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Human rights situations that require the Council's attention

Written statement* submitted by Association for Progressive Communications (APC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 August 2017]

**This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

JOINT CSO STATEMENT ON SOUTH AFRICA UPR RECOMMENDATIONS

This joint statement of the South African Civil Society Organisations (SA CSOs) – Human Rights Institute of South Africa, Centre for the Study of Violence and Reconciliation, and the Association for Progressive Communications - welcomes the recommendations passed on South Africa by the Human Rights Council (HRC) in May 2017. The aforementioned organisations together with the Khulumani Support Group, CIVICUS and World Alliance for Citizen Participation, submitted a joint stakeholder report for the third cycle of South Africa's Universal Periodic Review, which this statement reflects. In particular, South Africa collected 243 recommendations, to which South Africa is required to respond on or before the Thirty Sixth Session of the Human Rights Council in September 2017.

We urge the government of South Africa to accept all the recommendations received during the review and to take all necessary steps towards the full realisation of the concerns which were raised during its review, through adoption of a plan of action in consultation with CSOs and its national human rights institutions. The recommendations address a range of human rights violations and gaps that still exist in South Africa's promotion and protection of human rights of all individuals in South Africa.

The CSOs are concerned that the South African government did not involve CSOs in its efforts to improve the deteriorating human rights situation in the country.

Among other things, the HRC 2017 recommendations have called South Africa to address issues of torture, statelessness, disappearances, discrimination, sexual and gender based violence, racism, xenophobia and related intolerance; and to protect the rights of minority and vulnerable groups including, migrants, LGBTI, people with albinism, people with disabilities, women, children by acceleration of adoption of hate crime, hate speech legislation for prosecution of perpetrators. South Africa was also encouraged to ratify key human rights instruments whose ratification remains outstanding including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol on the Convention against Torture and the Optional Protocol to the International Covenant on Economic Social and Cultural Rights, among others. The HRC also recommended South Africa continue enhancing the realization of the human rights to water and sanitation, ensuring that all homes, health centres and educational establishments have safe drinking water and improved sanitation facilities.

While citizens are able to exercise their fundamental freedoms to associate with one another, assemble peacefully and express their opinions and ideas, the government has been inconsistent in the enforcement of these constitutional rights. Reprisal, political intolerance, harassment, undermining of state institutions supporting democracy as well implementation of unfair and arbitrary policies for dismissal of officials who expose corruption, abated threats and intimidation of journalist are some of the violations that are on the increase.

The SA CSOs have also noted the detraction of government from a transformative path where the people of South Africa envision experiencing protection of their human rights, respect of the rule of

law, accountability and transparency. The National Development Plan still remains an ideal and a promise which remains elusive to ordinary citizens.

The right to life is a non derogable right, however, mysterious murders, abductions and disappearances have continued, particularly in reaction towards political intolerance, intimidation of whistle blowers, CSOs who report on governance issues, human rights defenders who cooperate with the HRC and AU human rights bodies, such as the African Commission on Human and Peoples' Rights. The HRC recommended South Africa to consider its withdrawal from Rome Statute of the International Criminal Court by upholding its commitment under these obligations.

In light of the above concerns, we are calling South Africa to do everything within its power to end impunity, respect the constitution and ensure promotion and protection of its values for enjoyment of freedom of expression, association and assembly. We also call on South Africa to protect the rights of vulnerable groups in South Africa, and provide right to education, health, housing, water, sanitation to end the squalor and health hazards in health centres, public transport places such as taxi ranks; and deplorable living conditions of the poor and those living in rural areas who continue to suffer marginalisation.

The CSO Coalition notes the need to pay attention to strengthening policies that will enable use of the internet as an enabler of human rights. We note that proposed legislation that will impact on the internet are problematic from a rights perspective. These include the Films and Publications Amendment Bill which, under the guise of child protection, poses serious threats to online freedom of expression. We also have on-going concerns on the practices of surveillance by South African intelligence and law enforcement agencies, specifically the Regulation of Interception of Communications and Provision of Communication-related information Act (RICA), which is inconsistent with international norms with respect to the right to privacy.

We are also calling South Africa to practice political tolerance, in line with the constitution and acceptable standards committed under regional, and international instruments. We further call for South Africa to end reprisals against journalists, CSOs, Human Rights Defenders, and develop laws that will protect the Human Rights Defenders in the country.

In our appeal for South Africa to accept the recommendations that were made by the Human Rights Council in May 2017 and in line with these recommendations; we reiterate the need for South Africa to:

- Respect the constitutional and legislative powers of national human rights institutions and the judiciary and ensure that they conduct their duties independently, without fear, favour and prejudice.
- End corruption, and ensure responsible officials return all stolen resources of the poor and inculcate a culture of respect of human rights, interest to the welfare of the citizens
- Ratify the Optional Protocol to the Convention against Torture, Cruel, Inhumane and Degrading Treatment
- Ratify the Optional Protocol to the International Covenant on Economic and Social Rights
- Ratify the Optional Protocol to the Convention on the Rights of the Child

- Uphold the commitments under the Rome Statute Establishing the International Criminal Court
- Facilitate the visit of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Accept the request for a visit by the Special Rapporteur on the human right to safe drinking water and sanitation
- Establish a standing inter-ministerial committee to improve coordination in relation to human rights reporting, and follow up on implementation of recommendations
- Promote effective implementation of the Durban Declaration and Program of Action by the international community, in order to combat racism, racial discrimination and related intolerance; and
- Ensure the right to access to information and freedom of expression by adopting regulations that would be in accordance with both the South African Constitution and the international treaties and commitments; and review the current text of the Protection of State Information Bill in order to remove any limitations on freedom of expression, including unwarranted persecution of whistle blowers.
- Align internet policy with both the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Rights.
- Ensure that internet policy is consistent with the constitution and already established laws guaranteeing human rights.
- Scale up policy initiatives aimed at bringing appropriate and affordable internet access to the majority of people in South Africa.
- Align positions on internet rights at institutions such as the Human Rights Council with constitutional and other guarantees of human rights in South African law.