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### **Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21**

#### **South Africa\***

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and the Office of the High Commissioner for Human Rights (OHCHR) and from other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments.

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\* Late submission.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

#### Universal human rights treaties<sup>2</sup>

|   | <i>Status during previous cycle</i>  | <i>Action after review</i> | <i>Not-ratified/not accepted</i>   |
|---|--|----------------------------|--|
| <i>Ratification, accession or succession</i>            | ICERD (1998)<br>ICCPR (1998)<br>ICCPR-OP 2 (2002)<br>CEDAW (1995)<br>CAT (1998)<br>CRC (1995)<br>OP-CRC-SC (2003)<br>CRPD (2007) | OP-CRC-AC (2009)           | ICESCR (signature only, 1994)<br>OP-CAT (signature only, 2006)<br>ICRMW<br>CED |
| <i>Reservations, declarations and/or understandings</i> | CAT (Declaration art. 30)  | --                         | --   |
| <i>Complaint procedures<sup>3</sup></i>                 | ICERD, art. 14 (1998)<br>ICCPR-OP 1 (2002)<br>OP-CEDAW (2005)<br>CAT, art. 22 (1998)<br>OP-CRPD (2007)<br>ICCPR, art. 41 (1998)  | --                         | OP-ICESCR<br>CED, art. 31<br>ICRMW, art. 77<br>OPIC                            |

#### Other main relevant international instruments

|  | <i>Status during previous cycle</i>  | <i>Action after review</i> | <i>Not ratified</i>   |
|--|--|----------------------------|---|
| <i>Ratification, accession or succession</i> | Convention on the Prevention and Punishment of the Crime of Genocide<br>Geneva Conventions of 12 August 1949 and Additional Protocols I and II thereto <sup>4</sup><br>ILO fundamental Conventions <sup>5</sup><br>UNESCO Convention against Discrimination in Education<br>Rome Statute of the International Criminal Court |                            | 1954 Convention relating to the Status of Stateless Persons<br>1961 Convention on the Reduction of Statelessness<br>Additional Protocol III to the 1949 Geneva Conventions <sup>8</sup><br>ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries |

| <i>Status during previous cycle</i>                    | <i>Action after review</i> | <i>Not ratified</i>  |
|--|----------------------------|--|
| Palermo Protocol <sup>6</sup><br>Refugees <sup>7</sup> |                            | ILO Convention No. 189 concerning Decent Work for Domestic Workers |

1. The Committee on Elimination of Discrimination against Women (CEDAW) encouraged the Government of South Africa to consider ratifying ICRMW and CED.<sup>9</sup>
2. UNICEF noted that South Africa had not ratified ICESCR, although having signed it in 1994.<sup>10</sup> The Special Rapporteur on the right to food recommended that the Government ratify that Convention.<sup>11</sup>
3. UNESCO stated that accession to the Convention for the Safeguarding of the Intangible Cultural Heritage was essential and urgent.<sup>12</sup>
4. UNESCO encouraged South Africa to report within the framework of the eighth consultation of Member States on the measures taken for the implementation of the Convention against Discrimination in Education (covering the period 2006-2011).<sup>13</sup>

## B. Constitutional and legislative framework

5. UNICEF noted that the South African Constitution provides for the promotion, protection and fulfilment of human rights in South Africa through the Bill of Rights (Chapter two), which in section 28 focuses on children's particular vulnerabilities.<sup>14</sup>
6. CEDAW regretted that neither the Constitution nor other relevant legislation of South Africa embodies the principle of substantive equality between women and men, or prohibits discrimination against women. It called on South Africa to expedite the consultations on the Green Paper towards a Gender Equality Bill in order to submit it for adoption to the Parliament.<sup>15</sup>

## C. Institutional and human rights infrastructure and policy measures

| <i>National human rights institution<sup>16 17</sup></i> | <i>Status during previous cycle</i> | <i>Status during present cycle</i> |
|--|-------------------------------------|------------------------------------|
| National Human Rights Institution                        | A (2000)                            | A (2007)                           |

7. UNICEF reported that the South African Human Rights Commission (SAHRC) had one commissioner dedicated to children's rights and a special advisory committee to advise the Commission on issues related to child rights and education.<sup>18</sup>
8. UNICEF noted that a Ministry and Department of Women, Children and People with Disabilities had been created in 2009 to ensure the mainstreaming of gender, children's rights and disability considerations into all government programmes.<sup>19</sup> CEDAW noted with satisfaction the establishment of the Women's Empowerment and Gender Equality branch within that Ministry,<sup>20</sup> but was concerned about the Ministry's weak institutional capacity.<sup>21</sup>
9. CEDAW welcomed the adoption of the 365-day National Plan of Action to end gender violence.<sup>22</sup>

10. UNICEF noted the current development of a National Plan of Action for Children as an overarching framework of the government's commitment towards the promotion and protection of children's rights.<sup>23</sup> The Action Plan should focus on ensuring that marginalized and vulnerable children access their entitlements and realize their rights.<sup>24</sup> UNICEF also took note of the National Integrated Plan for Early Childhood Development, the National Action Plan for Orphans and Other Children made Vulnerable by HIV and AIDS, and the HIV & AIDS and STI National Strategic Plan.<sup>25</sup>

## II. Cooperation with human rights mechanisms

### A. Cooperation with treaty bodies<sup>26</sup>

#### 1. Status of reporting

| <i>Treaty body</i> | <i>Concluding observations included in previous review</i> | <i>Latest report submitted since previous review</i> | <i>Latest concluding observations</i> | <i>Reporting status</i>  |
|--------------------|--|--|---------------------------------------|--|
| CERD               | Aug. 2006  | --   | --                                    | Fourth and sixth report overdue since 2010.  |
| HR Committee       | --   | --   | --                                    | Initial report overdue since 2000.   |
| CEDAW              | June 1998  | 2009   | Jan. 2011                             | Fifth report due in 2015   |
| CAT                | Nov. 2006  | --   | --                                    | Second report overdue since 2009.  |
| CRC                | Jan. 2000  | --   | --                                    | Second report overdue since 2002. Initial CRC-OP-SC report overdue since 2005 and initial CRC-OP-AC report overdue since 2011. |
| CRPD               | --   | --   | --                                    | Initial report overdue since 2010.   |

#### 2. Responses to specific follow-up requests by treaty bodies

##### *Concluding observations*

| <i>Treaty body</i> | <i>Due in</i> | <i>Subject</i>   | <i>Submitted in</i> |
|--------------------|---------------|--|---------------------|
| CEDAW              | 2013          | Incorporation of the Convention, marriage and family relations |                     |

*Views*

| <i>Treaty body</i> | <i>Number of views</i> | <i>Status</i>                               |
|--------------------|------------------------|---|
| HR Committee       | 1 <sup>27</sup>        | Follow-up dialogue is ongoing <sup>28</sup> |

11. UNICEF noted delays in reporting to various treaty bodies, including the Committee on the Rights of the Child, HR Committee, CAT and CRPD.<sup>29</sup>

12. The Committee on the Elimination of Racial Discrimination (CERD) is awaiting a response to a communication transmitted to South Africa under its Early Warning and Urgent Action Procedure in March 2011.<sup>30</sup>

**B. Cooperation with special procedures<sup>31</sup>**

|   | <i>Status during previous cycle</i>  | <i>Current status</i>   |
|---|--|---|
| <i>Standing invitation</i>                                    | Yes  | Yes   |
| <i>Visits undertaken</i>                                      | <p>Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (28 July-8 August 2005)</p> <p>Working Group on Arbitrary Detention (4-19 September 2005)</p> <p>Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (16-27 April 2007)</p> <p>Special Rapporteur on adequate housing (12-24 April 2007)</p> | <p>Working Group on Mercenaries (10-19 November 2010)</p> <p>Special Rapporteur on the human rights of migrants (24 January - 1 February 2011)</p> <p>Special Rapporteur on the right to food (7 to 15 July 2011)</p> |
| <i>Responses to letters of allegations and urgent appeals</i> | During the period under review, 9 communications were sent. The Government replied to 2 of these communications.   |   |

**C. Cooperation with the Office of the High Commissioner for Human Rights**

13. The OHCHR Regional Office for Southern Africa (ROSA), established in 1998 and located in Pretoria, conducts activities to strengthen national and regional human rights protection systems.<sup>32</sup>

14. In 2011, the Office of the High Commissioner for Human Rights (OHCHR) partnered with the South African Human Rights Commission on a project to address

discrimination, with a special focus on the protection of the rights of non-nationals.<sup>33</sup> At the request of the Government, OHCHR conducted training on treaty reporting in November 2011 for the Government and civil society of South Africa.<sup>34</sup>

15. South Africa contributed financially to OHCHR from 2008 to 2011.<sup>35</sup>

### **III. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Equality and non-discrimination**

16. CEDAW commended South Africa for the results obtained in promoting equality for women and fighting discrimination. It welcomed the progressive legislative framework in this area.<sup>36</sup> It further welcomed the fact that women represent over 40 per cent of parliamentarians and members of the Cabinet, and over 50 per cent of senior management positions in the public service,<sup>37</sup> but noted that such progress had not been achieved in other areas, including the judiciary, local government, trade unions and the private sector.<sup>38</sup>

17. CEDAW expressed concern about the persistence of harmful cultural norms and practices, including forced marriages of women and girls to older men through abduction, polygamy and the killing of “witches”.<sup>39</sup> It urged South Africa to accelerate the implementation of a comprehensive strategy to modify or eliminate harmful practices and stereotypes that discriminate against women.<sup>40</sup>

18. CEDAW requested South Africa to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention, and to review the Employment Equity Amendment Bill, and the Basic Conditions of Employment Amendment Bill, with a view to ensuring that all mothers receive leave with pay and providing effective sanctions and remedies for violation of laws on maternity leave.<sup>41</sup>

19. CEDAW expressed serious concern about a provision in the Children’s Act of 2005, according to which virginity testing of girls above 16 years old is allowed if the girl has given her consent. It was further concerned that the practice of virginity testing of girls as young as 3 years old is increasing. It called upon South Africa to amend the Children’s Act with the aim of prohibiting virginity tests for girl children, and to design and implement effective education campaigns to combat traditional and family pressures on girls and women in favour of this practice.<sup>42</sup>

20. CEDAW noted the prohibition, in the Constitution, of discrimination based on the sexual orientation of individuals. However, it expressed concern about reported murder and sexual offences committed against women on account of their sexual orientation. It urged effective protection from violence and discrimination against women based on their sexual orientation, continued sensitization campaign and training for law enforcement officials and other relevant actors.<sup>43</sup>

21. CEDAW noted that the Constitutional Court of South Africa has held as discriminatory, and therefore unconstitutional, rules of customary laws on marriage and succession. However, it was concerned that discriminatory laws and practices, such as polygamy, were being upheld by a combination of civil, customary and religious marital regimes, and by the adoption of legislation such as the Customary Marriages Act. CEDAW urged South Africa to expedite discussion of the Customary Law of Succession and Related Amendment Bill, with the aim of adopting it, and to prepare a unified family code in conformity with the Convention.<sup>44</sup>

22. The Office of the High Commissioner for Refugees (UNHCR) noted that more efforts needed to be undertaken to prevent and combat xenophobia, racial discrimination and other forms of related intolerance.<sup>45</sup> In March 2011, CERD sent a communication to South Africa under its Early Warning and Urgent Action Procedure regarding xenophobic acts and racist violence targeting refugees and asylum-seekers of predominantly African origin who reside in camps in South Africa.<sup>46</sup>

23. UNICEF stated that inequality in South Africa directly impacted on the well-being of children.<sup>47</sup> It also drew attention to the negative impact of xenophobia on foreign children, in terms of access to some social services, stigma and discrimination.<sup>48</sup> The Special Rapporteur on the human rights of migrants was pleased to note that foreign children were protected under South African legislation, but regretted that this framework was yet to be fully implemented.<sup>49</sup> He found that one of the biggest challenges facing minors was the lack of education, noting that some children who migrate to South Africa had not attended school for a long time and therefore had great difficulty in adjusting and attending school.<sup>50</sup>

24. In 2011, the United Nations High Commissioner for Human Rights stated that South Africa's challenge was to be true to its ideals and to make real the promise of the post-apartheid era: a rainbow nation where everyone is free and equal and can live comfortably with those who are different.<sup>51</sup>

## **B. Right to life, liberty and security of the person**

25. In October 2008, the United Nations High Commissioner for Human Rights condemned the murders of a Somali mother and her three children in South Africa and urged the authorities to take quick and effective measures to protect foreign migrants and refugees from any further attacks. The High Commissioner noted a pattern of targeted attacks on foreigners, especially Somalis. A concerted and long-term effort by the authorities was necessary to deter others from resorting to xenophobic violence. The High Commissioner noted that in May 2008, tensions related to the large-scale influx of migrants and refugees had boiled over into several days of attacks on foreigners that had left over 60 people dead.<sup>52</sup>

26. In 2010, UNHCR noted that violence against foreigners was still a serious concern, despite efforts by the police to control xenophobia.<sup>53</sup> In 2011, CERD urged South Africa to provide information on measures to stop ongoing racist violence against non-citizens.<sup>54</sup>

27. In 2011, the United Nations High Commissioner for Human Rights stated that in the absence of a more systematic approach to monitoring, recording and investigating homophobic hate crimes such as 'corrective' or 'punitive' rape it would be impossible to know the true extent of the problem. She noted that the Government had recently acknowledged the seriousness of the situation. Following a recent attack, the Department of Justice and Constitutional Development had promised a thorough investigation and established a task team on hate crimes against LGBT persons.<sup>55</sup>

28. CEDAW expressed concern at the high prevalence of sexual violence against women and girls, which appeared to be socially normalized, legitimized and accompanied by a culture of silence and impunity. It was further concerned at the low levels of prosecution and conviction, and at reports indicating that some police officers fine rape perpetrators in lieu of reporting the cases, and that social support services, including shelters, are inadequate.<sup>56</sup>

29. CEDAW called upon South Africa to give priority attention to the results of the study conducted by the Centre for the Study of Violence and Reconciliation, review South

Africa's multi-sectoral action plan to combat violence against women, and expeditiously adopt comprehensive measures to better address such violence.<sup>57</sup>

30. CEDAW urged South Africa to expedite the adoption of the Prevention and Combating of Trafficking in Persons Bill, and ensure that perpetrators are prosecuted and punished and victims adequately protected and assisted. It also urged that appropriate information and training be provided to the judiciary, law enforcement officials, border guards and social workers.<sup>58</sup>

31. UNICEF noted that violence against children is a major concern and that many children are exposed to violence, abuse and exploitation.<sup>59</sup> Concerning child labour, UNICEF indicated that of the children engaged in economic activities, over 40 per cent were exposed to at least one hazardous condition.<sup>60</sup>

32. UNICEF further noted that although corporal punishment has been outlawed in schools, nearly one in five children experience corporal punishment at school.<sup>61</sup>

### **C. Administration of justice, including impunity and the rule of law**

33. CEDAW urged South Africa to strengthen its judicial system to ensure that women have effective access to justice; and to discuss with the legislators reviewing the Traditional Courts Bill its harmonization with constitutional principles relating to non-discrimination and equality between women and men.<sup>62</sup>

34. The Special Rapporteur on the human rights of migrants expressed concern at certain practices in the enforcement of the Immigration Act, noting cases where police officers and even members of the military assist with immigration enforcement.<sup>63</sup> With regard to the arrest and detention of foreign nationals, He recommended that the Government revise the Immigration Act in order to provide clearer standards and policies with regard to the qualification of persons as "illegal foreigners" and the grounds on which they can be detained.<sup>64</sup> He also urged the Government to take measures to allow detained foreigners to challenge their detention.<sup>65</sup>

35. The Working Group on Mercenaries found that the regulatory regime established for private military and security companies operating abroad has faced serious challenges in terms of implementation.<sup>66</sup> The Working Group recommended that the Government adopt the required regulations necessary for the implementation of the Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act of 2006.<sup>67</sup> The Working Group further recommended that it consider the establishment of accountability mechanisms for private military and security companies at the domestic level and ensure that potential victims of human rights violations involving such companies are given access to effective remedies.<sup>68</sup>

36. UNICEF noted that the Child Justice Act 75 of 2008 had created a criminal justice system for children in conflict with the law, which came into force on 1 April 2010 and set the age for criminal capacity at 14 years.<sup>69</sup>

37. UNICEF highlighted recent developments indicating that certain provisions in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 are not harmonized with the provisions of the Children's Act 38 of 2005. While both pieces of legislation were drafted with the protection of children in mind, there had been incidents where children have been charged under the former Act.<sup>70</sup>

38. In July 2010, the United Nations High Commissioner for Human Rights noted that perpetrators of attacks against non-nationals had largely been able to rely on impunity, and that victims were granted no redress for the loss of their property and for their suffering.<sup>71</sup>



**D. Right to privacy, marriage and family life**

39. UNICEF noted that in South Africa only one in three children lives with both biological parents. The AIDS epidemic in South Africa was an important driver of the growing number of orphans, with 1.9 million children having lost one or both parents due to AIDS from 2000 to 2009. In 2009/2010 nearly 90,000 children had been declared to be in need of care by children's courts, and close to 500,000 children were living with foster parents and benefitted from a foster child grant in January 2011.<sup>72</sup>

**E. Freedom of movement**

N/A

**F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

40. UNESCO noted a considerable degree of freedom of expression and investigative reporting in South Africa, but recommended that freedom of expression and access to public domain information be further strengthened, particularly at the community level and within some government departments.<sup>73</sup> It took note of a proposal by the African National Congress to make leaking classified government information an offence punishable by up to 25 years in jail. It noted that the Protection of Information Bill, which was currently before Parliament, had the potential to undermine the right to access information and freedom of expression under the pretext of national security or national interest.<sup>74</sup>

**G. Right to work and to just and favourable conditions of work**

41. The ILO Committee of Experts on the Application of Conventions and Recommendations noted reports of acts of violence and arrests of workers, including trade union leaders, during the course of demonstrations and strikes, as well as the dismissal of striking workers in 2009. The Committee also noted information provided by the Government according to which the massive dismissals had been related to restructuring operations.<sup>75</sup>

42. The ILO Committee of Experts asked the Government to consider amending the Employment Equity Act so as to provide expressly for equal remuneration for men and women for work of equal value.<sup>76</sup>

**H. Right to social security and to an adequate standard of living**

43. A 2011 report of the Economic Commission for Africa noted that South Africa has the most extensive social protection system on the continent, focusing on the State Old Age Pension (SOAP), disability grant, child support grant, foster child grant, care dependency grant, war veteran's grant and a grant-in-aid. These grants cover about one third of the population.<sup>77</sup>

44. UNICEF noted that the social security system aims to reach poor and vulnerable children. Children's access to social grants had much expanded, with over 10 million children receiving a Child Support Grant in 2011. Yet, 65 per cent of children lived in poverty,<sup>78</sup> and one in three children had experienced hunger or was at risk of hunger.<sup>79</sup>

45. CEDAW expressed concern at the disadvantaged position of women in rural and remote areas and called on South Africa to take measures to strengthen the participation of women in designing and implementing local development plans.<sup>80</sup>

46. The Special Rapporteur on the right to food commended South Africa for its efforts at building an adequate institutional and policy framework to move towards the full realization of the right to adequate food, but recommended that it strengthen existing strategies and policies by adopting a rights-based approach, and accelerate the creation of comprehensive rural development policies, including agricultural policies, which would progressively improve the right to food of vulnerable groups.<sup>81</sup>

## **I. Right to health**

47. UNICEF noted that South Africa was not yet on track for meeting the health targets of the 2015 Millennium Development Goals. Under-5 mortality was at the same level as it had been in 1990, with 62 deaths per 1,000 live births.<sup>82</sup> The high toll of maternal and child deaths was mainly due to HIV and AIDS and poor implementation of existing packages of care.<sup>83</sup>

48. CEDAW noted with deep concern that South Africa continued to face a serious HIV/AIDS epidemic, and that women and girls were disproportionately affected. It was also concerned about the prevalence of HIV-related stigma, which places women living with HIV at risk of being subjected to violence and discrimination.<sup>84</sup> It called on South Africa to ensure the implementation of the Maternal Child and Women's Health Strategy (2009-2014); and to take sustained measures to address the impact of HIV/AIDS on women and girls.<sup>85</sup>

49. Regarding access to health services, the Special Rapporteur on the human rights of migrants recommended that the Government comply with the existing national framework, regardless of a person's legal status in the country.<sup>86</sup>

## **J. Right to education**

50. UNICEF noted that about 662,000 children were out of primary and secondary school and that repetition rates were high.<sup>87</sup> It observed that violence in schools was a barrier to quality education.<sup>88</sup>

51. CEDAW was concerned at high school dropout rates due to pregnancy, the high number of girls who suffer sexual abuse and harassment in schools by both teachers and classmates, or who suffer sexual violence while on their way to or from school. It was particularly concerned at reports indicating that prostitution, exploitative sex and rape are perpetrated in connection with a child's access to education.<sup>89</sup>

52. CEDAW called on South Africa to closely monitor the implementation of the Safe Schools Programme; and widely disseminate the Guidelines for the Prevention and Management of Sexual Violence and Harassment in Public Schools.<sup>90</sup>

53. UNESCO noted that the Whole School Development (WSD) programme aimed to encourage schools to implement the educational strategies as part of a holistic approach to establishing a culture of human rights and values.<sup>91</sup>

## **K. Cultural rights**

N/A

**L. Persons with disabilities**

54. UNICEF noted that disability was a serious barrier to accessing basic education.<sup>92</sup> While there was an effort to ensure that children with disabilities were enrolled in school and received a quality education, the practical application of this policy proved difficult due to a lack of trained teachers. School infrastructure also provided a significant barrier to school participation for students with physical disabilities.<sup>93</sup>

**M. Minorities and indigenous peoples**

N/A

**N. Migrants, refugees and asylum-seekers**

55. In connection with his mission to South Africa in January 2011, the Special Rapporteur on the human rights of migrants noted weaknesses in the legal framework as well as the absence of monitoring and oversight over the application of existing procedures with regard to immigration, including detention. Detention remained the primary tool of immigration enforcement. He found the practice of outsourcing the management of the Lindela Immigration Detention Centre to a private corporation unusual. He recommended that South Africa proceed with the adoption and implementation of a comprehensive immigration policy, guided by international human rights law and standards.<sup>94</sup>

56. The Special Rapporteur noted that migrants often find it difficult to have access to adequate health-care services. The difficult material conditions in which migrants were generally forced to live, including overcrowding, poor nutrition, insufficient ventilation, lack of sanitation and little access to clean water, demand that adequate access to health-care services be ensured.<sup>95</sup> He further expressed concern about the lack of accurate information on the number and situation of unaccompanied migrant children in South Africa.<sup>96</sup>

57. UNHCR noted that xenophobia in South Africa undermined the local integration of refugees.<sup>97</sup>

58. In July 2010, the United Nations High Commissioner for Human Rights noted as a welcome development the creation of a High Level Inter- Ministerial Committee on xenophobic violence against non-nationals. The South African Police Services were working with the United Nations to tackle the root causes of anti-migration sentiments and establish appropriate mechanisms to combat violence. However, further measures were needed, including the enactment of laws that specifically target xenophobia and hate crimes. Furthermore, South Africa should ensure that the conditions of temporary detention of non-nationals are improved and that detention is used only as a last resort.<sup>98</sup>

**O. Internally displaced persons**

N/A

**P. Right to development and environmental issues**

N/A

**Q. Human rights and counter-terrorism**

N/A

**R. Situation in, or in relation to, specific regions or territories**

N/A

*Notes*

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation from the previous cycle (A/HRC/WG.6/1/ZAF/2).

<sup>2</sup> The following abbreviations have been used for this document:

|            |   |
|------------|---|
| ICERD      | International Convention on the Elimination of All Forms of Racial Discrimination                             |
| ICESCR     | International Covenant on Economic, Social and Cultural Rights  |
| OP-ICESCR  | Optional Protocol to ICESCR   |
| ICCPR      | International Covenant on Civil and Political Rights  |
| ICCPR-OP 1 | Optional Protocol to ICCPR  |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty                               |
| CEDAW      | Convention on the Elimination of All Forms of Discrimination against Women                                    |
| OP-CEDAW   | Optional Protocol to CEDAW  |
| CAT        | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment                      |
| OP-CAT     | Optional Protocol to CAT  |
| CRC        | Convention on the Rights of the Child   |
| OP-CRC-AC  | Optional Protocol to CRC on the involvement of children in armed conflict                                     |
| OP-CRC-SC  | Optional Protocol to CRC on the sale of children, child prostitution and child pornography                    |
| OPIC       | Optional Protocol to CRC on complaints procedure  |
| ICRMW      | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD       | Convention on the Rights of Persons with Disabilities   |
| OP-CRPD    | Optional Protocol to CRPD   |
| CED        | International Convention for the Protection of All Persons from Enforced Disappearance                        |

<sup>3</sup> In the previous compilation a table contained information on the recognition of specific competences of treaty bodies, namely, Individual complaints: ICERD, art. 14, CAT, art. 22, ICRMW, art. 77, and CED, art. 31; Inquiry procedure: OP-CEDAW, arts. 8 and 9; CAT, art. 20; OP-CRPD, arts. 6 and 7; Inter-State complaints: ICCPR, art. 41, ICRMW, art. 76, and CED, art. 32.

<sup>4</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts

- (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>5</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- <sup>6</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- <sup>7</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- <sup>8</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).
- <sup>9</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/ZAF/CO/4), para. 47.
- <sup>10</sup> UNICEF submission to the UPR on South Africa, 2010, para.4.
- <sup>11</sup> A/HRC/19/59/Add.3, para. 60.
- <sup>12</sup> UNESCO submission to the UPR on South Africa, 2011, para. 18(b).
- <sup>13</sup> *Ibid.*, para. 23.
- <sup>14</sup> UNICEF submission to the UPR on South Africa, 2010, para.6.
- <sup>15</sup> CEDAW/C/ZAF/CO/4, paras. 14 and 15.
- <sup>16</sup> According to article 5 of the rules of procedure for the ICC Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (Fully in compliance with each of the Paris Principles), B: Non-Voting Member (Not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (Not in compliance with the Paris Principles).
- <sup>17</sup> For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/16/77, annex.
- <sup>18</sup> UNICEF submission to the UPR on South Africa, 2010, para.13.
- <sup>19</sup> *Ibid.*, para. 12.
- <sup>20</sup> CEDAW/C/ZAF/CO/4, para. 6.
- <sup>21</sup> *Ibid.*, para. 18.
- <sup>22</sup> *Ibid.*, para. 6.
- <sup>23</sup> UNICEF submission to the UPR on South Africa, 2010, paragraph 16.
- <sup>24</sup> *Ibid.*, para. 58.
- <sup>25</sup> *Ibid.*, para. 15.
- <sup>26</sup> The following abbreviations have been used for this document:
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|--------------|--|
| CERD         | Committee on the Elimination of Racial Discrimination        |
| HR Committee | Human Rights Committee                                       |
| CEDAW        | Committee on the Elimination of Discrimination against Women |
| CAT          | Committee against Torture                                    |
| CRC          | Committee on the Rights of the Child                         |
| CRPD         | Committee on the Rights of Persons with Disabilities         |
- <sup>27</sup> CCPR/C/100/D/1818/2008.
- <sup>28</sup> Report of the Human Rights Committee, *Official Records of the General Assembly, Sixty-sixth session, Supplement No. 40 (A/66/40) (Vol. II, Part Two)*.
- <sup>29</sup> UNICEF submission to the UPR on South Africa, 2010, para.18.
- <sup>30</sup> Letter from the Chairperson of CERD to Permanent Mission of South Africa, 11 March 2011, reference GH/cbr.
- <sup>31</sup> Abbreviations used follow those contained in the communications report of special procedures (A/HRC/18/51 and Corr.1).

- <sup>32</sup> OHCHR web, 2012, available at <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/SouthernAfricaSummary10.aspx>
- <sup>33</sup> High Commissioner for Human Rights, opinion piece, 9 July 2010, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10199&LangID=E>.
- <sup>34</sup> OHCHR web, 2012, available at <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/SouthernAfricaSummary10.aspx>
- <sup>35</sup> OHCHR 2008 report, Activities and Results, pp. 158 , 174, 179 and 204; OHCHR 2009 report, Activities and Results, pp. 177, 190, 195 and 214 and OHCHR 2010 report, Activities and Results, p. 280.
- <sup>36</sup> CEDAW/C/ZAF/CO/4, 5 para. 5.
- <sup>37</sup> Ibid., paras 7 and 8.
- <sup>38</sup> Ibid., para. 29.
- <sup>39</sup> Ibid., para. 20.
- <sup>40</sup> Ibid, para. 21(a).
- <sup>41</sup> Ibid., para.. 33..
- <sup>42</sup> Ibid., paras. 22 and 23.
- <sup>43</sup> Ibid., paras. 39 and 40.
- <sup>44</sup> Ibid., paras. 41 and 42.
- <sup>45</sup> UNHCR submission to the UPR on South Africa, 2010, p.4; concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ZAF/CO/3), para. 27.
- <sup>46</sup> Letter from the Chairperson of CERD to the Permanent Mission of South Africa, 11 March 2011, reference GH/cbr.
- <sup>47</sup> South African Human Rights Commission and UNICEF, 2011, South Africa's Children: A review of equity and child rights, UNICEF- Pretoria.
- <sup>48</sup> UNICEF submission to the UPR, 2010, para.51.
- <sup>49</sup> A/HRC/17/33/Add.4, para, 69.
- <sup>50</sup> Ibid., para. 70.
- <sup>51</sup> High Commissioner for Human Rights, opinion piece, 20 June 2011, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11229&LangID=E>.
- <sup>52</sup> OHCHR press release, 7 October 2008, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=8513&LangID=E>.
- <sup>53</sup> UNHCR submission to the UPR on South Africa; 2010, p. 3.
- <sup>54</sup> Letter from the Chairperson of CERD to the Permanent Mission of South Africa, 11 March 2011, reference GH/cbr.
- <sup>55</sup> High Commissioner for Human Rights, opinion piece, 20 June 2011, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11229&LangID=E>.
- <sup>56</sup> CEDAW/C/ZAF/CO/4, para. 24.
- <sup>57</sup> Ibid., para. 25.
- <sup>58</sup> Ibid., para. 28 (a) and (b).
- <sup>59</sup> UNICEF submission to the UPR on South Africa, 2010, paras. 26 and 59.
- <sup>60</sup> Ibid., para. 38.
- <sup>61</sup> Ibid., para. 27. See also Statistics South Africa (2010); General Household Survey 2009.
- <sup>62</sup> CEDAW/C/ZAF/CO/4, para. 17 (a) and (b).
- <sup>63</sup> A/HRC/17/33/Add.4, para 54
- <sup>64</sup> Ibid., para 79.
- <sup>65</sup> Ibid., para 80.
- <sup>66</sup> A/HRC/18/32/Add.3, para 64.
- <sup>67</sup> Ibid., para 69(d) and (e).
- <sup>68</sup> Ibid., para 69 (g) and (h)
- <sup>69</sup> UNICEF submission to the UPR on South Africa, 2010, para.29.
- <sup>70</sup> Ibid., para. 8.
- <sup>71</sup> High Commissioner for Human Rights, opinion piece, 9 July 2010, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10199&LangID=E>.
- <sup>72</sup> UNICEF submission to the UPR on South Africa, 2010, paras. 32 and 33.
- <sup>73</sup> UNESCO submission to the UPR on South Africa, 2011, paras. 20 and 25(a).
- <sup>74</sup> Ibid., paras. 20 and 21.

- <sup>75</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2008, South Africa, doc. No. (ILOLEX) 062008ZAF087, third paragraph.
- <sup>76</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Equal Remuneration Convention, 1951 (No. 100), 2010, South Africa, doc. No. (ILOLEX) 062008ZAF100, first paragraph.
- <sup>77</sup> ECA, MDG Report 2011: Assessing Progress in Africa toward the Millennium Development Goals, Addis Ababa, 2011, p. 67, available <http://www.uneca.org/mdgs2011/>.
- <sup>78</sup> UNICEF and the Department of Social Development, 2011. Policy Brief: The Global Economic Recession and Child Well-Being in South Africa; South African Human Rights Commission and UNICEF, 2011, South Africa's Children: A review of equity and child rights. UNICEF- Pretoria.
- <sup>79</sup> UNICEF submission to the UPR on South Africa, 2010, para. 42; South African Human Rights Commission and UNICEF, 2011, South Africa's Children: A review of equity and child rights, UNICEF- Pretoria.
- <sup>80</sup> CEDAW/C/ZAF/CO/4, 5 April 2011, paragraphs 37 and 38.
- <sup>81</sup> A/HRC/19/59/Add.3, paras. 59 and 60.
- <sup>82</sup> UNICEF submission to the UPR on South Africa, 2010, para. 24; UN Inter-agency Group on Child Mortality Estimation (2010). Levels and Trends in Child Mortality.
- <sup>83</sup> UNICEF submission to the UPR on South Africa, 2010, para. 24.
- <sup>84</sup> CEDAW/C/ZAF/CO/4, para. 35.
- <sup>85</sup> Ibid. para. 36 (a) and (b).
- <sup>86</sup> A/HRC/17/33/Add.4, para 84
- <sup>87</sup> UNICEF submission to the UPR on South Africa, 2010, para. 47.
- <sup>88</sup> Ibid., para. 50.
- <sup>89</sup> CEDAW/C/ZAF/CO/4, para. 31.
- <sup>90</sup> Ibid., para. 32 (b) and (d).
- <sup>91</sup> UNESCO submission to the UPR on South Africa, 2011, para. 8.
- <sup>92</sup> UNICEF submission to the UPR on South Africa, 2010, para. 47.
- <sup>93</sup> UNICEF, Child Friendly Schools and Evaluation: Country Report for South Africa, New York, 2009, p. 17, available at [http://www.unicef.org/evaldatabase/files/Child\\_Friendly\\_Schools-South\\_Africa.pdf](http://www.unicef.org/evaldatabase/files/Child_Friendly_Schools-South_Africa.pdf).
- <sup>94</sup> A/HRC/17/33/Add.4, paras. 36, 52, 57, 58 and 75.
- <sup>95</sup> Ibid., paras 60 and 61
- <sup>96</sup> Ibid., paras 66 and 71.
- <sup>97</sup> UNHCR submission to the UPR on South Africa, 2010,.p.4.
- <sup>98</sup> High Commissioner for Human Rights, opinion piece, 9 July 2010, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10199&LangID=E>.