



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined ninth to eleventh periodic reports of South Africa*

1. The Committee considered the combined ninth to eleventh periodic reports of South Africa,¹ submitted in one document, at its 3031st and 3032nd meetings,² held on 27 and 28 November 2023. At its 3044th meeting, held on 6 December 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined ninth to eleventh periodic reports of the State party. It also welcomes the constructive dialogue with the State party's delegation and thanks the delegation for the information provided during the consideration of the report and the supplementary responses provided after the dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

(a) Establishment of the National Anti-Xenophobia Task Team in 2017, which develops programmes to combat attacks against non-citizens;

(b) Adoption of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (2019–2024) in February 2019, which includes activities such as awareness-raising on anti-discrimination and equality and targeted measures against racial discrimination, xenophobia and related intolerance;

(c) Adoption of the Property Practitioners Act (No. 22 of 2019), which introduced initiatives to ensure transformation in the real estate sector and established the Transformation Fund to fund implementation of the transformation process;

(d) Adoption of the Land Court Act (No. 6 of 2023), which established specialized courts and provides for mediation procedures on land issues.

C. Concerns and recommendations

Statistics

4. The Committee takes note of the information on the demographic composition of the State party's population and of the disaggregated statistics on the socioeconomic situation of

* Adopted by the Committee at its 111th session (20 November–8 December 2023).

¹ CERD/C/ZAF/9-11.

² See CERD/C/SR.3031 and CERD/C/SR.3032.



different ethnic groups. Nevertheless, the Committee expresses its concerns about the lack of comprehensive and disaggregated statistics on Indigenous Peoples and non-citizens, such as migrants, refugees, asylum-seekers and stateless persons, which limits the Committee's ability to properly assess the situation of such groups, including their socioeconomic status and any progress achieved by implementing targeted policies and programmes. The Committee remains concerned by the fact that Indigenous Peoples are not recognized as a distinct category for the purposes of data collection (arts. 1 and 5).

5. Recalling its general recommendation No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention, and its guidelines for reporting under the Convention, the Committee recommends that the State party collect reliable, updated and comprehensive statistics on the demographic composition of the population, in full respect of the principle of self-identification, particularly on Indigenous Peoples and non-citizens, including refugees, asylum-seekers, undocumented migrants and stateless persons, together with socioeconomic indicators, disaggregated by gender and age, and languages spoken, concerning access to education, employment, health care and housing with a view to creating an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention. The Committee also recommends that the State party consider the possibility of including Indigenous Peoples as a separate category, in full respect of the principle of self-identification, in its next census.

National human rights institution

6. The Committee takes note of the information provided by the State party on the implementation of recommendations by the South African Human Rights Commission in its equality reports, to strengthen the implementation of the Convention. It is concerned about the lack of information on measures taken to implement and address the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions to strengthen the South African Human Rights Commission, including by amending its legislative framework in order to provide for a clear, transparent and participatory selection process, and to establish fixed-term appointments for its members. The Committee is also concerned about the insufficient financial resources allocated to the South African Human Rights Commission, particularly about the decision to reduce the budget allocated to the Commission, thereby jeopardizing its ability to fulfil its mandate in an effective manner (art. 2).

7. The Committee recommends that the State party continue its efforts to strengthen the independence of the South African Human Rights Commission and enable it to carry out its mandate fully, effectively and independently in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) by adopting and implementing effective measures, including legal measures, to implement the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions. It also recommends that the State party ensure the allocation of adequate human, financial and technical resources to the South African Human Rights Commission in order to enable it to discharge its mandate fully and effectively.

Policy framework

8. The Committee notes with appreciation the information provided by the State party on the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance and its indicative five-year implementation plan (2019–2024). The Committee also notes the information on the activities carried out under the National Action Plan, particularly awareness-raising campaigns and the assessment and identification of laws and policies to improve the protection of victims of racial discrimination, as well as the information on the establishment of a coordination mechanism to ensure its implementation. However, the Committee is concerned about reports of delays in implementing the activities under the National Action Plan, particularly regarding the data repository for the provision of disaggregated statistics for the measurement of racism, racial discrimination, xenophobia and related intolerance. The Committee is also concerned about

the lack of information on the measures planned to conduct an impact assessment following the implementation of the indicative implementation plan and to develop a new programme of action (arts. 1, 2 and 5).

9. The Committee recommends that the State party intensify its efforts to implement the National Action Plan, including by:

(a) **Finalizing the development of the data repository for the provision of disaggregated statistics for the measurement of racism, racial discrimination, xenophobia and related intolerance;**

(b) **Conducting an impact assessment on the implementation of the National Action Plan and its indicative implementation plan, with the participation of the South African Human Rights Commission and civil society organizations, in order to develop a new indicative implementation plan;**

(c) **Strengthening its monitoring and coordination mechanism to ensure the effective implementation of the National Action Plan by all government departments.**

Truth and Reconciliation Commission

10. The Committee notes the information provided by the State party to the effect that 137 cases of human rights violations committed during the apartheid era are under investigation, while 13 cases are being prosecuted and 17 cases are closed. While taking note of the information on the provision of reparation to victims, such as education assistance, and the adoption of regulations on community rehabilitation, the Committee is concerned about the lack of information on the finalization and adoption of the guidelines to provide housing to victims (arts. 2, 6 and 7).

11. Recalling its previous recommendation,³ the Committee recommends that the State party complete the prosecution of the remaining persons responsible for human rights violations committed during the apartheid era and ensure that all cases are effectively investigated and prosecuted. It also recommends that the State party continue its efforts to provide reparation to victims and finalize and adopt the guidelines to provide housing to victims.

Racist hate speech and hate crimes

12. The Committee takes note of the information provided by the State party on the Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000), which prohibits hate speech, harassment and racial discrimination. It also notes the information on the Prevention and Combating of Hate Crimes and Hate Speech Bill, which is still under consideration before the National Assembly. The Committee is concerned about:

(a) The delay in adopting the Prevention and Combating of Hate Crimes and Hate Speech Bill, which has been before the legislative bodies since 2018, and the lack of legislation that comprehensively prohibits and criminalizes racist hate speech and hate crimes, in accordance with article 4 of the Convention, and that encompasses all grounds of discrimination recognized under article 1 of the Convention;

(b) The lack of detailed information on complaints or cases involving racial discrimination, hate crimes and hate speech in the State party, prosecutions and convictions and the sanctions imposed on those responsible;

(c) The reported prevalence of hate crime and racist hate speech, including in the media, on the Internet and in social media, particularly against non-citizens;

(d) The use of racist hate speech by politicians and influential public figures, and the lack of information on investigations, prosecutions and convictions of such politicians and public figures (arts. 4 and 6).

³ CERD/C/ZAF/CO/4-8, para. 11.

13. Recalling its previous recommendations⁴ and referring to its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Expedite the enactment of the Prevention and Combating of Hate Crimes and Hate Speech Bill and ensure that it explicitly criminalizes racist hate speech and hate crimes in accordance with article 4 of the Convention and that it encompasses all grounds of discrimination recognized under article 1 of the Convention;

(b) Collect detailed data on the number and types of complaints of racial discrimination, racist hate speech and hate crimes, the number of investigations, prosecutions and convictions and the compensation provided to victims, disaggregated by age, gender and ethnic and national origin of the victims, and include such data in its next periodic report;

(c) Adopt and implement measures to monitor and address the spread of racist hate speech in the media, on the Internet and in social media, in close cooperation with media outlets, Internet service providers and social media platforms;

(d) Condemn any form of hate speech, distance itself from racist hate speech expressed by politicians and public figures and ensure that such acts are investigated and appropriately sanctioned;

(e) Conduct training programmes for police officers, prosecutors and other law enforcement officials on the identification and registration of incidents of racial discrimination, racist hate speech and hate crimes.

Access to justice

14. The Committee notes the information provided by the State party that 3,227 cases were registered before the Equality Courts between 2014 and 2019, which were established in accordance with the Promotion of Equality and Prevention of Unfair Discrimination Act as specialized courts with jurisdiction to hear cases concerning racial discrimination, harassment and hate speech. The Committee also notes the information on the amendment to the Legal Aid Regulations to expand the criteria for beneficiaries of legal aid services and legal representation. Nevertheless, the Committee is concerned at reports about:

(a) The low level of public awareness about Equality Courts and their mandate, particularly among those vulnerable to racial discrimination, and the lack of detailed information on their activities;

(b) Insufficient resources available to legal aid services (arts. 2, 5 and 6).

15. **The Committee recommends that the State party conduct public education campaigns on the rights enshrined in the Convention, the mandate of the Equality Courts and the availability of legal aid services, particularly among marginalized ethnic groups and non-citizens. It also recommends that the State party intensify its efforts to enhance the provision of legal aid to those vulnerable to racial discrimination, including by allocating adequate financial resources.**

Racial profiling and racially motivated police violence

16. The Committee notes the information provided by the State party on training programmes for law enforcement officials on the principles of human rights and diversity. However, the Committee is concerned about the lack of a clear prohibition of racial profiling in the legislative framework on law enforcement. It is also concerned about the lack of detailed information on measures taken to combat racial profiling and racially motivated police violence, in the light of reports on racial profiling and racially motivated excessive use of force by the police, including against non-citizens (art. 4).

⁴ Ibid., para. 13.

17. **Recalling its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee recommends that the State party:**

(a) **Develop and adopt legislation and other forms of regulation that explicitly prohibit and effectively prevent racial profiling by law enforcement officials during police stops, identity checks and other police operations, as well as racially motivated violence and excessive use of force, with the effective participation of the South African Human Rights Commission and civil society organizations;**

(b) **Establish an independent monitoring body with the competence to receive complaints of racial profiling and racially motivated police violence, with safe and accessible reporting channels for victims, and to conduct thorough and impartial investigations into all allegations of racial profiling and racially motivated police violence;**

(c) **Collect data on complaints of racial profiling and racially motivated police violence, on investigations, prosecutions, convictions and sanctions imposed, and on reparations provided to victims, and include those in its next periodic report.**

Special measures

18. The Committee notes the information provided by the State party on the implementation of special measures to address the inequalities from the apartheid era, particularly the Broad-Based Black Economic Empowerment Act and the Employment Equity Act, as well as the information on unemployment, the composition of the workforce, poverty and education. However, the Committee regrets the lack of detailed information on the conduct of impact assessments of the special measures implemented, including in employment, education and sports. The Committee also remains concerned about the lack of information on the impact of special measures on Indigenous Peoples (arts. 1 and 2).

19. **Recalling its previous recommendation⁵ and its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party:**

(a) **Establish monitoring and evaluation mechanisms to conduct regular impact assessments of the special measures implemented to address inequalities, while ensuring the participation and consultation of affected groups, and to obtain information on the effectiveness of special measures;**

(b) **Collect detailed qualitative and quantitative data on the impact of the special measures implemented, including in education, employment and sports, on affected groups, particularly Indigenous Peoples, and include those in its next periodic report.**

Right to work

20. The Committee takes note of the information provided by the State party on the amendments to the Employment Equity Act adopted in April 2023, which limit its application to employers who employ more than 50 persons and authorize the relevant minister to identify sectoral numerical targets for different occupational levels, subsectors and regions. The Committee is concerned about:

(a) Reports that racial discrimination in the workplace, particularly in the private sector, remains prevalent;

(b) The high unemployment rates among black South Africans, particularly among youth, compared with other ethnic groups;

(c) The overrepresentation of black South Africans and migrants in the informal economy, which is not adequately covered by the labour legislative framework, with low

⁵ Ibid., para. 15.

salaries, long working hours and no access to social security, as well as the lack of information on their access to justice and remedies (arts. 1, 2 and 5).

21. **The Committee, also taking note of the recommendations contained in the concluding observations of the Committee on Economic, Social and Cultural Rights adopted in 2018,⁶ recommends that the State party:**

(a) **Intensify its efforts to combat racial discrimination in the workplace, including by conducting targeted awareness-raising campaigns in the public and private sectors on existing laws and remedies, particularly those related to the Equality Courts;**

(b) **Revise its legislative framework in order to fully regulate the informal economy with a view to ensuring the full enjoyment of labour-related rights by all persons.**

Farmworkers and domestic workers

22. The Committee notes the information provided by the State party on the legislative framework applicable to farmworkers and domestic workers. It also notes that black South Africans and migrant workers are overrepresented in these two categories and that, in particular, women working as domestic workers are vulnerable to exploitation and rights violations. The Committee is concerned about:

(a) Reports that domestic workers, who are mainly black South African and migrant women, and farmworkers do not enjoy the same standards of labour protection as other workers, and are subjected to poor and abusive working conditions, such as long working hours, inadequate housing conditions, restrictions on their rights to family life and privacy, and to racist and dehumanizing treatment from employers;

(b) Reports of physical and sexual abuse of migrant and black South African women domestic workers;

(c) Migrant and black South African women domestic workers and their families still facing barriers in accessing compensation in accordance with the Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993) (arts. 1 and 5).

23. **The Committee recommends that the State party:**

(a) **Adopt effective measures to ensure that the work of black South African and migrant women domestic workers and farmworkers is regulated by labour laws and that all existing provisions to protect domestic workers and farmworkers from abuse and exploitation are enforced effectively;**

(b) **Develop measures to address intersecting forms of discrimination on the grounds of race, colour, descent, and national or ethnic origin in all areas of employment;**

(c) **Adopt measures to address abuse and exploitation of domestic workers and farmworkers, particularly black South African women and migrants, and ensure their unhindered access to justice and effective remedies;**

(d) **Conduct awareness-raising campaigns among domestic workers and farmworkers regarding their labour rights and available judicial remedies.**

Right to education

24. The Committee welcomes the information by the State party on the increase in school attendance rates among students in primary and secondary education, which reached 97.4 per cent in 2018. Nevertheless, the Committee is concerned that significant disparities remain in access to education by all ethnic groups in post-secondary and higher education, as well as in the quality of education, particularly due to the low level of qualified teachers, resources allocated to schools and school infrastructure (arts. 1, 2 and 5).

⁶ E/C.12/ZAF/CO/1, paras. 28–31.

25. **The Committee recommends that the State party strengthen its efforts to effectively guarantee the right to education without discrimination and to ensure that all ethnic groups have equal access to education. It also recommends that the State party adopt additional measures to address the high dropout rates in post-secondary education and higher education among marginalized ethnic groups, improve school infrastructure and allocate adequate human and financial resources to education.**

Discrimination and segregation in housing

26. The Committee takes note of the information about the adoption of the Property Practitioners Act (No. 22 of 2019), which aims at transformation of the real estate sector and which established the Transformation Fund. Nevertheless, the Committee remains concerned about reports of persistent spatial segregation and discrimination in access to housing on the grounds of race, colour and national or ethnic origin (arts. 1–3 and 5).

27. **The Committee recommends that the State party strengthen the implementation of its legislation and policies to combat discrimination in housing and adopt effective measures to eliminate spatial segregation. It also recommends that the State party conduct an assessment of its legislative and policy measures to address discrimination and spatial segregation, with a view to strengthening these measures, with the meaningful participation of the South African Human Rights Commission and civil society organizations.**

Land rights

28. The Committee notes the information provided by the State party on the adoption of the Land Court Act (No. 6 of 2023), which established specialized courts and which provides for mediation procedures on land issues, as well as the adoption of the Beneficiary Selection and Land Allocation Policy, which aims at providing for uniform, fair, credible and transparent processes and criteria for the selection of beneficiaries for land allocation or leasing of State properties. It also notes the information on the Commission on Restitution of Land Rights, which is mandated to address the historical injustices of racially motivated land dispossession and to ensure just restitution and equitable redress to victims. Nevertheless, the Committee is concerned about the persisting inequality regarding land ownership along racial lines, in particular that affecting women, as well as about the slow progress achieved in implementing land redistribution and restitution policies and measures (arts. 1–3, 5 and 6).

29. **The Committee recommends that the State party intensify its efforts to ensure the effective implementation of the land redistribution and restitution policies and strengthen the Commission on Restitution of Land Rights.**

Indigenous Peoples

30. The Committee notes the information provided by the State party about the organization of public consultations with a view to re-enact the Traditional and Khoi-San Leadership Act (No. 3 of 2019) in compliance with a recent decision of the Constitutional Court.⁷ However, the Committee is concerned about the:

(a) Lack of information on measures to combat discrimination against Indigenous Peoples who are facing extreme poverty and marginalization, as well as restrictions on land redistribution;

(b) Lack of detailed information on how the principle of free, prior and informed consent of Indigenous Peoples in the development of legislation and other measures affecting their rights is guaranteed in law and in practice;

(c) Lack of information on measures to implement the recommendations of the South African Human Rights Commission following its investigative hearings on the rights of Indigenous Peoples in 2004 and 2016 (arts. 1 and 5).

⁷ Constitutional Court of South Africa, *Mogale and Others v. Speaker of the National Assembly and Others*, Case No. CCT 73/22, Judgment, 30 May 2023.

31. **Recalling its previous recommendation,⁸ the United Nations Declaration on the Rights of Indigenous Peoples and its general recommendation No. 23 (1997) on the rights of Indigenous Peoples, the Committee recommends that the State party:**

(a) **Adopt measures to ensure effective and meaningful consultation of Indigenous Peoples on any legislative or administrative measures that may affect their land, territories or resources with a view to obtaining their free, prior and informed consent, including in relation to the re-enactment process of the Traditional and Khoi-San Leadership Act;**

(b) **Adopt effective measures to ensure that Indigenous Peoples enjoy, on an equal footing, all rights under the Convention, including by implementing the recommendations made by the South African Human Rights Commission following its investigative hearings on the rights of Indigenous Peoples in 2004 and 2016.**

Harmful practices

32. The Committee notes the information provided by the State party on various awareness-raising campaigns to combat harmful practices against women and girls, such as *ukuthwala*, that are tantamount to child or forced marriage and that mainly affect women and girls belonging to marginalized ethnic groups and Indigenous Peoples. However, the Committee is concerned about reports that women and girls belonging to marginalized ethnic groups, including Indigenous Peoples, are still victims of *ukuthwala*, particularly in rural and remote areas. Furthermore, the Committee notes the information on the work of the South African Law Reform Commission on criminalizing *ukuthwala*, however, it regrets the delay in developing and adopting legislation to criminalize these harmful practices (arts. 2 and 5).

33. **Recalling its previous recommendation⁹ and its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:**

(a) **Expedite the adoption of legislation that criminalizes harmful practices against women and girls, such as *ukuthwala*;**

(b) **Adopt effective measures to protect women and girls, particularly those living in rural and remote areas, from harmful practices and ensure their access to remedies;**

(c) **Implement the relevant recommendations contained in the concluding observations of the Committee on the Elimination of Discrimination against Women adopted in 2021.¹⁰**

Situation of persons with albinism

34. The Committee takes note of the information provided by the State party on the establishment of the National Albinism Task Force, which is mandated to monitor the policy on the rights of persons with albinism and the ongoing preparation of the National Action Plan on Albinism. It also notes that the South African Law Reform Commission initiated a review process of the Witchcraft Suppression Act (No. 3 of 1957), with the aim of establishing local rapid response teams to improve the provision of victim support. However, the Committee remains concerned about the lack of detailed information on the situation of persons with albinism and on effective measures taken to protect them from bodily harm and other acts of violence, abduction, discrimination and stigmatization, particularly regarding women and children (arts. 2 and 5).

35. **Recalling its previous recommendation¹¹ and the recommendations made by the Independent Expert on the enjoyment of human rights by persons with albinism, in her**

⁸ CERD/C/ZAF/CO/4-8, para. 25.

⁹ Ibid., para. 17.

¹⁰ CEDAW/C/ZAF/CO/5, para. 34.

¹¹ CERD/C/ZAF/CO/4-8, para. 21.

report following her visit to the State party in 2020,¹² the Committee recommends that the State party:

(a) Expedite the review process of the Witchcraft Suppression Act, while ensuring the effective and meaningful participation of the South African Human Rights Commission and civil society organizations, particularly those working on the rights of persons with albinism;

(b) Take, as a matter of urgency, measures to effectively protect the right to life and physical integrity of persons with albinism;

(c) Adopt effective measures to protect persons with albinism from bodily harm and other forms of violence, abduction, discrimination and stigmatization and to ensure their equal access to education, health care and employment;

(d) Finalize and adopt the National Action Plan on Albinism as a comprehensive policy framework, while ensuring that it builds on the recommendations made in the report of the Independent Expert on the enjoyment of human rights by persons with albinism on the Regional Action Plan on Albinism in Africa (2017–2021) and ensuring the effective and meaningful participation of the South African Human Rights Commission and civil society organizations;

(e) Conduct full and thorough investigations into all reported cases of attacks on persons with albinism, including cases identified by civil society organizations, end impunity for the perpetrators and conduct information campaigns on albinism to combat prejudices and misconceptions.

Marginalization of older persons

36. The Committee notes the legislative framework on older persons, particularly the Social Assistance Act (No. 13 of 2004) and the Older Persons Act (No. 13 of 2006), and other measures to address inequalities resulting from the apartheid era faced by older persons belonging to marginalized ethnic groups, particularly black South Africans, people of Asian descent and Indigenous Peoples. However, the Committee is concerned about reports that older persons face intersecting forms of discrimination based on their race, colour, descent, national or ethnic origin and age, are marginalized and live in extreme poverty. It also notes that services provided to older persons are disparate and insufficiently funded (arts. 1 and 5).

37. The Committee recommends that the State party adopt measures to strengthen the support provided to older persons to address intersecting forms of discrimination faced by older persons belonging to marginalized ethnic groups and allocate sufficient human and financial resources to departments in charge of providing services.

Violent attacks against non-citizens

38. The Committee is deeply concerned at the numerous reports about the rise of hate speech, harassment and large-scale and organized violent attacks, including unlawful killing, arbitrary detention, ill-treatment, racial profiling during police checks, abduction, enforced displacement and destruction of property, perpetuated by civilians, organized vigilante groups and law enforcement officials against refugees, asylum-seekers, stateless persons and both documented and undocumented migrants that erupted in 2019 and 2021, leading to abuses and violations of their right to life and physical integrity and their rights to an adequate standard of living and to the highest attainable standard of health. The Committee is concerned that the State party regards those incidents as “sporadic”. The Committee takes note of the information provided by the State party on conducting awareness-raising campaigns, the establishment in 2017 of the National Anti-Xenophobia Task Team to develop a programme aimed at ending attacks against non-citizens and the establishment in 2021 of the Rapid Response Mechanism Task Team to coordinate the response to racist and xenophobic attacks. Nevertheless, the Committee is concerned about the lack of information

¹² [A/HRC/43/42/Add.1](#).

on investigations into those violations and abuses, as well as the lack of opportunities for victims to seek redress and to receive support (arts. 1, 2 and 4–6).

39. The Committee recommends that the State party, as a matter of urgency, acknowledge the discriminatory nature and seriousness of the problem and strengthen its efforts to address the root causes of hate speech, harassment and violence targeted at non-citizens, with the effective participation of the South African Human Rights Commission and civil society organizations, particularly those working on the rights of refugees, asylum-seekers and migrants. It also recommends that the State party:

(a) **Adopt measures to ensure accountability and end impunity, including by conducting effective, thorough and impartial investigations into all reports of abuse and violations of human rights perpetrated against non-citizens, and prosecute and punish those convicted adequately with penalties commensurate with the offences;**

(b) **Provide victims of discriminatory acts with adequate redress and support;**

(c) **Adopt and implement measures to ensure an effective, objective and proportionate response by law enforcement to hate speech, harassment and violent attacks against non-citizens and to ensure their protection, as well as the protection of their property, including by monitoring and combating hate speech, incitement to and promotion of racial hatred and discrimination, including on the Internet and social media, as well as by State officials and public institutions, and ensuring that such incidents are effectively, thoroughly and impartially investigated and, where appropriate, prosecuted and punished with penalties commensurate with the offences;**

(d) **Take measures to effectively combat organized vigilante groups that intimidate non-citizens, engage in hate speech and incitement to racial hatred and are responsible for attacks and violence against refugees, asylum-seekers, migrants and other non-citizens.**

Refugees, asylum-seekers and stateless persons

40. The Committee takes note of the information provided by the State party on the legislative guarantees to ensure access by refugees, asylum-seekers and migrants to economic and social rights, as well as the ongoing preparation of the national migration labour policy, which is rights based and concerns the management of migration into South Africa, under the lead of the Department of Employment and Labour. It also takes note of the information provided on the White Paper on Citizenship, Immigration and Refugee Protection, adopted by the Cabinet in November 2023 and published for public comments. However, the Committee is concerned about:

(a) Reports that recent amendments to its legislative framework, particularly the Refugees Act (No. 130 of 1998) and its Regulations, impose restrictions on the asylum process and on the rights of refugees and asylum-seekers, including by introducing a more restrictive definition of family members, increasing the waiting period for refugees before they can apply for permanent residence and limiting the rights of asylum-seekers to work or study, and that further restrictions are under discussion;

(b) Reports of undue delays faced by asylum-seekers in renewing their documents, leading to obstacles in accessing education, employment and health care;

(c) Reports that the asylum process for unaccompanied refugee children is time-consuming and that social workers are overwhelmed;

(d) Barriers faced in registering the birth of children born to unmarried South African fathers and mothers who are non-citizens due to the DNA test requirement;

(e) The absence of a dedicated determination procedure in relation to statelessness (art. 5);

(f) Discussions about a withdrawal from the Convention relating to the Status of Refugees with a view to ratify it with reservations.

41. **Recalling its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Conduct a human rights-based assessment with a view to developing or amending its legislative and policy frameworks on non-citizens to ensure their compliance with international human rights principles and the objectives and purposes of the Convention;**

(b) **Ensure birth registration without discrimination, irrespective of whether mothers possess identity documents;**

(c) **Adopt effective measures to address undue delays in visa and document renewal for asylum-seekers;**

(d) **Establish a dedicated and effective determination procedure in relation to statelessness;**

(e) **Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness;**

(f) **Remain a State party to the Convention relating to the Status of Refugees.**

Migrant workers

42. The Committee is concerned about reports that both documented and undocumented migrant workers face harsh working conditions, abuse and exploitation and are subjected to discrimination, including regarding recruitment and remuneration. The Committee is also concerned about the barriers faced by migrant workers, particularly undocumented migrants, in accessing justice and other forms of remedies (art. 5).

43. **The Committee recommends that the State party adopt measures to combat abuse and exploitation of migrant workers, including by assessing and reviewing the employment framework regarding migrant workers with a view to reduce their vulnerability to exploitation and abuse, particularly by their employers. It also recommends that the State party increase the monitoring of employers and investigate cases of abuse and exploitation of migrants and prosecute those responsible. The Committee further recommends that the State party conduct awareness-raising campaigns among migrant workers on their rights and on existing remedies.**

Human rights education to combat prejudice and intolerance

44. The Committee notes the information provided on the organization of constitutional rights awareness-raising campaigns and the teaching of reconciliation and inclusivity under the mandatory subject of “life orientation” at school. Nevertheless, the Committee regrets the lack of information on measures taken to evaluate the school curriculum and on measures to promote human rights education, including on racial discrimination, in university programmes and teacher training. It is also concerned about the lack of information on awareness-raising campaigns targeting the general public, law enforcement officials and judicial authorities on the importance of non-discrimination, cultural diversity and tolerance (art. 7).

45. **The Committee recommends that the State party review its approach to human rights education in schools and ensure that it is provided at all educational levels and that it covers the promotion of understanding and tolerance. It also recommends that the State party conduct public awareness-raising campaigns with measurable outcomes, targeting the general public, civil servants, law enforcement officials and judicial authorities on the importance of ethnic and cultural diversity, tolerance and understanding.**

D. Other recommendations

Ratification of other treaties

46. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

Amendment to article 8 of the Convention

47. The Committee recommends that the State party accept the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Follow-up to the Durban Declaration and Programme of Action

48. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

49. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

50. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

51. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, in the official and other commonly used languages, as appropriate.

Common core document

52. The Committee encourages the State party to update its common core document, which dates to 2021, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.¹³ In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

53. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 13 (a) and (e) (racist hate speech and hate crimes), 21 (a) (right to work) and 39 (c) (violent attacks against non-citizens) above.

Paragraphs of particular importance

54. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 9 (policy framework), 25 (right to education) and 41 (refugees, asylum-seekers and stateless persons) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

55. The Committee recommends that the State party submit its combined twelfth to fourteenth periodic reports, as a single document, by 9 January 2028, taking into account the reporting guidelines adopted by the Committee during its seventy-first session¹⁴ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

¹³ [HRI/GEN/2/Rev.6](#), chap. I.

¹⁴ [CERD/C/2007/1](#).