



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the second periodic report of South Africa*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which the human rights enshrined in the Covenant are promoted and protected that have taken place since the adoption of the Committee's concluding observations on the initial report of the State party,¹ including examples of cases in which the provisions of the Covenant have been referred to by national courts. Please report on any other measures taken to implement the recommendations contained in the Committee's concluding observations and provide information on the mechanisms in place to review the process of implementation of recommendations emanating from human rights treaty monitoring bodies.

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party. With reference to the Committee's previous concluding observations (para. 7), please provide information about measures taken to give full effect to the Covenant under domestic law and to raise awareness about the Optional Protocol among judges, lawyers, prosecutors and the public at large.

National human rights institution (art. 2)

3. Please provide information about steps taken to: (a) provide the South African Human Rights Commission with an explicit mandate to conduct announced visits to places of deprivation of liberty; (b) formalize a broad and transparent selection and appointment process for the Commission that includes the requirement to publicize vacancies broadly and to promote broad consultation and participation in the process; and (c) allocate sufficient budgetary resources to the Commission and expand its presence across the country.

* Adopted by the Committee at its 142nd session (14 October–7 November 2024).

¹ [CCPR/C/ZAF/CO/1](#).

Non-compliance with domestic court decisions (art. 2 and 14)

4. With reference to the Committee's previous recommendations (para. 9), please indicate measures taken to ensure compliance with rulings of domestic courts, in particular in cases relating to the State party's international human rights treaty obligations, such as *Minister of Home Affairs and others v. DGLR*,² concerning stateless children born in South Africa, and *Speaker of the National Assembly and another v. Land Access Movement of South Africa and others*,³ in which the Constitutional Court ordered judicial supervision by the Land Claims Court.

Oversight and monitoring mechanisms (arts. 2, 6 and 7)

5. With reference to the Committee's previous recommendations (para. 11), please report on the steps taken to ensure that all oversight bodies, including the Independent Police Investigative Directorate and the Judicial Inspectorate for Correctional Services, are institutionally independent, adequately funded and equipped with the powers and functions necessary to deal with complaints and investigations promptly and effectively, hold authorities accountable and facilitate access by victims of human rights violations to an effective remedy. Please provide information about progress in the establishment of the national preventive mechanism to monitor places of detention in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Please provide information about measures taken to establish a confidential mechanism for receiving and processing complaints lodged by persons deprived of their liberty.

Truth and Reconciliation Commission (arts. 2, 6 and 7)

6. With reference to the Committee's previous recommendations (para. 13), please provide information about measures to implement the recommendations of the Truth and Reconciliation Commission, to investigate cases of serious human rights violations documented by the Commission, including those involving enforced disappearance, to prosecute and punish perpetrators and to provide adequate reparation to all victims. Please provide information about steps taken to ensure that the victims' reparations fund fulfils its mandate, including by engaging with victims and civil society organizations representing victims of apartheid.

Anti-corruption measures (arts. 2 and 25)

7. Please indicate measures taken to investigate and prosecute alleged cases of corruption of State officials, including in public procurement, and provide information about the number of investigations, prosecutions and convictions and the punishment of perpetrators. In addition, please specify steps taken to address corruption in the context of procedures for asylum-seekers and immigration detention centres. Please describe the progress made in implementing the recommendations of the Commission of Inquiry into State Capture chaired by Chief Justice Zondo.

Mining industry and protection of the environment (arts. 2, 6, 17 and 27)

8. Please report on measures taken to ensure accountability for violations of environmental legislation and the protection of environmental human rights defenders. In addition, please indicate measures taken to: (a) address pervasive air, water and chemical pollution and its disproportionate impacts on marginalized and poor communities; (b) regulate and oversee the mining industry to prevent exploitation and ill-treatment; and (c) ensure effective implementation of the social and labour plans and their monitoring by the Department of Mineral and Petroleum Resources.

² Supreme Court of Appeal of South Africa, *Minister of Home Affairs and others v. DGLR*, Case No. 1051/2015 SCA, Order, 6 September 2016.

³ Constitutional Court of South Africa, *Speaker of the National Assembly and another v. Land Access Movement of South Africa and others*, Case No. CCT/40/15, Order, 19 March 2019.

Racism and xenophobia (arts. 2, 6, 7, 9, 17, 20 and 26)

9. With reference to the Committee's previous recommendations (para. 15), please provide information about efforts taken to prevent and eradicate all manifestations of racism and xenophobia, protect all communities in South Africa against racist and xenophobic attacks and improve policing responses to violence against non-nationals. Please provide detailed information about effective investigations into alleged racist and xenophobic attacks and other hate crimes, including statistics on cases investigated, penalties for perpetrators and remedies for victims. Indicate progress in implementing the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. Indicate measures taken to monitor and address hate speech in the media, on the Internet and in social media. Please provide information on the proclamation and implementation of the Prevention and Combating of Hate Crimes and Hate Speech Act, including comprehensive training of law enforcement personnel, and explain the alignment of the hate speech provisions with freedom of expression.

Persons living with HIV/AIDS (arts. 2, 6 and 26)

10. With reference to the Committee's previous recommendations (para. 17), please report on efforts to raise awareness of HIV/AIDS with a view to combating prejudices, negative stereotypes and discrimination against people living with HIV/AIDS, and to ensure that all persons at risk of or living with HIV/AIDS have equal access to medical care and treatment, in particular persons with intersecting inequalities, such as sex workers, drug users and homeless persons. Please provide information about measures taken to prevent forced sterilization of HIV-positive women and to provide victims of forced sterilization with an effective remedy.

Harmful traditional practices (arts. 2, 3, 6, 7, 17, 24 and 26)

11. With reference to the Committee's previous recommendations (para. 19), please report on steps taken to amend the Children's Act with the aim of prohibiting virginity tests for children, irrespective of their age. Please provide information about measures, including education campaigns, taken to combat harmful traditional, customary or religious practices, including the practice of *ukuthwala* and female genital mutilation. Indicate measures taken to reduce the incidence of polygamy, with a view to bringing about its abolition. Provide information about measures taken to regulate and monitor initiation schools throughout the territory.

Violence based on sex, gender, sexual orientation and gender identity (arts. 2, 3, 6 and 26)

12. With reference to the Committee's previous recommendations (para. 21), please provide information about efforts to prevent and combat sexual, gender-based and domestic violence and to eradicate discrimination and violence against persons based on their real or perceived sexual or gender orientation, gender identity or bodily diversity. Please clarify the definition of rape in the legislation. Please provide information about progress in the implementation of the National Strategic Plan on Gender-Based Violence and Femicide, including steps taken to establish the National Council on Gender-Based Violence and Femicide and provide it with adequate financial resources. Please provide data on investigation of sexual and gender-based crimes, including the number of prosecutions and convictions and reparations for victims, such as protection measures and access to shelters. Please provide information about measures taken to train law enforcement and health service personnel regarding domestic and gender-based violence, and violence based on sexual orientation and gender identity. Please provide information about measures taken to prevent and address discrimination and violence against lesbian, gay, bisexual, transgender, intersex and queer persons, including conversion practices. Please provide information about plans to develop or amend existing laws to protect queer children and learners from "queerphobia" in school settings.

Civil remedies for victims of torture (arts. 2 and 7)

13. With reference to the Committee's previous recommendations (para. 23), please provide information about steps taken to amend the Prevention and Combating of Torture of Persons Act with a view to including specific provisions relating to the right of civil redress and remedy for victims of torture.

Corporal punishment and violence against children (arts. 7 and 24)

14. With reference to the Committee's previous recommendations (para. 25), please report on measures taken, including legislative measures, to put an end to corporal punishment in all settings. Please provide information about the measures taken to address all forms of violence against children in the family, schools and the community.

Excessive and disproportionate use of force (arts. 6, 7 and 21)

15. With reference to the Committee's previous recommendations (para. 27), please provide information about the progress in implementing the recommendations of the Marikana Commission of Inquiry. Please provide information about measures taken to respond to the recommendations in the report of the South African Human Rights Commission on the July 2021 civil unrest in the provinces of Gauteng and KwaZulu-Natal. Provide information about steps taken to revise laws and policies regarding public order policing and the use of force, including lethal force by law enforcement. Please provide information about measures taken, particularly in terms of training and equipment, to prevent law enforcement and security forces from using excessive force or using lethal weapons in situations that do not warrant recourse to such force. Please provide data about investigations into incidents involving the use of firearms and allegations of excessive use of force by law enforcement officers. Please provide information about measures taken to ensure the compliance of companies with their responsibilities under all relevant legal standards for operations in the mining sector.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, treatment of persons deprived of their liberty and deaths in custody (arts. 2, 6, 7 and 10)

16. With reference to the Committee's previous recommendations (para. 29), please provide information about measures taken to eliminate deaths and violence in detention and State or contract-managed prisons and ensure investigation of such incidents by an independent mechanism. Please provide information about steps taken to revise the Prevention and Combating of Torture of Persons Act to criminalize cruel, inhuman or degrading treatment or punishment and provide for investigation of allegations of torture and redress for victims. Provide data about the investigation of allegations of torture and ill-treatment, prosecutions and convictions of perpetrators, and remedies provided to victims.

Treatment of persons deprived of their liberty and prison conditions (art. 10)

17. With reference to the Committee's previous recommendations (para. 31), please provide information about measures taken to reduce overcrowding, particularly by promoting alternatives to detention, loosening bail requirements, revising arrest quotas as indicators of police performance and ensuring that bail determinations are made promptly and that persons on remand are not kept in custody for an unreasonable period. Please provide information about steps taken to guarantee the right of detainees to be treated with humanity and dignity and ensure that the conditions of detention in all of the country's prisons, including those operated by private contractors, are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Please provide information about measures taken to ensure that de facto solitary confinement, including segregation, is used only in the most exceptional circumstances and for strictly limited, short periods of time.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

18. With reference to the Committee's previous recommendations (para. 33), please provide information about measures taken to prevent and eradicate trafficking in persons and

to outlaw and hold responsible labour brokers involved in the exploitation of workers in violation of articles 7 and 8 of the Covenant. Please provide information about steps taken to identify and protect persons who may be vulnerable to trafficking in persons and establish a nationwide identification and referral system for victims of trafficking. Please provide data about the investigation of cases of human trafficking, prosecutions and convictions of perpetrators, and remedies provided to victims.

Treatment of aliens, including migrants, refugees and asylum-seekers (arts. 7, 9, 12, 13 and 24)

19. With reference to the Committee's previous recommendations (para. 35), please provide information about access to documentation and fair procedures for asylum-seekers, including translation services and access to legal representation. Please clarify the impact of the 2020 amendments to the Refugees Act on access to asylum. Please provide information about measures taken to ensure that asylum applications are processed expeditiously and that the principle of non-refoulement is respected under all circumstances. Please provide information about the 2024 draft policy paper on immigration, citizenship and refugee protection in South Africa. Please provide information about measures taken to prevent and respond to reported violence and discrimination against migrants and asylum-seekers. Please provide information about consideration of accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and measures taken to ensure the birth registration of every child.

Immigration detention (arts. 6, 9, 10 and 23)

20. With reference to the Committee's previous recommendations (para. 37), please provide information about steps taken to ensure that detention pending deportation is applied as a last resort only, with special regard being given to the needs of particularly vulnerable persons, and that individuals detained for immigration-related reasons are held in facilities specifically designed for that purpose. Please provide information about efforts to ensure adequate living conditions in all immigration centres, including the Lindela facility, by reducing overcrowding, providing adequate healthcare services and ensuring proper sanitary conditions.

Juvenile justice (arts. 9, 10, 14 and 24)

21. With reference to the Committee's previous recommendations (para. 39), please provide information about measures to allocate adequate funding to community-based diversion programmes for children and to reduce the number of children held in child and youth care centres. Please provide information about measures taken to ensure that children in conflict with the law are separated from children in need of care and that children are not placed with adults in detention facilities.

Protection of human rights defenders (arts. 2, 6, 9, 19, 21 and 22)

22. With reference to the Committee's previous recommendations (para. 41), please provide information about measures taken to protect the rights of human rights defenders to freedom of expression, association and peaceful assembly. Please provide information about steps taken to ensure that police officials receive adequate training regarding the protection of human rights defenders. Please provide data about investigations of attacks on the life, physical integrity and dignity of human rights defenders, prosecutions and sentences for perpetrators and the provision of victims with appropriate remedies. Please provide information about the status of the legislation to protect whistle-blowers and human rights defenders.

Right to privacy and interception of private communications (arts. 17 and 21)

23. With reference to the Committee's previous recommendations (para. 43), please provide information about measures taken to ensure that surveillance activities conform to the obligations under the Covenant and that any interference with the right to privacy complies with the principles of legality, necessity and proportionality. Please provide information about steps taken to ensure that mass surveillance of private communications is

not engaged in without prior judicial authorization and to revoke or limit the requirement for mandatory retention of data by third parties. Please provide detailed information about the General Intelligence Laws Amendment Bill (2023) and the Regulation of Interception of Communications and Provision of Communication-related Information Amendment Bill (2023). Please provide information about measures taken to ensure that interception of communications by law enforcement and security services is carried out only according to the law and under judicial supervision. Please report on steps taken to increase the transparency of the surveillance policy, establish independent oversight mechanisms to prevent abuse and ensure that individuals have access to effective remedies.

Land claims (art. 27)

24. With reference to the Committee's previous recommendations (para. 45), please provide information about steps taken to ensure the processing of land restitution claims lodged under the Restitution of Land Rights Act 22 of 1994 and the Restitution of Land Rights Amendment Act 15 of 2014. Please provide information about developments with respect to adopting legislative measures to ensure that dispossession of the lands of Indigenous Peoples prior to 1913 is adequately addressed. Provide information about efforts to prosecute those alleged to have been involved in corruption in respect of land claims and the benefits to which claimants are entitled, including beneficial occupation benefits and mineral rights.

Indigenous Peoples (arts. 2 and 25–27)

25. With reference to the Committee's previous recommendations (para. 47), please provide information about measures taken to revise the Traditional and Khoi-San Leadership Bill with a view to taking the Khoi and San peoples' concerns into consideration, to promote and preserve Khoi and San Indigenous languages and to address the 2018 report of the South African Human Rights Commission on the national hearing on the human rights situation of the Khoi and San peoples in South Africa. Please provide information about steps taken to ensure that small-scale fishing communities are not discriminated against in their access to traditional means of subsistence.
