have put in place a progressive legislative framework in this regard.

We have legislated against discrimination on the grounds of sexual orientation in the workplace.

Our Domestic Violence Act classifies a same-sex relationship as a 'domestic relationship', in other words, thus qualifying to receive legal protection in terms of this Act.

The Promotion of Equality and Prevention of Unfair Discrimination Act and the introduction of Equality Courts came about in an attempt to give effect to the spirit of the Constitution, in particular both the promotion of the equal enjoyment of all rights and freedoms by every person and the enforcement of these rights.

We have legalised same-sex marriages in terms of the Civil Unions Act, as well as both joint and step adoption by same-sex couples.

So while much has been achieved in the area of legislation, more needs to be done to assist LGBTI persons who face discrimination in their daily lives.

In November last year South Africa supported the continued work of the UN expert to address violence and discrimination based on sexual orientation and gender identity. It was a principled position we took because of our Constitution. In our history many people laid down their lives or were imprisoned because they took a stand against discrimination. We will never tolerate discrimination in our country.

Mr President, from its birth, a democratic South Africa has unequivocally supported the rights of LGBTI persons.

Members of the Council,

We have listened very carefully to the questions posed as well as the recommendations made and have found the UPR process to be very useful in assisting states to improve their human rights programmes.

Regarding the recommendations, some of which we have already responded to during the interactive dialogue, we wish to assure you that we will carefully evaluate and analyse all of them and provide a detailed response thereto to the Council in September.

As we close this session, let us be mindful of the words of the late President Nelson Mandela who, in his 1994 inaugural address as the first President of a democratic South Africa, said:

“Let there be justice for all.

Let there be peace for all.

Let there be work, bread, water and salt for all.

Let each know that for each the body, the mind and the soul have been freed to fulfil themselves.

Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world.

Let freedom reign.

The sun shall never set on so glorious a human achievement!

God bless Africa!”

I thank you.