



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

List of issues and questions in relation to the fifth periodic report of South Africa*

Visibility of the Convention and its Optional Protocol

1. In the light of the Committee's previous concluding observations ([CEDAW/C/ZAF/CO/4](#), para. 13 (b)), please specify the measures taken to raise awareness among women, including disadvantaged groups of women, about their rights under the Convention and about the complaints procedure under the Optional Protocol. Please also specify measures taken to provide systematic capacity-building or regular training to parliamentarians, parliamentary staff and judicial and law enforcement personnel on the application of the Convention and the interpretation of national legislation in the light of the Convention.

Constitutional and legislative framework

2. According to paragraph 16 of the State party's report ([CEDAW/C/ZAF/5](#)), the State party applies a dualist approach to international and national law, whereby international law is not directly applicable nationally. Please describe the measures in place to ensure that the provisions of the Convention are applied in the State party and are integrated into national law.

3. According to paragraph 20 of the report, the green paper pertaining to the women's empowerment and gender equality bill lapsed in April 2014. In accordance with the State party's obligations under articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals (end all forms of discrimination against all women and girls everywhere), please indicate whether the State party has adopted a comprehensive law to prevent discrimination against women. If so, please indicate whether the law contains a definition of discrimination against women in line with article 1 of the Convention, covering direct and indirect discrimination in the public and private spheres, including intersecting forms of discrimination. Please indicate any measures that are in place for the effective application of the law, whether any gender experts were consulted in the preparation of the draft legislation and whether there are any monitoring or enforcement mechanisms. Please also specify any measures taken to redefine all forms of domestic violence against women and girls as criminal offences and impose sanctions, together with any steps taken to finalize the amendment to the Domestic Violence Act, 1998 (Act No. 116), in line with article 1 of the Convention and the Committee's general recommendation No. 35 (2017) on

* Adopted by the pre-sessional working group on 6 March 2020.



gender-based violence against women, updating general recommendation No. 19. Please also inform the Committee regarding efforts to amend or repeal discriminatory provisions of national legislation.

National human rights institution

4. Please provide information on the mandate of the South African Human Rights Commission as it relates to women's rights, and on the human, technical and financial resources of the Commission. Please also provide information about the measures taken to strengthen the Commission to enable it to effectively and independently discharge its mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by increasing State funding and by undertaking legislative changes to provide for a clear, transparent and participatory selection process, establish a fixed term of appointment for its members, provide for a specific legal mandate to monitor places of detention and provide for an independent and objective dismissal process.

Access to justice

5. According to paragraph 23 of the report, hate speech and unfair discrimination were the leading complaints received by the equality courts in 2013/14. Please provide data on the share of complaints related to intersecting forms of gender-based discrimination and violence against women and girls received by those courts, the nature of such complaints and the share of cases referred to alternative forums, disaggregated by complainants' race, ethnicity, age, disability, nationality, socioeconomic status, albinism and any other relevant factors. Please clarify the status of the second iteration of the bill on traditional courts, which was approved by the National Assembly in March 2019, and specify which provisions are aimed at transforming traditional courts to ensure that they comply with the Constitution and the Convention. Please provide details of any provisions to ensure that women are able to opt out of proceedings held by traditional courts and to appeal to the ordinary courts against any decision taken by a traditional court.

6. According to paragraph 30 of the report, Legal Aid South Africa has identified women's and children's rights as deserving of special attention in the provision of its legal services. Please provide data about the type of services that Legal Aid South Africa provides to women and girls, disaggregated by complainants' race, ethnicity, nationality, age, disability, socioeconomic status, albinism and any other relevant factors. Please specify any further legal and institutional measures to strengthen access to justice for women and girls who are in vulnerable situations and face marginalization, particularly those living in informal settlements and rural areas.

National machinery for the advancement of women

7. According to paragraphs 35 and 36 of the report, the Ministry for Women has reviewed its institutional capacity and is putting in place human, financial and technical resources in order to strengthen the monitoring and evaluation capacities of its reconfigured Department for Women. Please specify what human, financial and technical resources have been allocated to the Ministry for gender equality matters, as well as the number of gender focal points in line ministries and municipal administrations and the levels and locations of their posts. Please also provide information on the mechanisms in place for the coordination of implementation and monitoring of gender equality concerns at the national, regional and local levels and in the justice system. Please clarify whether a national action plan for women is being developed or implemented. Please give details of the outcomes specifically geared towards achieving gender equality and women's empowerment under the national

development plan and its medium-term strategic framework for the period 2014–2019. Please also clarify the relationship between the South African Human Rights Commission and the Commission for Gender Equality, and provide further information about the status of the latter and the human, financial and technical resources made available to it.

Temporary special measures

8. According to paragraph 98 of the report, the governing party continues to implement its 50/50 gender representation policy. Please provide examples of how the policy has been implemented to ensure that women meaningfully participate and remain in public and political life. Please also provide information about the extent to which temporary special measures to achieve substantive gender equality have been included in other national policies and programmes. Please specify steps taken to develop and implement temporary special measures in areas covered by the Convention in which women are disadvantaged and underrepresented, including in leadership roles, as chief justices and in the private sector, as well as in the National Council of Provinces.

Stereotypes and harmful practices

9. Please provide information about any measures taken to develop and implement a comprehensive strategy to eliminate harmful practices, including the abduction of women and girls for the purpose of forced marriage (*ukuthwala*), the killing of so-called “witches”, female genital mutilation, child and forced marriages, polygamy and so-called “virginity testing”. Please outline measures taken to align customary laws and practices, and to revise and amend policies and legislation, such as the Children’s Act, 2005 (Act No. 38), to prohibit harmful practices, in line with the Convention and articles 5 and 17 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). Please provide statistics on the prevalence of the above-mentioned harmful practices against women and girls, disaggregated by age, ethnicity, race, socioeconomic status, nationality, disability, albinism and any other relevant factors.

10. In paragraph 42 of the report, brief reference is made to the measures taken to increase public awareness about women’s rights using media and other communication platforms. Please describe any measures to eliminate patriarchal and stereotypical portrayals of women in the media and in advertising, including details of the type of media, its coverage, contents, target groups and the outcomes of any impact assessments carried out in this regard. Please also specify any steps taken to implement the Committee’s previous recommendation ([CEDAW/C/ZAF/CO/4](#), para. 23) that the State party design and implement effective education campaigns to combat community and family pressures on girls and women to undergo so-called “virginity testing”.

Gender-based violence against women

11. Please indicate the measures taken to ensure that all relevant government entities have adequate human, technical and financial resources for the implementation of the national gender-based violence and femicide strategic plan for the period 2020–2030, and describe any efforts to establish a sustainable and coordinated multidisciplinary and intersectoral approach to ending gender-based violence. Please specify measures taken to ensure the effectiveness of the approach through enhanced intergovernmental coordination and results-based monitoring and evaluation. Please provide information on the implementation of research-driven or

evidence-based preventive measures or programmes related to sexual and gender-based violence.

12. Please provide statistical data on the scope and extent of all forms of gender-based violence against women, disaggregated by age, ethnicity, race, nationality, disability, socioeconomic status, albinism and any other relevant factors, and on the impact of measures taken to prevent such violence, investigate incidences of violence, prosecute and punish perpetrators and provide victims and their families with support, such as shelters, as well as protection, relief and remedies, including appropriate compensation. Please provide detailed information on the establishment of a femicide watch. Please also describe steps taken to make high-quality, victim-centred services accessible across the criminal justice, education and social support systems, and to strengthen effectiveness, efficiency and coordination in relation to the issuance of protection orders.

13. Reportedly, some women, such as lesbian, bisexual and transgender women, refugees, women living with disabilities and women and girls with albinism, are more exposed to gender-based violence than other women. Please provide disaggregated statistical data on the interaction of sex and any other relevant factors such as gender, race, ethnicity, age, disability, sexual orientation, socioeconomic status and albinism in relation to violence, including sexual violence. Please indicate legislation, policies and programmes that address and protect the rights and needs of women and girls at risk of or affected by intersecting forms of discrimination and violence.

Trafficking and exploitation of prostitution

14. According to paragraphs 92 and 93 of the report, the Prevention and Combating Trafficking in Persons Act, 2013 (Act No. 7), was promulgated in 2013, and the Government was putting in place a range of measures for its implementation. Please explain how the Act was implemented, including specific examples, and describe the impact of its enforcement. Please provide information on any capacity-building provided to the judiciary, law enforcement officials, border guards and social workers on the application of the Act and gender-sensitive treatment of victims, as well as identification, protection and law enforcement strategies. Please specify any assistance that is available to victims of trafficking in persons, such as shelters, early identification programmes or opportunities for referral to the appropriate services. Please also provide data on trafficking and the exploitation of women in prostitution, disaggregated by age, gender, race, nationality, ethnicity, disability and socioeconomic status. Please also provide information on support services and on rehabilitation, exit and reintegration programmes available to women in prostitution in the State party.

Nationality

15. Please specify measures taken to ensure that women in rural areas have access to birth registration. Please indicate any measures taken to revise the Births and Deaths Registration Act, 1992 (Act No. 51), to ensure that children of undocumented mothers do not become stateless.

Education

16. According to paragraph 51 of the report, a court ordered a review of existing policies according to which pregnant girls must be absent from school for a period of time. Please specify any steps taken to review existing policies with a view to ensuring that pregnant girls are able to attend school until they give birth and are readmitted as soon as they are ready to proceed with their schooling, as well as any other measures taken to ensure that all girls are able to attend school and to complete

their primary and secondary education. Please also provide data on school dropout rates among girls, including the reasons for their dropping out, disaggregated by race, ethnicity, age, disability, location (urban or rural) and socioeconomic background. Please provide information on continuing education programmes for women who are unable to complete secondary or higher education.

17. Please provide information on measures taken to implement, and monitor the implementation of, the guidelines for the prevention and management of sexual violence and harassment in public schools, and describe the outcomes of any capacity-building or training sessions for school officials or pupils on the application of the guidelines. Please also describe any other measures taken to ensure safe educational environments that are free from discrimination and violence, as well as safe transportation to and from schools. Please further indicate any measures taken by the State party to introduce human rights education in school curricula and educational materials, including education on gender equality, the role of men and boys in preventing sexual and gender-based violence and harmful practices and age-appropriate education on sexuality, responsible sexual behaviour and reproductive health and rights.

Employment

18. According to paragraph 131 of the report, the Employment Equity Act, 1998 (Act No. 55), was amended in 2013 to explicitly incorporate the concept of equal pay for work of equal value. Please provide details of the measures taken to implement the amended Act and to ensure private sector compliance. Please also specify any legal or policy measures to ensure that women domestic workers are protected by labour laws, including regulations governing wages and hours of work, health and safety codes, holiday and vacation leave regulations, and mechanisms for monitoring workplace conditions, in line with the International Labour Organization Domestic Workers Convention, 2011 (No. 189). Please specify any measures taken to eliminate horizontal and vertical segregation. Please further describe any measures taken to economically empower and protect the labour rights of women farmers, to encourage young women to enter this field and to provide women and girls with training and education in agriculture and agroprocessing.

Climate change and disaster risk reduction

19. Please provide details of the ways in which the State party is addressing the impact of disasters and climate change on women and girls, in particular on women belonging to ethnic minorities, rural women and poor women, and of measures taken to guarantee women's rights, including to life, health, food, water, sanitation and development, in the context of the growth of offshore petroleum exploration, drilling and extraction, in line with the Convention and articles 14, 15, 16, 18 and 19 of the Maputo Protocol. Please specify any measures taken to ensure the participation of women in decision-making processes related to climate change and disaster risk reduction.

Health

20. According to paragraph 143 of the report, there has been a demonstrable increase in access by women to reproductive health-care services, resulting in a reduction in illness and death among women. Please specify any measures taken to continue to improve maternal health outcomes, and provide data, disaggregated by age, race, ethnicity, nationality, socioeconomic status, HIV/AIDS status, disability, location (urban or rural), albinism and any other relevant factors, on the availability and accessibility of sexual and reproductive health care for women and girls, including safe abortion services. Please specify measures taken to ensure the quality

and adequacy of such services. Please also provide detailed information on the practice of forced or coerced sterilization of women living with HIV in public facilities, and specify what measures have been taken to put an end to the practice. Please also specify the measures taken to ensure the accessibility of health-care services for women with disabilities.

Rural women

21. Please specify what measures have been taken to address negative customs and traditional practices that are discriminatory towards rural women and girls, including those that affect the full enjoyment of the right to property and inheritance. Please also describe the laws, policies and programmes in place to ensure gender equity in land redistribution, land rights and title deeds, and those in place to ensure that rural women have equal access to basic services, clean water, sanitation, economic resources, decision-making and participation, including in the design and implementation of local development plans. Please provide data on the economic empowerment of rural women, including their access to land, inheritance, basic services, economic resources, participation and decision-making, disaggregated by age, ethnicity, race, nationality, socioeconomic status, disability, albinism and any other relevant factors.

Disadvantaged groups of women

22. Please indicate the measures taken to implement the Committee's previous recommendation on the enactment of comprehensive anti-discrimination legislation that includes the prohibition of intersecting forms of discrimination against women belonging to disadvantaged groups on grounds including race, ethnicity, age, sexual orientation, socioeconomic status, disability, HIV/AIDS status and albinism (CEDAW/C/ZAF/CO/4, para. 40). Please also provide information on measures taken to prevent discrimination and violence against women migrants and asylum seekers, and their children, from other African countries.

Marriage and family relations

23. Please outline measures taken to align customary laws and practices in the field of marriage and family relations, including in areas such as child and forced marriage, polygamy, abduction of women and girls for the purpose of forced marriage (*ukuthwala*) and inequality in succession and inheritance, with constitutional guarantees of non-discrimination based on sex and gender. Please give details of any measures taken to create a unified family code in conformity with the Convention. Please also specify any measures taken to abolish discriminatory customary or religious practices, such as capacity-building and guidance provided to non-formal practitioners in the field of marriage and family relations, in line with the Constitution and the Convention. Please describe the measures taken to ensure equal inheritance rights for widows and widowers and girls and boys.
