

SOUTH AFRICA

SECOND GENERATION

REVIEW REPORT





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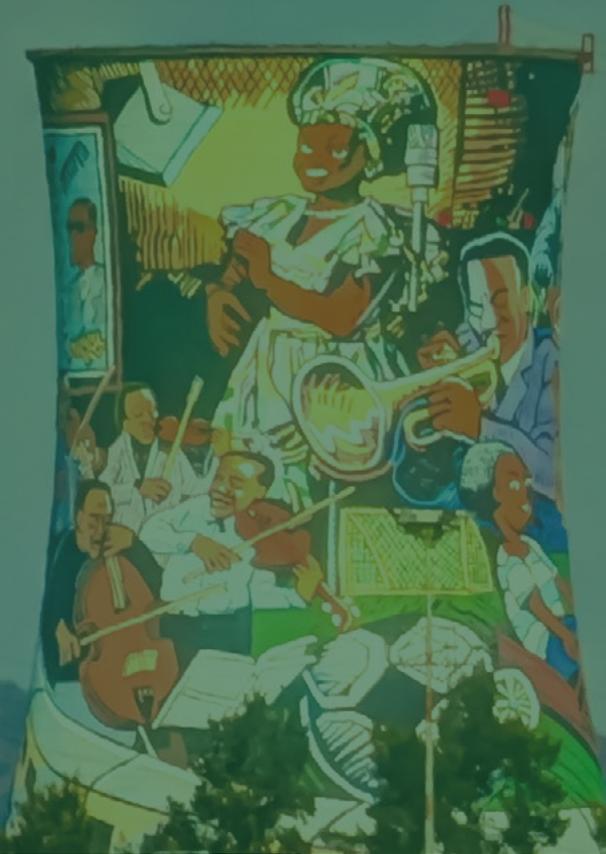


SOUTH AFRICA

SECOND-GENERATION REVIEW REPORT

KEY HIGHLIGHTS





HISTORICAL BACKGROUND AND THE APRM PROCESS IN SOUTH AFRICA

Historical Background

- i. South Africa has waged a protracted and bloody struggle for democracy. Generations of the vast majority of South Africans have suffered severely from deprivation and subjugation as a result of the colonial and apartheid rule that lasted for 342 years until 1994.
- ii. The country's first democratic elections on 27 April 1994 paved the way for the transition from the race-based system of oligarchic rule – in which the white minority were the primary beneficiaries – to a system of democratic governance with a strong emphasis on the sovereignty of the people. This leap of faith was not achieved without compromise. The peaceful transition, always shadowed by the prospect of civil war, was the beginning of a profound process of transformation of the state. The resurgence of popular participation made it possible for civil society organisations (CSOs), including the media, to play an important role in maintaining the momentum for reform.
- iii. While post-apartheid South Africa is imbued with a vibrant political democracy, it is nevertheless a democracy under severe socio-economic stress. The repudiation of apartheid has not meant the end of racial divisions and racism, nor has it signalled the end of the economic and social problems that have increasingly bedevilled South Africa's thriving democracy since 1994. Racially discriminatory policies enforced by successive governments throughout the 20th century left the black majority of the population poor and dispossessed, owning less than 30 per cent of the country's land, much of which is barren and unproductive. Unable to achieve sustainable agricultural development, the poor began to flock to cities with the disbandment of homelands and the dawn of freedom of movement. Urban migration, in turn, has exacerbated the problem of informal settlements. Consequently, enormous informal settlements encampments have developed, particularly in and around Johannesburg and Cape Town. Most of these informal settlements and a large percentage of the adult African population nationwide cannot find work within the formal sector of the economy and the operating environment of informal businesses are considered hostile for subsistent start-ups to thrive.
- iv. The results are widespread poverty, dichotomisation of the economy, appalling living conditions and an increasing incidence of crime. South Africa's per capita crime rate, overall, exceeds that of many other countries. The government has acknowledged the seriousness of the problem but has not been able to end the wave of crime against persons and property that is fuelled, among other things, by high levels of inequality and poverty.

The APRM and its Implementation in South Africa

- v. The APRM is an African-owned and African-led platform for self-assessment, peer-learning, and experience-sharing in democracy and good governance, in full respect for democratic principles, human rights, rule of law, the acceleration of political, social and economic integration in Africa;
- vi. The primary purpose of the APRM is to foster the adoption of policies, standards and practices leading to political stability, high economic growth, sustainable development and accelerated regional and continental economic integration, with codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance and the African Charter on Democracy, Elections and Governance (ACDEG); and





- vii. The governance review assessments of the APRM are conducted in relation to the values, codes, and norms that are enshrined in the Abuja Declaration on Democracy, Political, Economic and Corporate Governance adopted on 9 March 2003 in Abuja, Nigeria. In 2021, the APRM approved a revised Questionnaire that includes State Resilience as a thematic area. APRM structures in South Africa then agreed to include State Resilience as a theme to be reviewed in the second generation review. With that in mind, this report addresses the following five areas of governance:
- **Democratic and Political Governance**
 - **Economic Management and Governance**
 - **Corporate Governance;**
 - **Socio-economic Development; and**
 - **State Resilience**
- viii. South Africa is to be commended for its leading role as one of the founding nations of the NEPAD vision, which led to the establishment of the APRM programme on good governance in March 2003. From 2003, South Africa steadily implemented APRM, completing its First Self-Assessment Country Report in 2006, hosting a review mission from 9 to 25 July 2006, and completing its first peer review in Accra, Ghana on the 1st of July 2007. South Africa then produced three progress reports based on the recommendations of the first Country Review Report, with the final progress report tabled at the APR Forum in 2014.
- ix. In December 2018, Cabinet re-invigorated the second generation APRM processes in South Africa by establishing an inter-ministerial committee. South Africa renewed its APRM National Structures by establishing a new APRM National Governing Council (NGC) under the leadership of Chairperson Thulani Tshefuta.
- x. From July 2020, over 17 months, the APRM NGC oversaw the completion of a country self-assessment report that was submitted to the APRM Panel of Eminent Persons and APRM Continental Secretariat in early December 2021, leading to the Country Review Mission to South Africa taking place later that month.

The Country Review Mission

- xi. The Country Review Mission to South Africa took place from 07 to 21 December 2021. The Lead Panel Member for South Africa, Bishop Dinis Sengulane, led a nineteen-member review team consisting of governance experts from 14 African countries.
- xii. During the Country Review Mission, the team, led by the Lead Panelist for South Africa at the APR Panel of Eminent Persons, Bishop Dinis Sengulane met with national, provincial and local government as well as civil society and private sector representatives. During the Mis-



sion, the Review Team also held working sessions on good governance practices with the Deputy Speaker of the National Assembly, Hon. S.L Tsenoli, MP who was accompanied by MPs from the National Assembly, a meeting with the deputy Judge President of the Gauteng High Court, Hon Roland Sullivan and members of the national executive including the Deputy Minister at the Department of Public Service and Administration, Hon. Dr Chana Pilane-Majake

- xiii. The Review Mission held stakeholder meetings in all nine regions of the country, meeting with MECs, MMCs, mayors, and members of provincial and local councils across all nine provinces of the Country, as well as stakeholders from Chapter 9 State institutions, Civil Society, and the private sector in Pretoria and all the provinces of South Africa.
- xiv. The South Africa Second Generation Country Review Report is accompanied by a costed National Plan of Action (NPoA) that addresses the governance challenges highlighted in the Report. The NPoA falls within the ambit of the Medium-Term Strategic Framework 2019-2024 which assigns responsibility for implementation to competent agencies, and is in line with the National Development Plan.



A photograph of a diverse group of people, likely South African, celebrating. They are holding up South African flags and have joyful expressions. The image is overlaid with a dark green tint. A horizontal bar with segments of red, green, yellow, and blue is positioned above the title.

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DEMOCRACY AND POLITICAL GOVERNANCE

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- xv. South Africa became independent with much promise and hopeful aspiration to become a vibrant multi-cultural, multi-national, multi-racial republic. The ambitions of the political leaders shaped the structures of state institutions created under the new Constitution. The clearest indication of their chosen future developmental path can be found in the liberal provisions of the constitution such as the Bill of Rights and the institutions popularly known as the Chapter 9 Institutions (The Public Protector, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equity, the Auditor-General, the Electoral Commission), which are independent and subject only to the constitution and the law.
- xvi. South Africa faces a number of challenges. A major one is the growing erosion of trust in the government and state institutions. This is partly because state institutions, especially the executive arm of government, but also the SOEs have failed the people through unethical behaviour and glaring ineffectiveness in service delivery. Another area where there is a mismatch between state aspirations and society's attitude is the handling of the migrants and refugees in South Africa. South Africa is a political and economic leader in the SADC region and the continent at large. Despite its economic challenges, other Africans see the country as a land of refuge or opportunities, and most arrive with talents and skills that contribute positively to the development of the country. The third major challenge is that of poor service delivery, which also contributes significantly to the people losing hope and faith in the state. The CRM repeatedly heard stakeholders denounce the service delivery quality and restricted access in worrisome narrative at consultations in the provinces. The crux of the service delivery gap is primarily the weakness or lack of capacity of government at the local level, where the people most frequently encounter the state and experience the best or worst or lack of service provision or disconcerting treatment from officials.
- xvii. South Africa has a progressive constitution that could promote democracy and a credible rule of law regime. The country's multi-party system allows for free competition for power among political parties and various interest groups. The African National Congress, which led the liberation struggle against white minority rule, has governed the country since 1994; winning significant majority of the vote at every election. But in recent years, viable opposition parties are being established regularly to participate in elections. These parties continue to give South Africans alternative policy choices during elections, and as a result the representation of opposition parties has been increasing steadily at all levels of governance over the years.
- xviii. However, there are some limitations in the democratic system as it is operated in South Africa. First, there is the lack of direct accountability relationship between the





elected officials and the electorate; and the tendency for elected representatives to be more loyal to party leaders than the electorate despite the forums of engaging with legislators at both the national and local levels. This has led to the embrace of independent candidature as granted by the Constitutional Court. The CRM observed that recent local elections in 2021 have seen the emergence of special interest groups that have brought independent candidates together and provided them the platforms to contest elections as was seen in the recent local elections, where several individuals who ditched the mainstream political parties and organised social movements that contested the elections as independent candidates. This is a clear indication that South Africa's constitutional democracy is evolving in response to the popular call of the citizens.

- xix. An associated clog to self-emancipation is in terms of access to justice, which has been identified as a challenge for most South Africans, particularly the poor and those living in rural areas. The CRM mission noted that many South Africans are unable to get fair trial or make appropriate use of the justice system due to lack of knowledge of the system, lack of financial resources as the formal justice system is mostly costly and unaffordable for the poor, and corruption within the system. Racism was also identified as a major problem in South Africa's justice system due to the system being dominated by white judges and lawyers accustomed to the divisive practices of apartheid. Some efforts made by the government in addressing the challenge include provision of free legal services for indigents through a government funded institution called Legal Aid South Africa. However, and despite concerted efforts by the government, access to justice still remains a major challenge, particularly for marginalised and vulnerable groups like women and people living with disabilities in the country.
- xx. South Africa's 1996 Constitution (amended through 2012) provides elaborate Bill of Rights for the individual, and it guarantees the right to access justice, free trial, equality before the law, among others. To facilitate this important constitutional provision, the South African government has established numerous institutions — courts and quasi-judicial mechanisms like specialised commissions (for instance Commission on Gender Equality, Human Rights Commission) and law enforcement agencies like the South African Police Service.
- xxi. However, the reach of these institutions and services remains constrained by several factors that affect their ability to deliver. First, South Africans lament about corruption in the police service, and stakeholders in some provinces suggest that the justice system favours mostly the wealthy and more powerful individuals because most of the time the police do not take complaints filed against the rich and influential members of the society seriously. Thus, the poverty level among a majority of the people constrains their ability to afford legal services where and when desperately needed. Efforts by the South African government to provide legal aid are laudable but there are concerns that offices of Legal Aid South Africa are not accessible to people outside of the main towns, and rural residents are not aware of their existence and operations. Also, administrative inefficiency at many lower courts affects citizen's access to justice. Hence, some courts experience huge backlog of cases and incidents of missing documents in courts sometimes compound this situation.
- xxii. The South African Constitution of 1996 (with amendments through 2012) establishes a firm foundation for the separation of powers and checks and balances between the three branches of government — the legislature (Parliament), executive and judiciary. Parliament has the constitutional authority to make laws and exercise oversight powers over the executive. Despite its clear constitutional authority that is clearly laid out in Chapter 4 of the Constitution that envisages an independent, robust, and effective parliament for the exercise of legislative powers, stakeholders suggested that parliament is not fully independent of the executive and has not over the years exercised its consti-

tutional oversight effectively.

- xxiii. The CRM noted that the president who is elected by the parliament after nationwide election of the members of parliament also appoints nearly all ministers from parliament. This fusion, in the context of South Africa's politics with a dominant party in power for over two decades and a party system in which the leader of the ruling party is also head of the executive branch of government, means party leaders do have greater control over members of parliament from their parties. Under such arrangement, members of parliament (MPs) are expected to support party political positions to remain in good standing with their party leaders. Thus, MPs in most cases demonstrate more loyalty to the political party over constitutional principles in crucial matters of parliamentary oversight over executive institutions.
- xxiv. South Africans in civil society seem to be fully aware of the separate roles of each branch of government. Thus, expectations for a more robust parliament are increasing in the light of emerging challenges in the country. South Africans look to the parliament as much as they look to the executive. But to make these possible, as participants suggested, a competent and credible parliament would be needed for the executive to function more effectively and with the integrity the public expects of it.
- xxv. The CRM observed racism and xenophobia particularly against black Africans as a potential conflict issue. Despite numerous efforts at racial integration, South Africa continues to suffer incidents of direct and subtle institutional racism, mostly against the majority black population, in educational institutional and in white-colour employment. This issue remains a threat to the stability of the country, and it has not only instigated internal uprisings, but has led to rupturing relationship between South Africa and other African countries whose nationals have become targets of racist attacks in South Africa.
- xxvi. The government has attempted to address issues of xenophobia and racism by strengthening laws, policies, and promoting dialogues on social cohesions in communities. Both the government and civil society organisations have over the years deepened efforts at organising more community education and sensitisation programs and dialogues on integration and social cohesion.
- xxvii. However, South African citizens continue to harbour resentment towards foreign nationals residing in the country. Most South Africans seem far more resentful to fellow Africans from the rest of the continent than they are of the structural and subtle racial divides in their society. These come in the form of accusations against their government for favouring foreign nationals over locals, and allegedly providing better incentives for foreigners to establish businesses than they do for nationals, and for allegedly making it easier for a foreigner to gain employment than a local. Also, some populist politicians galvanise the impasse by blaming foreigners for the increasing rate of crime and incidence of poverty in the country. This has prompted numerous hate speeches against immigrants and prompted the use of derogatory terms in describing migrants, despite their contributions to the so-





cio-economic development of the country. Stakeholders noted that incidence of hate speech and statements that incite xenophobic attacks increase more during periods of elections. Statements against foreigners in South Africa are now populist attempts to appeal to public sentiments in efforts to mobilise votes. The electoral campaign promises of a few politicians is coalesced to get rid of foreigners when elected play well into the hands of locals who already see foreigners as causes of their conditions of joblessness, poverty, and crime.

- xxviii. South African government, in 2019, adopted a “National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance” which calls on the government to create a legal and policy framework for the prevention of racism and xenophobia — particularly in areas such as immigration policy, policing and administration of justice, human rights training for government officials, and the promotion of the benefits of cultural and social diversities. The CRM sees this move by the government as a commendable effort against the scourge of racism and xenophobia and implores the government to ensure that all action points laid out in the plan are implemented in time.
- xxix. With regards to freedom of religion, the South African Constitution establishes that everyone has the right to freedom of conscience, religion, thought, belief, and opinion. The government does not require religious groups to register; however, registered groups receive tax-exempt status. The right to freedom of religion and right to freedom of expression are enshrined in the Constitution of South Africa. However, there have been concerns raised around media freedom, freedom of expression and censorship in South Africa.
- xxx. In South Africa, the inadequacy of public service performance at all levels of government constitutes a cog in the wheels of progress towards the country becoming a developmental state, long the goal of the political leadership as the surest way to achieve rapid economic growth, and address unemployment, poverty, and inequality. The CRM found that the weakest link in the public service is at the local government level where most of the population interface directly with government and need basic services. The capacity of municipalities is a critical component of state capacity without which the aspiration of South Africa to become a developmental state will not materialise. The poor performance of local government in meeting minimum operational and financial management standards undermines basic service delivery, more equitable spatial development and fiscal sustainability.
- xxxi. Municipal government is distinct as the Constitution stipulates. Its administrative structure is not as complex as those of provincial or national government, but it has its peculiarities that often confound the uninitiated in the intricacies of municipal lore and service demands. While there are universal management systems, processes, regulations, and procedures which apply across levels of government, they are most effective where the operators understand and can adapt these instruments to the environment in which they apply them. Thus, it is important that South Africa embrace the idea that there is a municipal government service with distinct characteristics, of which managers that strive to succeed in local public service delivery must master.
- xxxii. South African government had made significant strides in promoting the rights of women. The country acceded to a wide range of international conventions and protocols on the advancement and protection of women’s rights. Also, the government established a national gender machinery to promote gender equality and equity in all spheres of life. The institutional machinery is made up of various structures comprising the State and civil society. The Gender Machinery as well as the Commission for Gender Equality have been acclaimed as key achievements displaying the Government’s deep commitment to curbing and ending abuse among vulnerable groups. Although

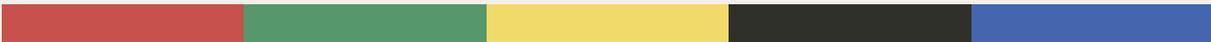
these mechanisms are in place, South Africa still faces significant problems with violence against women on the rise such that the statistics often quoted are considered 'non statistics' based on the prevalence of under-reporting.

- xxxiii. The CRM learnt that despite the provision of the protection of the rights of refugees in the Constitution through the Bill of Rights, refugees, illegal immigrants, and undocumented persons continue to experience difficulties in accessing and enforcing these rights, such as the right to have access to adequate housing, the right to work, the right to education, the right to health care services and the right to social security. Refugees, illegal immigrants and undocumented persons encounter various challenges in securing or renewing their residential status due to the recent closure of refugee reception centers in major cities and the delays in finalising asylum applications. The CRM noted that the long administrative asylum-seeking process could result in an individual holding asylum-seeker status for more than 10 years without being given the opportunity to apply for permanent residency as stipulated in Section 24 of the Refugees Act that, a recognised refugee can begin the process of applying for permanent residence only after ten years of continuous residence in South Africa from the date he or she was recognised as a refugee. Children born in South Africa to refugees, illegal migrants and undocumented persons are denied access to documentation (including birth certificates) and, as a result, it affects their access to healthcare services and learning institutions. These children are often not allowed to register in schools for to lack of study permits.
- xxxiv. The Panel therefore recommends that the Government strengthens the lower courts with requisite resources and enhanced capacity to accentuate their efficiency at the local level; and establish more courts to alleviate subsisting pressure on existing ones. Also, the judiciary should be capacitated and well-resourced to deal expeditiously with allegations of corruption in the judiciary, particularly in the lower and the high courts, and ensure that these courts are staffed with competent and credible judges. In addition, the Parliament should devise open and transparent mechanisms to monitor and report the Executive's response and implementation of parliamentary resolutions, particularly those endorsing reports of Chapter 9 institutions like the Auditor General and the Public Protector. The Government should also pass the Prevention and Combatting of Hate Crimes and Hate Speech Bill to discourage incitement against minorities group and foreigners. The Provincial Governments should set up a Department of Local Government Service Matters in the Office of the Premier to produce a Scheme of Service for the evolution of a distinct and professional corps of municipal managers. Overall, the Government should prioritise and resource more local and community-oriented initiatives to target the fundamental origin of sexual abuse, including through social programmes to help socialise offenders. Finally, the Government should explore the possibility of amending both the Immigration Act 13 of 2002 and the Refugees Act 130 of 1998 to accommodate the children of refugees and undocumented persons to accord them the basic fundamental human rights

TRANSNET

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**ECONOMIC GOVERNANCE
AND MANAGEMENT**

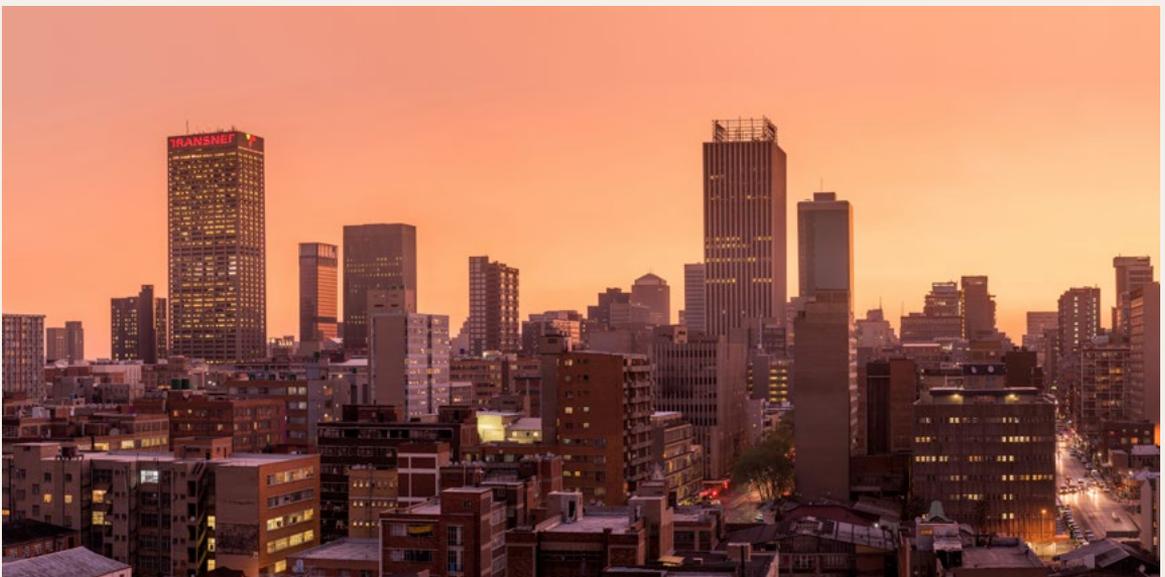


- xxxv. **T**he South African economy had a chequered decade before 1994 as most of the years recorded no or negative growth. Indeed, the growth rate between 1984 to 1993 was 1%. Thus, as the April 27, 1994 general elections approached, there were high expectations and aspirations for a marked increase in the quality of life in the post-apartheid era. Certainly, the renowned wide gap between black and white subjective well-being somewhat contracted. South Africa experienced relatively high and consistent economic growth from 2.9% in 1994-2003 to 3.4% in 2004-2013, which supported poverty reduction. The growth, however, took a significant downturn between 2014 and 2019 as the growth rate hovered between 0.1% to 1.8% before Covid-19 pandemic led to a contraction of -7.0% in 2020. The envisaged improvements between 2020 and 2021 were undermined by the looting and violence that occurred mainly in KwaZulu-Natal and Gauteng in July 2021. Nonetheless, after almost three decades since apartheid ended, the aspirations have been dampened as South Africa remains the most unequal country in the world by any measure and the apartheid spatial divide continues to dominate the landscape of income and wealth.
- xxxvi. The 2021 CSAR noted that the country recently launched National Development Plan (Vision 2030), which comprehensively shows the framework to achieve targets in the long-run. Specifically, the long-term plan is directed towards achieving inclusive growth, economic prosperity and promotion of quality life. Additionally, the plan is expected to address the high unemployment, inequality and poverty rate in the country. More so, the following targets are documented: economic growth of 5.4%, lower unemployment rate of 6%, high investment, lower inequality with 0.60 Gini coefficient and absence of food poverty by 2030. The long-term plan was supported by the Medium-Term Strategic Framework (2019-2024). This medium-term plan is structured to achieve at least 50% of the targets in the long-term plan. The plan further highlights the features of the South Africa economy, which includes low or fragile growth, middle-income trap, lack of competition, unemployable job seekers, and low domestic savings; thus promoting the reliance on foreign capital inflows and a poor skills profile. These issues are historical and the overarching goal of the plan is to address the challenges in absolute terms.
- xxxvii. However, the growth rates of real output and income per person from 1994 to 2020 in South Africa are markedly divided into two episodes by the global financial crisis (GFC) of 2008-2009. The country has struggled to achieve the pre-financial crisis figures. The bad situation was made worse in 2020 as the country got hit by the negative impact of Covid 19 pandemic. As output growth declined consistently, the growth of income per person declined faster, which indicates significant drop in the standard of living. Additionally, the structural change weakened the uneasy economic challenges. .
- xxxviii. In addition, the structure of the economy has also changed significantly. The primary and secondary sectors have been outpaced by the tertiary sector, which signifies increasing “jobless growth”. There was a structural problem in the country before pandemic, the primary and secondary sectors that are supposed to deliver broad-based growth are outweighed by the exceptional growth in the



tertiary sector. The larger share of population is unskilled hence, they do not possess the required skill to benefit from the burgeoning tertiary sector. More so, the shift to tertiary (especially financial and communication sectors) has not generated the required job opportunities needed to address the structural problem of joblessness in the country.

- xxxix. In addition to output decline especially since GFC, investment and household consumption expenditure, have also deteriorated. An analysis of the distribution of consumption expenditure per capita in the recent Living Conditions Survey 2014/15 in a 2018 World Bank report on Overcoming Poverty and Inequality in South Africa, which found that the country had a Gini coefficient of 0.63 in 2015, the highest in the world and this has remained stubbornly significant since 1994. South Africa is characterised with low-growth trap with slight reduction in poverty levels but growing inequality. After the GFC, the poverty headcount ratio at national poverty lines climbed from 53.2% in 2010 to 55.5% in 2014. In absolute term, 30.3 million of the population are below poverty lines as of 2014.
- xl. Other challenges that have confronted the country include growing unemployment rate and youth unemployment rate. The fragile growth recorded after political emancipation to democratic rules failed to absorb people into the production process. Although, unemployment rate was declining before GFC, the post-GFC indicates an upward trend till 2020. The South Africa Quarterly Labour Force Survey noted that in the third quarter of 2021 unemployment rose to 34.9%. Between 2011 and 2020, South Africa experienced marginal decline in unemployment rate. This suggests inherent structural problem the country has not been able to address. Youth unemployment rate rose from 49.8% in 2011 to 57.5% in 2019. Factoring the pandemic challenge into the unemployment dynamics, the figure is reported to have reached 66.5% in the third quarter of 2021. This further implies that three out of every five youth population are unemployed, which manifests in the pockets of conflict witnessed in the country.
- xli. The CRM observes that South Africa is concerned about the poor performance of the development plans adopted since political emancipation, and therefore undertook a holistic assessment to better appreciate the drags to the attainment of set targets. It is noted that while in the formulation of the NDP, the issue of implementation was not given the desired level of attention, which may explain why the plan has not translated into an overwhelmingly positive lived experience. A major issue identified



was that the NDP is devoid of well-detailed and robust implementation plan. A critical element of the success is the broad stakeholder and societal support, which it has after its adoption. However, this did not translate into robust implementation and the envisaged broad social impact of the Plan became elusive.

- xlii. The CRM also noted during the stakeholders' engagements across the provinces that the major issue that have led to the observed undesirable outcomes is a combination of various factors including skills deficiency, non-adherence to rules and regulations in the recruitment process of the public sector and unaccountability of public officials. The background to the observed abnormality can be linked to the general uptake of governance from 1994 by the largely incapacitated historically disadvantaged persons. A combination of these factors has transformed into wide-spread ineffectiveness in the public service thus hampering institutional capacity to deliver on predetermined targets and goals.
- xliii. As stated in the CSAR, South Africa has a constitutional mandate that requires consultation with all key stakeholders. In this regard, there are mechanisms and processes that currently exist to ensure continuous public and community engagement and these include mandatory community consultations in formulating IDPs, izimbizo where the executives interact with communities around issues of services and development, ward committees, Thusong Service Centres previously known as Multi-Purpose Community Centres and Community Development Workers. South Africa is committed to ensuring that public policies follow a highly consultative decision-making process. This is grounded in the "Batho Pele" ("people first") principle - consultation - which lays much emphasis on citizen and community engagement. In the South African context, public consultation is the process whereby the parliamentary and provincial legislatures and local municipalities consult the citizens and the affected or interested groups, civil society organisations and government agencies before a decision is made.
- xliv. The first progress report stated that although public consultation increased since the beginning of democracy in South Africa, it remains inadequate. There are a number of institutions enhancing public participation in public policy. These include the South African National Civic Organisation, which encourages its local structures participation in integrated development plan's hearings and ward committee's processes. Also, Sector Education and Training Authorities (SETAs) for skills development and Presidential Working Groups were strengthened in an effort to promote participatory democracy and interface regularly with organised sectors.
- xlv. However, Civil Society Organisations (CSO) have raised concerns with regards to their involvement in the implementation of policies. They indicated that their involvement at the stage of policy implementation is limited. While the involvement of CSOs in participatory decision making process have increased dramatically since the advent of democracy, their views and concerns are not reflected in the implementation phase. The CRM notes that funding of the civil society has been a challenge as the relevant ones making grassroot impact are often not supported adequately by the government, thereby incapacitating them to enhance their functionality, as well as to monitor the implementation of government programmes.
- xlvi. As regards the management of public funds, the South African government has implemented numerous structures and legislative frameworks since 1994 to develop and guarantee the maintenance of sound public finance management. These are secured by the Public Finance Management Act, the Municipality Financial Management Act and the Public Service Management Framework. In addition, the government took the following actions: the launched of Operation Clean Audit 2014. Through this instrument, municipalities and provincial departments accounting officers are mandated to include



integrated risk management, functioning of audit committees and internal audit units in their performance contracts, as well as in audit management; and the implementation of the Financial Capacity Building Model. As a result of these, South Africa has been ranked first in the 2010 Open Budget Index (OBI), after scoring 92 out of a possible 100 points; and second-best in the 2012 OBI (90 out of 100 points).

- xlvi. Despite these efforts, the country continues to find evidence of serious weaknesses in financial management leading to a systemic financial haemorrhage. Some lapses were noted in the Auditor-General's Report. The weaknesses in financial management, controls, fraud prevention and legislative compliance, as evidenced by the audit outcomes and the special reports, resulted in material financial losses at some entities. The Auditor General South Africa's annual reports offer disturbing insights into weak governmental financial systems, and the lack of power and authority of the office to enforce its recommendations is also a major challenge. This gap has a tendency for citizens to lose trust in the government when certain public officials are seen as protected. For an effective fight against corrupt practices and for the office to be seen as effective, efforts are required to decisively tackle the identified inherent weaknesses in the system.
- xlviii. The CRM notes that the Public Service Commission (PSC) that is vested with custodial oversight responsibilities for the Public Service and monitors, evaluates, and investigates public administration practices, reported that the commission received an enormous number of cases relating to fraud and corruption and has completed about 70% of all reported cases. Overall, reported cases are primarily associated with anomalies in the public sector procurement, which continues to spread, especially in municipalities. However, the capacity of PSC and the respective public sector institutions to deal with investigations of reported cases of alleged fraud and corruption by government officials is limited. As a result of lack of capacity, the effectiveness of the commission and government in the fight against corruption in its entirety is undermined.
- xlix. During the engagements with stakeholders, it was revealed that while corruption was evident and endemic in the country, a particular emphasis was placed on procurement as highly prone to corruption. Again, as in the general context, the Government institutionalised a series of initiatives to address what was determined to be flaws in the procurement system. Stakeholders alluded to moral deficit and degeneration as the cause of the problem that has blossomed into greed as nurtured by the lack of functional lifestyle audit system and shaped by organisational, social, and political contexts. Overall, while it was acknowledged that South Africa has a robust anti-corruption legislative framework, the laws are not adequately enforced, and unaccountability has exacerbated corruption and widened the fault line of the triple challenge of unemployment, poverty, and inequality.
- I. South Africa which has the largest and most sophisticated economy in the southern region, played a leading role in establishing several regional entities. SADC originated from the South African Development Coordinating Conference (SADCC). Its specific aim was not necessarily regional integration as currently conceived, but rather to reduce economic dependence on apartheid South Africa. In anticipation of the dismantling of the apartheid system and the



country's democratic transition, the authorities transformed SADCC to SADC in 1992. Following that transformation, the newly democratic state of South Africa joined SADC in 1994. Some of its declared aims after the transformation include establishing a free trade area by 2008, a customs union in 2010, a common market in 2015, a monetary union in 2016, and the introduction of a single currency in 2018.

- li. Unfortunately, while imbued with ambitious goals, objectives, and targets, implementation has been less than impressive. The trend in the intra-regional trade of South Africa with the southern African countries suggests that the Tripartite Initiative (consisting of SADC, the EAC, and COMESA) that was launched in South Africa in 2011 has not recorded significant success. Such efforts suggest that while South Africa's economic links with traditional developed countries remain important, its prospects for regenerated growth and development will increasingly depend on diversifying and strengthening its economic links with dynamic economies of the South, particularly those of Southern Africa. The lack of success implies that the South African economy is still heavily dependent on commodities.
- lii. After apartheid, there was an optimistic belief that the end of sanctions against South Africa would bring about a boom of foreign investment, but that has yet to materialise. Some argue this is due to a lack of skilled labour. Apart from a few anomalies where there have been significant transactions (typically mergers and acquisitions) and disinvestments during apartheid, investment flows have not shifted significantly in percentage terms since the 1970s.
- liii. More specifically, investment potential is hampered by legal uncertainties that discourage foreign investors, despite the promulgation of the Protection of Investment Act in December 2015, which reinforces legal guarantees for foreign investors. However, it is projected that South Africa may struggle to attract the level of investment needed to meet its post-COVID recovery needs in the current pandemic context, falling into recession, being downgraded to junk status by international credit rating agencies, and the low ability to attract FDI. Foreign direct investment inflows are concentrated in the mining sector, which can lead to only part of the economy being developed while the other sectors virtually stagnate or experience slower growth.
- liv. South Africa is a member of several regional and multilateral trade agreements. There is the Southern African Customs Union (SACU), duty-free trade between South Africa and the other four countries (Botswana, Lesotho, Namibia, and eSwatini). Another regional arrangement is the Southern African Development Community (SADC) Free Trade Agreement, which as of 2012, allows duty-free





trade among 12 of the 15 members. There is also the European Union-South African Trade and Development Cooperation Agreement that came into effect in 2000, has as a progressive Free Trade Agreement (FTA) that has become the cornerstone of the regional trading landscape. South Africa has also negotiated agreements with the European Free Trade Association, the United Kingdom, and Mercosur. In addition, South Africa, through SADC, has finalised negotiations on Phase I of the Tripartite Free Trade Agreement, which links SADC, the East Africa Community (EAC), and the Common Market of Eastern and Southern Africa (COMESA) into a free trade area. South Africa is also a member of the newly launched African Continental Free Trade Area (AfCFTA).

- iv. The country's trading with the rest of the world has indeed been impressive. South Africa has a diversified export basket, including natural resources, exporting to countries such as China, Germany, the United States, and the United Kingdom. In addition, the country exports more raw materials and intermediate products, constituting 63% of the total exports in 2019. Currently, the main export products are Gold, Bituminous coal, and iron ore.
- lvi. However, the CRM observes in a UNCTAD report on Trade Misinvoicing in Primary Commodities in Developing Countries: The Cases of Chile, Cote d'Ivoire, Nigeria, South Africa and Zambia published in 2016 that relatively little gold appears in South Africa's export data compared to the substantial amounts of gold imports from South Africa recorded by the trading partners. This suggests a considerable element of trade underinvoicing. Trade misinvoicing has been noted in the literature as a substantial share of capital flight from developing and emerging countries. The role of transnational corporations in fueling the outflow of unrecorded capital from these countries in the form of tax evasion and profit shifting by extractive industries has received more prominent attention recently.
- lvii. The report noted that the most striking feature of the gold sector in South Africa is the massive discrepancy between the amount recorded in the country's official trade statistics and those recorded in its trading partner's record. The total misinvoicing of gold exports to South Africa's leading trading partners was estimated to be \$113.6 billion within a 15-year period. The report further noted that export underinvoicing was mainly due to smuggling activities in the gold sector and not necessarily due to underreporting of the actual value of gold exports. This suggests that virtually all gold exported by South Africa leaves the country unreported.
- lviii. As regards investment, the CRM observes a recent decline in foreign direct investment (FDI). While the trajectory of FDI in South Africa presents a chequered history, it showed a direction of the trend. Prior to 1994, net inflows FDI as a share of GDP was recovering from a decline and continued to increase, peaking at 5.4% in 2001. Subsequently, FDI inflows dwindled markedly from 2008. The inflows into South Africa fell from \$4.6 billion in 2019 to \$2.5 billion in 2020, in line with the global reduction of FDI inflows.
- lix. The Panel recommends the adoption of a bottom-top approach to development plan design and implementation framework and also strengthening of government institutions capacity to increase citizens' involvement in economic policy formulation, adoption, implementation and evaluation. The authorities also need to ensure unified prosecution of corruption cases through the establishment of an overarching body that also make a nationwide re-orientation and life style audit system a priority. Equally important is the need for the country to sign-on the Extractive Industries Transparency Initiative and institute appropriate regulatory policy in dealing with trade misinvoicing, profit shifting, smuggling, and tax evasion.



4

CORPORATE GOVERNANCE



ix. **M**ost economies in Africa rely heavily on agriculture, mining and other extractive industries that may potentially have adverse effects on the environment. Such business operational activities imply the need to have consideration for the impact that organisations' operations have on the environment, economic, history and social life of the communities where they operate. When viable, organisations tend to engage in corporate social investment initiatives as good corporate citizens, as well as on-board small businesses into their value chain, thus positively impacting communities they choose to support, by contributing to economic growth and development, more so as Corporate Governance means leadership, sustainability and corporate citizenship.

lxi. The South African Constitution is the supreme law, and all laws, including the common law regulating companies in particular, derives its force from the Constitution and it is subjected to constitutional control. The Companies Act 71 of 2008 as amended in 2011 and amendment 2021 in process, is the primary source of company law in South Africa and South Africa was one of the first countries outside of the United Kingdom to introduce a code of corporate governance. The Institute of Directors of Southern Africa ('IoDSA'), an industry body representing directors, convened a committee under the leadership of Mervyn King, a former High Court judge to compile the first Code of Corporate Practices and Conduct, which was first released in 1994. The Code has since been reviewed three times, leading to the current version King IV Report on Corporate Governance for South Africa 2016 ('King IV'). Certain rec-



ommended practices in the King Code are incorporated into the Johannesburg Stock Exchange (JSE) Listing Requirements, making it mandatory for JSE-listed companies to comply with them, with the balance of the King Code's recommendations to be implemented on an 'apply and explain' basis.

- ixii. South Africa has made concerted progress towards demonstrating domestic, sub regional and continental leadership in Corporate Governance Principles and Commendable Practice Guides, International Standards and Codes, including the Principles of Corporate Governance designed by the Organisation for Economic Cooperation and Development (OECD) and Commonwealth Association. Building on the governance principles of the 1994 (King I), 2002 (King II), and 2009 (King III) and a fourth revision (King IV) in 2016 as well as the inauguration of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, better known as the Zondo Commission or State Capture Commission, established in January 2018 to investigate allegations of state capture, corruption, and fraud in the public sector in South Africa; further demonstrates that progress is being made to promote good governance and to curb corruption.
- ixiii. However, despite the impressive gains achieved in stabilising the economy and the higher rates of economic growth that have been consistently realised since the end of apartheid in 1994 and even after the global financial crises of 2008/2009, South Africa remains a country of imbalances, disparities, distortions and a number of paradoxes. Faced with sluggish economic growth and in the mist of the global Covid-19 pandemic, South Africa has hit its lowest global competitiveness ranking according to the latest World Competitiveness Yearbook (WCY) 2020, as South Africa fell by three notches to be ranked 59 out of 63 countries rated by the IMD. In terms of Ease of Doing Business, South Africa is ranked 84 among 190 economies in the ease of doing business, according to the latest World Bank annual ratings. The rank of South Africa deteriorated to 84 in 2019 from 82 in 2018 and a sterling 32 in 2008, averaging 56.83 from 2008 until 2019.
- ixiv. Consequently, this 2nd Generation Country Review Mission (CRM) chose to focus on five key issues that are considered critical to enable South Africa (a) leverage investments and leadership attained in corporate governance within South Africa, the SADC region and continentally, (b) explore avenues to transmit practices into higher impact on South Africa's macro socio-economic development and, (c) expand the diversity of stakeholders involved in the corporate governance space, so that South Africa can optimise possible systemic outcomes. The five key issues identified are:
- Regulatory Frameworks for Inclusive Oversight and Supervision – the trend in South Africa's Competitiveness, Ease of Doing Business Ratings, Gross Domestic Product, Performance of State-Owned Enterprises and State-Owned Companies, Municipalities and Local Governments have intensified public interest and regulatory scrutiny of corporate governance practices. The role of listed companies, the chamber of commerce, trade groups and associations, the director institute and its affiliates, the stock exchange and regulatory agencies, call for innovative partnerships to make corporate governance work for the South African economy, especially inclusiveness of the informal economy in corporate governance.
 - Improving Accountability and Performance of SOEs – King IV has supplementary codes of the 17 principles for other organisational types including Municipalities, Non-Profit Organisations, SME and SoEs. However, systemic inefficiencies continue to deny South Africa of



high performing and value adding SOEs even though there are frameworks and strong oversight Chapter 9 Institutions. Many South African listed and public organisation have produced Annual Integrated Reports for over six years. Conceptual and operational independence and autonomy of key institutions is not in doubt. However, there are increasing expectations for accountability and turnaround in the performance of SoEs, Municipalities, Local Government Councils and related agencies. Thus, the need for improved accountability of SoEs.

- Practical Ethics and Corporate Governance Continued Education and Mentorship across Sectors – CRM findings indicate broad awareness and knowledge of the King IV principles and guidelines, as well as attendance of requisite training on these instruments. However, this awareness and knowledge needs to be translated into actual operations of boards and decision-making processes. This situation, whereby the present socio-economic situation appears to indicate King IV has not augmented aggregate governance performance outcomes sufficiently, thereby requiring concise review and upgrades to existing supervisory frameworks that fosters ethics within the corporate governance architecture.
- Rescoping Shareholders of State-Owned Enterprises – The Department of Public Enterprises has oversight responsibility for only seven of the approximately 700 SOEs that exist at the national, provincial, and local levels. The present arrangement is that the Department of Public Enterprises is the shareholder representative of the South African Government with oversight responsibility for state-owned enterprises in key sectors. The other companies are not directly controlled by the Department of Public Enterprises, but by various other departments, with the Minister of Public Enterprises as the representative for the government as shareholder. Emerging findings of the Zondo Commission of Enquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State have raised several corporate governance red flags and makes it pertinent to rescope the definition of 'Shareholder' of State-Owned Enterprises.
- Enhanced Listed Companies' Partnership in Socio-Economic Development – South Africa is a pioneer in Public – Private – Partnership (PPP) arrangements on the continent and home jurisdiction to many Multinational Enterprises (MNEs). Present socio-economic situation in South Africa's domestic environment and socioeconomic downturns that affect the country's image globally, call for innovation in PPP to address socio – economic challenges. JSE Listed Entities can in partnership with the South African government, extend the combined requirements of International Integrated Reporting (IIR), King IV and related requirements for the establishment of Social and Ethics Committees to extend the benefits of PPP into enhanced Listed Entities' Partnership in Socio-Economic Development with their host communities in South Africa's Provinces and Municipalities, as well as host communities of their International Subsidiaries, given RSA's MTSP 2019 – 2024 Pillar 7.



5

**SOCIO-ECONOMIC
DEVELOPMENT**



-
- lxv. South Africa has made significant strides in Socio-economic Development (SED) since the previous review, including setting up the National Governing Council (NGC) to monitor and follow up on the APRM National Programme of Action. The NGC formation was officially approved by the Cabinet on 27th May 2020 as well as a National Coordinating Mechanism (NCM) for national engagements and reporting on Agenda 2030 for Sustainable Development and Agenda 2063 for **“the Africa we want”**.
- lxvi. Progress has also been made in promoting equality of gender in empowerment initiatives in order to increase women participation in public sector, and in parliament from 33% in 2004 to 44% at present (2022). Through Statistics South Africa, the country has also developed a transparent integrated tool to measure and assess progress in the implementation of both the National Development Plan and the SDGs.
- lxvii. Nevertheless, the APRM Country Self-Assessment Report (CSAR 2021), the three different progress reports, and consultations at the Provincial levels, suggests that some underlying challenges persist in the quest to foster sustainable socio-economic development. These challenges have been identified and prioritised under the four broad APRM objectives in the SED-thematic area.
- lxviii. The issues identified are: (1) the need for multi-dimensional capacity building to implement socio-economic development programmes, and (2) the need to accelerate land reform. (3) the need for sustainable model for social-assistance; (4) augmentation of mechanisms to promote broad-based participation at local and provincial levels; (5) strengthening civil society and private sector participation in formulation, design, and implementation of development strategy, especially at local level; (6) Socio-Economic Emancipation and, (7) Mainstreaming gender and issues of disability into all government programmes at all levels.
- lxix. One of the key recommendations of CRM of 2007 was that the Government of South Africa should implement a “National School Nutrition Programme, including social mobilisation for food gardens”. The Government has acted on this and other relevant recommendations relating to socio-economic development to lay a sustainable foundation for its long-term social assistance programmes. It has increased school feeding schemes with the implementation of the National School Nutrition Programme, which now serves as the main source of nutritious meal for more than 9 million learners.
- lxx. Another key recommendation was that of the measurement of poverty. The gaps identified in the previous poverty measurement contained in the 2007 CRM have been corrected with the new multi-dimensional poverty measure that has assisted South Africa to measure poverty in a more comprehensive manner and not just in monetary terms. There has also been other notable advances in the delivery of certain social services such as potable water, sanitation, healthcare, especially HIV/AIDS diagnosis and ARV programmes, and a reduction in maternal and infant mortality.
- lxxi. However, and despite this show of commitment and determination to deal with the burden of socio-economic issues facing the country, it may take longer than expected for South Africa to achieve



a sustainable, and equitable social protection programme to deal with issues of land reform, poverty, inequality, unemployment, and gender-based violence in a way that would result in sustainable socio-economic development. Conditions similar to those in the period prior to the base country review still persist in South Africa's socio-economic reality today, while a few have regressed notably. For example, while the conditions of the pre-2007 period depicted high levels of poverty, inequality, and unemployment due to the legacy of apartheid, the current conditions of poverty, unemployment and inequality are premised on "poor governance, corruption, slow growth, and lack of requisite capacity, among other factors". The weak institutional capacity has thus hampered the drive to eradicate poverty, increase employment especially among young people, and reduce inequality; since South Africa remains one of the most unequal societies on earth.

- lxxii. Given the legacy of apartheid, land reform is a topical issue in South Africa. The land question is also related to the poverty of many black people in South Africa. This was noted by President Cyril Ramaphosa "By (previously) depriving our people of their right to own and work the land on which they depend for sustenance and livelihood, this great injustice effectively 'engineered the poverty of Black South Africans". According to the land audit report, 72% of land is owned by the minority white population, Coloured own 15%, Indians 5%, Africans 4%, other 3%, and co-owners 1%. The need for urgent, equitable and sustainable land reform in South Africa remains critical to realising the NDP and achieving other socio-economic development objectives.
- lxxiii. CSAR 2021 as well as CRM consultations suggest that the current capacity gaps are similar to those in the period prior to the base country review in 2007. For example, while the conditions of the latter period depicted poor and inadequate institutional and human technical capacities due to the history of apartheid and differential education systems for whites and blacks, the current conditions are premised on "a lack of ability to create and lead a capable state and to select and develop the right technical skills and capabilities to government functionaries due to cadre deployment policy and a leadership gap", both of these have similar effect on the delivery of sustainable socio-economic services to all South Africans, especially the vulnerable. The Minister of Public Service and Administration recently revealed that a significant number of senior managers in the public service are not qualified for the positions they hold. This has led to poor administration at various levels of government and the collapse of service delivery in certain municipalities. The resultant uprising has been unprecedented and concerning. There is a need for South Africa to develop and implement a multi-dimensional capacity framework to improve: institutional, human technical skills, as well as transformational and operational capacities across government.
- lxxiv. Social protection is aimed at protecting and preventing citizens from socio-economic risks and stress that has potential to catapult an individual or a family out of poverty trap. This system may also help to ameliorate and douse the prevalent generational poverty cycles by dealing with issues of poverty and inequality. However, the CRR 2007 (para. 747) noted that South African communities need to



- be empowered to avoid the risks of a social dependence syndrome. The second generation CSAR (2021) corroborates this finding by suggesting that social protection in SA is now unsustainable amid persistent inequalities and deepening poverty level. It is thus suggested that the South African Government review the current social protection model to gauge its efficacy in transformational empowerment and its ability to atone the risks of creating a dependency syndrome. The government should also develop a sustainable funding and resource mobilisation model for social protection programmes.
- Ixxv. Although, the Government has taken considerable steps to address the gaps in improving mechanisms to promote, extend and encourage stakeholder participation in socio-economic development. However, this initiatives have gained more traction and prominence at the national, rather than at the local authority levels where it is more desirable. The government is encouraged to urgently lead social cohesion/ contract discussions at provincial and local authority levels to enhance social compact with citizens. Mismatching budget allocations with planning causes failure to deliver requisite services. The government and provinces need to ensure proper budget allocation and accurate financial planning.
- Ixxvi. Inability of government to create sustainable employment opportunities remain a challenge for the country since the base countries review in 2006, according to the country review report (CRR, 2007:273). The country self-assessment report (2021, page 52) acknowledges that unemployment has been worsened by COVID-19 pandemic, although the rate of unemployment has persistently being concerning for decades. According to the report, unemployment has increased tremendously from 23.3 percent in 2009 to 34.6 percent in 2020. Although, the overall unemployment rate has been disturbing, the situation is particularly dire among Black African youth and women, especially those in the age bracket of 15 to 24 years – who accounted for 64.4 percent of total unemployed people.
- Ixxvii. The CRM noted that the creation of sustainable employment opportunity, especially for the youth and women, is a catalytic to eradicate poverty. The same sentiment was echoed in the first CRR (2007, page 241). The South African Government has developed various policies and interventions to deal with poverty and unemployment and these included policies such as the RDP, IRDP, GEAR and Asgi-SA among others, but the implementation of these policies has not yielded the anticipated results.
- Ixxviii. The country self-assessment report (2021) acknowledges various initiatives and policy interventions by the government to address inequality, which is aligned with the outcomes presented in the earlier reports. Of note is the fact that the report (page 42) indicates that: *“Despite, government effort to address poverty and economic despair, there is more that needs to be done to the inherited history of financial oppression and inequality...today, South Africa is the most unequal society in the world...”* The report further suggests that inequality remains one of the gruesome reminders of the apartheid regime, which must be tackled with consorted regulatory and legislative reforms. Although, the robustness of current policies and initiatives cannot be questioned, securing capable hands and diligence to implement the policies is more crucial and utterly urgent.
- Ixxix. The Panel recommends that the South African Government develop a home-grown barometer to measure inequality, by identifying sources of inequality in South Africa, their intensity and ultimately diagnose inequality through a modular approach. The Panel also recommends that the Government develop a quantitative tool to measure the efficiency of instruments of transformation, such as the BBBEE, Employment equity, CGS, IFSNP, land restitution etc. – *National planning commission, the presidency.*



6



STATE RESILIENCE



lxxx. South Africa has medium to high levels of disaster risk, of which natural hazards

(droughts, wildfires, storms, sinkholes, floods, and tropical cyclones) and biological hazards (disease outbreaks) are the most predominant. These hazards are expected to increase in frequency and intensity in the future as a result of climate change. The country's frequent and increasing levels of disaster risk due to its exposure to several hazards have caused significant social and economic losses, and it creates conditions for vulnerability of many communities, especially the poor settlements in urban and rural areas, with potential cross-boundary risks and humanitarian assistance obligations in times of emergency.

lxxxi. Nearly seventy per cent of South Africa's surface area is subject to a significant level of wildfire risk. Grassland and savanna areas, which cover almost 40% of the eastern half of the country, were at highest risk. High fuel loads, due to an increase in alien invasive species have exacerbated the intensity and heat of fires, making it more difficult to control. More than two million hectares of grazing land were burnt in fires across South Africa between 2020 and 2021. There is also an increasing risk of fires in informal settlements, which are expected to double in the next decade.

lxxxii. As stated in the CSAR, South Africa's Medium Term Strategic Framework (MTSF) 2019-2024 is an important guiding document whose implementation has to be expedited. The core priorities outlined in the Framework include: (i) a capable, ethical and developmental state; (ii) economic transformation and job creation;



(iii) education, skills and health; (iv) consolidating the social wage through reliable and quality basic services; (v) spatial integration, human settlements and local government; (vi) social cohesion and safe communities; and (vii) a better Africa and world. Achieving a capable state implies that South Africa must invest in resilience to growing risks that have potential to not only undermine achieving the attainment of a capable state but the viability and sustainability of the state itself. In a globalising world, building resilience within broader context of “better Africa and the world” is key to achieving capable state. Whereas its efforts to global and regional issues are commendable, the country still needs to strengthen its capabilities to the rising disaster risks.

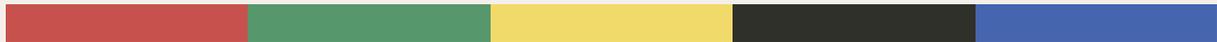
- lxxxiii. The CRM found that South Africa boasts several institutions such as the South African Weather Service (SAWS), the Council for Scientific and Industrial Research (CSIR), the South African National Space Agency (SANSA), the South African Environmental Observation Network (SAEON), the South African Risk and Vulnerability Atlas (SARVA), the Applied Centre for Climate and Earth Systems Science (ACCESS), the South African Spatial Data Infrastructure (SASDI), the South African Earth Observation System of Systems (SAEOSS) – all of which contribute to in-depth understanding of hazard, vulnerability, and exposure in the country, as well as early warnings.
- lxxxiv. Linked to these are the academic institutions that contribute to bridging the gap within and between the community of practice in disaster management. However, despite the country’s strong research capacity that generates technical and scientific data on the most recurrent hazards, the CRM found that the information is fragmented, with most of them not up to date. Many existing National Disaster Management Centre risk information management platforms are not operational. Remarkably, there is no central repository to store information on hazard events and risks.
- lxxxv. In terms of disaster governance, over the years, South Africa has shown a strong and unprecedented commitment to address issues pertaining to disaster management at global, continental, and regional levels. The adoption of the Kyoto Protocol (1997) in 2002, the Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September (1987) in September 1997, the Hyogo Framework for Action: Building Resilience of Nations and Communities 2005-2015, the Sendai Framework for Disaster Risk Reduction (SFDRR) 2015-2030, the United Nations’ Framework Convention on Climate Change and recently, the Paris Agreement (2015), Sustainable Development Goals and Agenda 2063: The Africa We Want, are some of the country’s demonstration of commitment to addressing challenges facing Africa and the world.
- lxxxvi. Such commitment translated into the adoption of both the Disaster Management Act No. 57 of 2002 (DMA) on 30 December 2002 and the National Disaster Management Policy Framework (NDMF), 2005, as the main policy frameworks for disaster management in South Africa. They have been instrumental in the South African government’s decision to overhaul its approach to disaster management over the past 20 years. However, although these institutional arrangements present a solid foundation for the implementation and integration of Disaster Management at all levels of government, the CRM noted that the efficacy of these structures is currently severely hampered by lack of financial and human resources, especially at sub-national levels. The CRM noted many instances where there was lack of participation of public officials and political decision makers in Disaster Risk Reduction (DRR) governance structures. Currently, one of the main challenges is the political turnover in leadership at the provincial and municipality levels, which has an important implication on disaster management policy implementation. The tendency by some leaders to accord less priority to disaster management results in deficiencies in integrated DRR planning in some provinces and municipalities.
- lxxxvii. In addition, the CRM further noted with dissatisfaction that the focus of the DMA rests mostly on natural disasters with little regard on other disasters, such as pandemics and those happening most frequently



in the mining sector. Such narrow scope of understanding, preparedness and diagnostics constitute major weaknesses that deserve broadening the scope of the current Disaster Management Act.

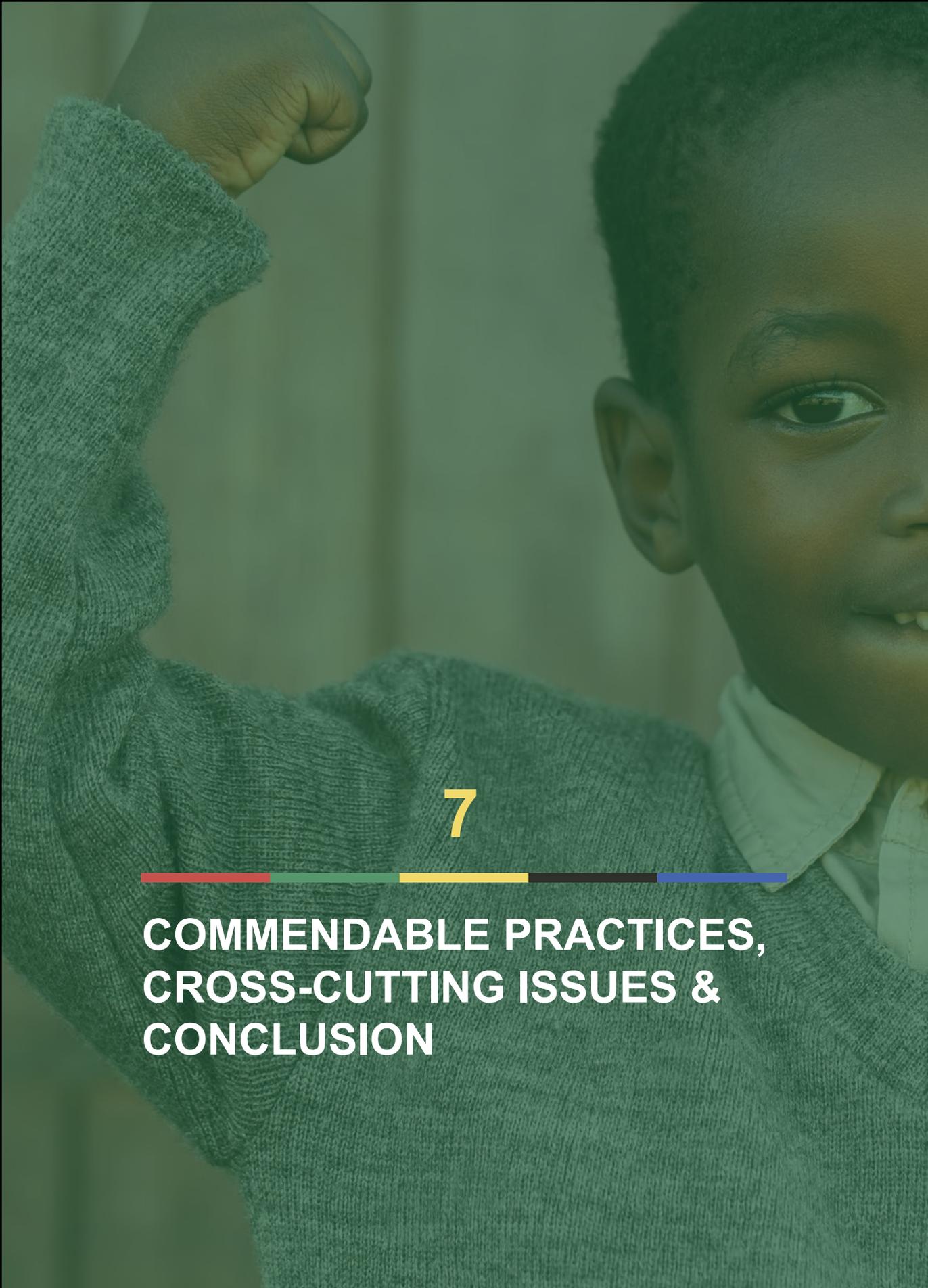
- lxxxviii. The CRM found that the administrative location of the NDMC within the Department of Cooperative Governance and Traditional Affairs limits its potential for action, owing to lack of effective oversight. The CRM strongly encourages the Government of South Africa to appropriately place the NDMC within the administrative structure of Government with account to the highest political office being the Office of the President or Deputy President as is the case in other countries on the continent.
- lxxxix. Water scarcity is a major challenge in South Africa, which is mainly due to the country's low average annual precipitation, and the unevenness of surface and groundwater distribution. These ingherent natural phenomenon precipitates unequal access to and control over water, with poor people typically being deprived of access to potable water. Many rural and suburban South Africans still do not have access to running water in their homes, especially during periods of drought.
- xc. The CRM further found dismal performance and compliance of some provinces and municipalities with the DMA by not ensuring that contingency plans are in place and fully implemented. Specifically, annual risk assessments are not always submitted as prescribed by the DMA, which makes provision for these types of assessments and requires that local and provincial governments give feedback annually on a variety of issues relating to vulnerability assessment. In the same vein, there is little compliance with the National Disaster Management Framework, which requires post-event reviews following disasters and significant events. What is certainly required is the stringent enforcement of the legislation.
- xc. South Africa is party to global and continental disaster risk reduction frameworks that call for significant investment in financial, infrastructural, and capacity development in order to achieve progress in disaster management. While the Hyogo Framework for Action (2005-2015) focuses on "Building the Resilience of Communities and Nations to Disasters", its successor, the Sendai Framework for Disaster Risk Reduction, 2015-2030 (SFDRR) advocates for "Investing in Disaster Risk Reduction for Resilience". More recently, the Paris agreement called for substantial reduction of greenhouse gas emissions to achieve a climate neutral world by mid-century.
- xcii. The CRM 2007 CRR provides an overview of the socioeconomic vulnerability of the population a more than a decade after the country's political emancipation into democratic rule. The report underscores a number of cross-cutting issues worth discussing in the context of State resilience to shocks and disasters, including extreme capacity constraints and poor service delivery as well as poverty and inequality. The dimensions and extent of disaster vulnerability, the adequacy of policy interventions and the contribution of human action to





disasters imply huge investments in order to reduce the vulnerability of the country, communities, and citizens.

- xciii. Through the analysis of the annual reports of the National Disaster Management Centre (NDMC), the CRM noted the predominance of the traditional models. South Africa remains more focused on the traditional approach (reactive) to disaster funding mostly targeting emergency to addressing disaster-related issues. A paradigm shift from reactive to the proactive investment approach to financing and resilience.
- xciv. As Africa's most industrialised nation, South Africa is the world's 8th-largest emitter of greenhouse gases mainly due its State-owned utility Eskom Holding, which relies on coal for 80% of its power output. The South African government acknowledged the need for transition from burning coal to generate the bulk of its electricity to using clean energy technologies. Despite the commitment to the global climate agenda, more concerted efforts are still expected to expedite the transition from coal to clean energy.
- xcv. The CRM found that the current disaster management funding structure highlights the lack of funding for disaster risk reduction, coupled with the late, untimely, and sometimes unavailability of government support is a major constraint. In addition, the country's overall funding approach has been more reactive than proactive. In addition, despite their availability, South Africa has not been able to integrate the available innovative and sustainable disaster risk financing mechanisms such as the Forecast-based Financing (FbF) and the African Risk Capacity in its disaster management.
- xcvi. Although the South African Government provided the most effective support to organisations, including tax relief, the release of disaster relief funds, emergency procurement, wage support and funding to small businesses, these efforts are faced with allegations of widespread corruption and mismanagement, especially in the procurement and supply of Personal Protective Equipment (PPE). Allegations of lack of accountability, misappropriation of financial resources allocated to management of Covid-19 and, other disasters are currently under investigation by the National Treasury.
- xcvii. The CRM found that South Africa's early warning system is mainly managed at functional entities and characterised by the lack of interoperable situation rooms between national, provincial, and municipal levels. This often hampers speedy early actions and preparedness. Even where warning is timely issued, there are still barriers that affect utilisation of the warning by communities for effective response. While disaster response policies in South Africa are well articulated, the response to disasters is mainly characterised by start-stop-start-stop practices.
- xcviii. The African Peer Review Panel recommends the review of the National Disaster Management Act, 2002 in light of lessons learnt from Covid-19, with stronger powers to the NDMC and a location at the centre of Government such as in the Presidency in order to address the operational and functional challenges in the implementation of the Act. South Africa will require significant investment to expedite the country's transition from coal to clean energy and limit its Greenhouse Gas Emission in line with the Paris Agreement (2015) while implementing innovative, sustainable and efficient disaster funding mechanisms such as Forecast-based Financing (FbF), with investments focused more on preparedness than disaster response. The Panel urges the Government to establish a disaster recovery facility in order to rebuild resilience of affected communities by disasters, including their capacities to withstand future shocks and disasters, and establish a Multi-Hazard Early Warning System Programme with interconnected situation rooms across provinces, the SADC Humanitarian and Emergency Operation Centre as well as the AU continental Multi-Hazard Early Warning Situation Room. Finally, in light of the nationwide consultations, the Panel urges the South African Government to improve dialogue and cooperation among scientific and technological communities and policymakers, and to enforce compliance of provincial and municipal governments to risk assessment processes in a diagnostic manner.



7

**COMMENDABLE PRACTICES,
CROSS-CUTTING ISSUES &
CONCLUSION**

Commendable Practices

xcix. South Africa is blessed with many commendable governance and socio-economic development policies and practices. The following 15 Commendable Practices have been selected in the five thematic areas of the report. These are:

- ***Legal and Policy Framework for the Prevention of Racism and Xenophobia:*** In March 2019, the South African government adopted the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. This was an important step in the fight against racist and xenophobic violence in the country. The adoption of a full plan demonstrates, first, that the government has recognised that racism and xenophobia are serious threats to internal peace; and second, that there was a need for a more systematic and sustained effort to combat racism and xenophobia and the violence and human rights abuses associated with them. The government intends to implement this plan for five years (2019 to 2024) with the aim of raising public awareness about anti-racism and social cohesion, and increase anti-discrimination efforts towards greater equality. The NAP requires a whole-of-government approach to achieve its goal of ending xenophobia and achieving greater equality and justice.
- ***South Africa's Chapter 9 Institutions:*** Chapter 9 of the Constitution of South Africa creates six institutions (a) 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 Equity; (e) The Auditor-General; and (f) The Electoral Commission, which it stipulates are independent. 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. The institutions have so far justified the confidence of the framers of the constitution that they would stand as bulwarks against the erosion of democratic rights and values in South Africa.
- ***Policies and Measures to Curb Sexual Violence:*** The Government of South Africa has put in place extensive policies and measures to both curb and eliminate sexual offences against women, children and persons living with disabilities in compliance with international laws and efforts. Investments have also been made to bring these initiatives from policy to action. For instance, the 16 Days of Activism for No Violence Against Women and Children Campaign, the 365 Days National Action Plan to eradicate violence and the popularisation of 'Project Ndabezitha' against domestic violence cases are all part of direct efforts and drive by Government to effectively implement the Domestic Violence Act of 2007 and Children's Act of 1993. The campaigns not only serve to heighten awareness but empower communities with knowledge to act to prevent abuse.
- ***The Open Budget Process:*** The Open Budget Process provides government officials, legislators, development practitioners, civil society organisations, journalists, and researchers with an independent, comparative measure of government budget transparency in countries around the world. The International Budget Partnership (IBP) undertook this initiative because



of the far-reaching implications of improving budget transparency. The Survey report suggests reforms that countries might adopt to improve budget transparency, increase public participation, and strengthen institutions of accountability. The South African budget reform programme that was started in the early 1990s continues to lead in the world with respect to budget openness and transparency. In 2008, South Africa was ranked second in the world, after the United Kingdom. Amongst the set of top performing countries, only South Africa and New Zealand were once again part of the top performers in 2017 and the two countries ranked in joint-first place during the 2020 survey.

- **Consideration of the Impact of FDI Policy on National Development:** The South African Government considers Foreign Direct Investment (FDI) as most useful when it achieves specific national policy aims, which according to the National Development Plan, includes fighting rampant unemployment, creating inclusive growth, and accelerating progress. A key element in the Competition Amendment Act is the provision for the President to determine what constitutes national security interests that a foreign investment could potentially threaten. Public interest considerations such as the need to protect jobs, promote localisation, amongst other considerations, are increasingly serving as the basis for the approval or rejection of foreign investment in the country.
- **Promoting an Enabling Environment and Effective Regulatory Framework for Business:** The Strategic Plan of the Department of Small Business Development 2020-2025 (DSBD), amongst others, specifically provide for a township and rural entrepreneurship programme to formalise the informal businesses of micro enterprises into more productive ventures. The Plan also provides for the facilitation of the banking of unbanked spazas and builds a database for future government planning and support. Cabinet adopted the National Informal Business Upliftment Strategy (NIBUS) and Implementation Framework (2014/2015) in 2014, which forms one of the policy and strategic focuses of the DSBD. The Department reported in 2018/19 that 430 informal businesses were supported during the year by its Enterprise Development Division (now Department of Small Business Development) through the Black Business Supplier Development Programme.
- **Alignment of Corporate Social Responsibility Initiatives:** The Department of Trade and Industry (DTI) 's Enterprise Investment Programme (EIP), launched in 2008, is an incentive grant which encompasses the Manufacturing Investment Programme and Tourism Support Programme and is accessible to both local and foreign owned entities intending to implement Corporate Social Responsibility (CSR) initiatives. In the period between 2008 and 2021, reports from the Annual Small Business Summit notes a significant increase of CSR programmes that include local communities and integration of SMEs in economic and technological corporate activities.
- **The National Development Plan and PPP Arrangements:** South Africa's National Development Plan 2030 provides a unified vision of South Africa's national development goals and prioritised areas of action. In many sectors such as education, this vision is premised on strong private-public partnerships, and the NDP calls for 'partnerships across society working together towards a common purpose' and 'a virtuous cycle of building trust and engaging in discussion to confront the most pressing challenges – one that takes a long-term view'. A number of tax incentives encourage businesses to invest and expand production, improve the country's competitiveness as an investment destination, and reduce the appeal of base erosion and profit shifting. There are also allowances to increase investment in development of new business, for R&D in new technologies and to increase investment in critical areas.

- **South Africa's Expanded Social Assistance Benefits:** South Africa has adopted a number of policies and strategies to enhance the lives of its people with, in particular, the social assistance programme and its benefits in the form of grants. These include the Old Age Pension; the Child Support Grant; the Social Relief of Distress; the Care Dependency Grant; the Grant In Aid; the War Veteran's Grant; the Foster Child Grant; and the Disability Grant. A report produced by the World Bank in 2021 highlights that: "the grant system has established effective delivery systems that identify beneficiaries and include registration, payment, and grievance redressal processes which can be scaled up rapidly during crises such as the COVID pandemic," while noting that social assistance programme account for 3.3% of GDP and 15.4% of total government spending, which is relatively higher than the average of other middle income countries, and that "South Africa spends five times more than its peers on social pensions."
- **Broad-based participation mechanisms and dialogues:** South Africa has some notable broad-based participation mechanisms, among which are the Imbizo, which was highlighted as a best practice in the 2007 APRM Country review report, as well as the National Coordinating Mechanism (NCM) and the SDGs Tracker e-Platform. The Imbizo is a public participation government initiative, which consists of face- to-face interaction and engagement between senior government officials from all spheres of government and the public. The National Coordinating Mechanism (NCM) is led by National Planning Commission at the Presidency, and it is dedicated to encouraging consultations with different national and international stakeholders to ensure proper implementation of South Africa's NDP. The SDGs tracker e-Platform was initiated by Statistics SA in December 2019 to track performance and raise awareness among citizens and policymakers on the sustainable development goals (SDGs).
- **Private Sector alignment with Community Initiatives:** Leading private sector companies in South Africa including Anglo-American, Sishen and Investec align their corporate social programmes with the National Development plan and dedicate funds for community-based initiatives, with a special focus on education, youth employment, climate change and gender empowerment issues. An example is where businesses work with NEDLAC in KwaZulu-Natal to support community efforts to address challenges of skills gap. In Durban, the city is developing training programs in three districts, which focuses on the ability to foster skills necessary to drive the 4th industrial revolution and the blue and green economies. The programmes respond to the comparative advantages present in each district and focus on building entrepreneurship, with plans to have a community college in each district.
- **Practice in using risk knowledge to improve resilience of Municipalities:** South Africa's Green Book is an online planning tool that provides quantitative scientific evidence on the likely impacts that climate change and urbanisation will have on South Africa's cities and towns, and presents various adaptation actions that can be implemented by local governments to support climate resilience development. The tool provides a composite risk profile for each municipality and its settlements in South Africa, detailing vulnerability profiling, population projections, exposure to climate hazards, and the impacts of climatic changes on key resources.
- **The conduct of post-disaster needs assessments in the Western Cape Province:** The value of post-disaster reviews is underlined by the Western Cape's Disaster Management Framework whose aim is to maximise the benefits of lessons learned through routine comprehensive reviews after all significant events classified as disasters, with the findings used to update Disaster Risk Management plans in the Province. The Province has made it mandatory to undertake a conduct of post-disaster needs assessment for every disaster.



- **South Africa brings relief to Cyclone Idai victims:** South Africa' participated in efforts to find and rescue the missing and bring aid to those in need in Mozambique and Zimbabwe during Cyclones Idai and Kenneth. The country mobilised financial and other aid and provided technical support through the South African National Defence Force (SANDF) and South African NGOs such as Rescue South Africa that operated jointly with the United Nations Agencies and volunteers.
- **The Government's Response to COVID-19:** Shortly after the onset of the COVID-19 pandemic, the South African Government made provisions for tax relief, the release of disaster relief funds, emergency procurement, wage support through the Unemployment Insurance Fund (UIF), and funding to small businesses, especially those in the tourism sector. As noted by the Lead Panel Member for South Africa during the Country Review Mission in December 2021, South Africa has also demonstrated resilience and global leadership during the ongoing pandemic through its National Command Council decisions as well as its world-renowned medical and scientific capabilities, including detection of the beta and omicron COVID-19 variants. The swift decision to publicise the findings on the variants to the global community despite the risks to the South African economy, including its tourism sector, is commendable.

Cross-cutting Issues

- a. Since the start of the democratic era in 1994, South Africa has made progress in socio-economic development, addressed challenges in each of the five thematic areas as well as challenges that impact negatively on more than one thematic area. These challenges are of a cross-cutting nature, and are of a persistent and recurring nature. These are discussed in chapter seven of the report and include (i) Gender-Based Violence; Corruption; and Implementation of Policies.
- ci. **Gender-Based Violence:** Gender based violence presents immense multi-dimensional challenges from socio-cultural, legal, security, economic and public health aspects. Persistent and pervasive norms that encourage violence against women and girls continue largely unchecked. 51% of women in SA say they've experienced GBV, with 76% of men saying they've perpetrated GBV at one stage in their lives (2010 Gauteng sample). A similar study revealed that one in five women report that they have experienced violence at the hands of a partner. In 2019/20, 53 293 sexual offences were reported, an average of 146 per day, up from 52 420 in 2018/19. Most of these were cases of rape. Of this, the police recorded 42 289 rapes in 2019/20, up from 41 583 in 2018/19, an average of 116 rapes each day (SAPS Crime Stats). In 2019/20, a total of 2 695 women were murdered in South Africa. This means a woman is murdered every three hours.
- cii. Femicide is five times higher in South Africa than the global average, with South Africa having the fourth-highest female interpersonal violence death rate out of the 183 countries listed by the WHO in 2016. The CRM identified deeply rooted cultural discrimination against women as one of the major cause of continuous gender inequality in South Africa. The CRM further identified the persistent violence against women to be deeply rooted in broken social structures.
- ciii. The South African government has made progress in establishing numerous laws and mechanisms directed at addressing violence against women. In 2009 the Government established specialised courts dedicated to sexual offences. These courts were intended to prevent secondary trauma for victims of sexual offences and to improve conviction rates and a speedy delivery of justice. The mandate of the Domestic

- Violence Court was also expanded to cover matters of individuals in a full range of partnerships including co-habiting regardless of the duration along with marriages. This was done to ensure more inclusiveness and allow people who experience abuse from partners to easily have access to legal recourse.
- civ. The limited socio-economic opportunities available to women also has a significant effect on their susceptibility to Gender-Based Violence. A study by the University of Stellenbosch (2020) estimates that around 38% of households are headed by women and these households are approximately 40% poorer than those headed by men. An “Analysis of The Phenomenon of GBV and Femicide 2020” revealed that the prevalence of physical and sexual violence in the country decreased with the higher wealth quintiles. Black women are therefore disproportionately more likely to experience gender-based violence because of limited economic opportunities that limits their access to other basic human rights.
 - cv. The APR Panel recommends that the Government of South Africa (i) implement its own policies on gender mainstreaming including gender budgeting at all levels to ensure sufficient resources to deal with GBV, and (ii) improve Capacity of law enforcement officers and other stakeholders to deal with GBV.
 - cvi. Corruption: A study by Corruption Watch in 2020 confirmed that almost 33, 000 whistle-blower reports of graft-related complaints were received between 2012 and 2020, of which 16% (857) contained allegations of corruption within the local government administrative arm of government.
 - cvii. The aggregated data suggests that 28% of the reported cases related to bribery, while procurement irregularities was the second highest case (24%). Employment irregularities, abuse of power and embezzlement accounted for 11%, 9%, and 8% respectively.
 - cviii. The APR Panel therefore recommends that the state should improve its institutional capability and competence, through reformation of the State Investigation Unit (SIU), which is the main organ charged with the responsibility of collecting hard evidence needed for prosecution. In addition, the Panel recommends that the notable vacancies at the National Prosecution Authority (NPA) should be addressed in order to strengthen the institution with competent and desirous members to effectively prosecute suspects without delay. Although, the country is deemed appropriately positioned to protect whistle-blowers, recent attacks and assassination of whistle-blowers is an ugly reality that a lot more needs to be done to ensure that state witnesses are well-protected. More importantly, the Panel recommends that the report of the Zondo commission of enquiry should be implemented with utmost urgency; and with all the seriousness that anti-graft interventions require.
 - cix. Implementation of Policies: South Africa’s long-term development goals are articulated in the National Development Plan (NDP) 2030, which presents the overarching vision of the country to achieve sustainable political, social and economic development. The NDP 2030 is implemented through the Medium-Term Strategic Frameworks (MTSF), the current period being 2019-2024, has clearly defined implementation plans for each of the seven priority areas to address the triple challenges of poverty, inequality and unemployment. In addition to the NDP and MTSF, each department has an array of legislation, strategies and policy frameworks that govern and regulate their respective sectors. In spite of comprehensive legislation, strong institutional frameworks and well-defined strategies, the CRM observed that there are serious challenges and obstacles to effective policy implementation in all sectors.
 - cx. This manifests in a myriad of ways such as poor performance by SoE’s, poor service delivery at municipal levels, weak administration, financial mismanagement and corruption, all of which have led to unrealised development outcomes and eroded public trust and confidence. The CRM identified three main contributing factors of weak implementation to be (1) Weak capacity to implement policy; (2) Noncompliance with legislation and regulations; and (3) Non-enforcement of recommendations by oversight and supervisory bodies.
 - cxii. The APR Panel recommends that the Department of Planning, Monitoring and Evaluation (DPME) (i) con-



duct a Staff Capacity Audit for middle to senior Management Level staff, up to Director level, in all Government Departments at the National, Provincial and Municipality levels to determine baseline skills in collaboration with the National School of Government (NSG), the Public Service Sector Education and Training Authority (PSETA), and The Local Government Sector Education and Training Authority (LGSETA); (ii) address the Skill gaps using multiple approaches including short exchange programs, structured coaching, training and re-assignments with support of applicable professional services firms and associations in Audit, Finance, Performance Management, Project Management, Change Communication, Change Management, Coaching etc while implementing change management strategies for priority sectors; and (iii) build a database of required competencies at key levels within the public service, to serve as a benchmark for hiring across the public service including national, provincial and municipal levels with standardised processes for recruitment and promotions.

Conclusion

- cxii. The APR Panel is confident that South Africa has all the policies, tools, capacities and political support necessary to improving governance and contributing to the attainment of the National Development Plan as well as the AU Agenda 2063, Africa's long term plan for socio-economic development.
- cxiii. The APR Panel commends South Africa for its leading role as one of the founding nations of the NEPAD vision that led to the establishment of the APRM programme on good governance in March 2003. It is also grateful to the Government and People of South Africa for their warm welcome and hospitality, and for the facilities and resources put at the disposal of the review mission and for South Africa continuing its leadership position, as only the fifth AU Member State to complete two APRM governance reviews.





African
Union



African Peer Review Mechanism (APRM)
230 15th Road, Randjespark
Midrand, South Africa
Tel: +27 (0) 11 256 3401



www.aprm-au.org