



Convention on the Rights of Persons with Disabilities

Distr.: General
9 October 2023

Original: English
Arabic, English, French and
Spanish only

Committee on the Rights of Persons with Disabilities

List of issues prior to submission of the combined second, third and fourth periodic reports of South Africa*

A. Purpose and general obligations (arts. 1–4)

1. Please inform the Committee about the progress made in implementing its recommendations made in 2018, contained in the Committee's concluding observations on the State party's initial report.¹ In particular, please inform it about measures taken:

(a) To amend legislation and policies that reflect the medical model of disability, including in the education and health sectors;

(b) To align the White Paper on the Rights of Persons with Disabilities, approved by Cabinet in 2015, with the concept of disability in the Convention, and to harmonize all laws and policies to bring them into line with the Convention;

(c) To eliminate multiple assessments for different services in order to reduce the burden on applicants and promote consistency and transparency in assessments;

(d) To enact national legislation recognizing the rights enshrined in the Convention and to establish mechanisms of enforcement in order to ensure that the rights of persons with disabilities are effectively implemented across government;

(e) To ensure the financial and logistical means necessary to consult closely with persons with disabilities, including women and children with disabilities, through their representative organizations, and actively involve them in legislative and policy development relating to the implementation of the Convention;

(f) To provide regular training to all public officials involved in consultation processes with persons with disabilities on non-discrimination, dignity, respect and the right of persons with disabilities to reasonable accommodation, within a human rights model of disability.

2. Please report on:

(a) Any assessments of the impact of the National Disability Rights Machinery, which was established as a consultative platform for national government departments, provincial administrations, local municipalities and persons with disabilities, and on any other efforts to ensure regular, close consultation with persons with disabilities and their active involvement in the development and implementation of laws and policies to implement the Convention;

(b) Measures taken to establish and strengthen mechanisms for close consultation with and the active involvement of persons with disabilities, through their representative organizations, including representative organizations of women with disabilities, children

* Adopted by the pre-sessional working group at its eighteenth session (11–14 September 2023).

¹ CRPD/C/ZAF/CO/1.



and older persons with disabilities, persons with intellectual and/or psychosocial disabilities, persons with albinism and persons with disabilities living in rural areas, when adopting policies and on other matters that concern them.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

3. Please inform the Committee about:

(a) Measures taken to prohibit and to guarantee equal and effective legal protection against discrimination on all grounds, including multiple and intersectional forms of discrimination that affect in particular persons with psychosocial disabilities, epilepsy, autism, intellectual disabilities and older persons with disabilities;

(b) Measures taken to promote awareness among those in the public and the private sectors of the provision of reasonable accommodation and to ensure its application at all levels of government, and whether the denial of reasonable accommodation is included in the national legislative framework as a form of discrimination on the basis of disability;

(c) Complaint and redress mechanisms for persons with disabilities who have been subjected to discrimination, including examples of compensation and rehabilitation measures, and sanctions that can be brought against those responsible;

(d) Data on complaints submitted by persons with disabilities who have faced disability-based discrimination, disaggregated by gender, age and type of impairment, across all sectors, and the sanctions brought against those responsible.

Women with disabilities (art. 6)

4. Please inform the Committee about:

(a) Measures taken to incorporate women and girls with disabilities into both gender and disability policies, including national gender equality plans and the work of the Department of Women, Youth and People with Disabilities;

(b) Measures in place to enable the empowerment and full inclusion of women and girls with disabilities in all spheres of life, to combat multiple and intersecting forms of discrimination and to raise awareness about all forms of discrimination, including those arising from traditional and cultural practices.

Children with disabilities (art. 7)

5. Please provide the Committee with information on:

(a) Comprehensive legislation and policies for the realization of the rights of children with disabilities, with baselines, time frames, measurable indicators for implementation and mechanisms to monitor their implementation;

(b) Mechanisms and information in accessible formats available to children with disabilities to facilitate the free expression of their views in all matters concerning them;

(c) Measures taken to raise public awareness of the importance of family and community-based living, as opposed to institutionalization, and to provide parents of children with disabilities with financial support to enable them to bring up their children within the family.

Awareness-raising (art. 8)

6. Please provide information on:

(a) Whether the State party has developed any national policies, targeted strategies or action plans for awareness-raising that are in line with the principles of the Convention and if so, the impact these measures have had on addressing prejudices and stigma relating to disability;

(b) Measures taken to ensure the availability of the Convention in accessible formats in all the official languages;

(c) Measures taken to carry out a coherent, sustained national targeted awareness-raising strategy among government officials at all levels on the content of the Convention, beyond the traditional Human Rights Month and the national Disability Rights Awareness Month;

(d) Measures taken through the media, including on television, to raise awareness about the ongoing stigmatization and marginalization of persons with disabilities and related prejudices and stereotypes, particularly in relation to persons with psychosocial disabilities, epilepsy, autism, intellectual disabilities, persons with albinism and older persons with disabilities;

(e) Measures taken, especially in rural communities, to consult closely with and actively involve persons with disabilities, through their representative organizations, in the design, implementation and evaluation of awareness-raising campaigns and in training programmes that are in line with the principles of the Convention.

Accessibility (art. 9)

7. Please provide the Committee with information on measures taken:

(a) To enable progress in making public transport accessible to persons with disabilities in both urban and rural areas in order to ensure that they have access to health, education and employment and to ensure their inclusion, participation and meaningful involvement in society;

(b) To develop accessible facilities at banks, including online banking platforms, for persons with disabilities, including persons with vision impairments and persons with intellectual and/or psychosocial disabilities;

(c) To enforce the National Building Regulations and the Building Standards Act, to monitor progress and to reinforce sanctions for lack of compliance with accessibility standards in public and private sector buildings.

Right to life (art. 10)

8. Please inform the Committee about:

(a) Measures taken to ensure the safety of persons with disabilities, particularly persons with albinism who are targeted and killed, including for reasons relating to witchcraft, and to ensure that perpetrators are brought to justice with sanctions that are commensurate with the gravity of these crimes;

(b) Progress made in the implementation of the Ekurhuleni declaration on the rights of persons with albinism, adopted in 2013, and measures taken to ensure effective investigation of violations of the right to life of persons with albinism;

(c) Measures taken to search for remaining missing persons with disabilities who were transferred from the former Life Esidimeni facility and to ensure the prosecution and conviction of the perpetrators of the deaths of persons with disabilities who were transferred from that facility and the reparations made, in accordance with international human rights standards;

(d) Measures the Government is taking to ensure that persons with disabilities, including those with severe spinal cord injury using continuous positive airway pressure therapy and oxygen who have been at risk of breathing and other health complications, as well as sleep deprivation, are provided with the electricity they need.

Situations of risk and humanitarian emergencies (art. 11)

9. Please inform the Committee about:

(a) Measures taken during the coronavirus disease (COVID-19) pandemic and in the recovery phase to address the protection and health requirements of persons with

disabilities and to ensure that they are reached through government interventions, including with information on the pandemic in accessible formats and recovery plans that include persons with disabilities;

(b) The situation and measures to address the requirements of migrant, refugee and asylum-seeking persons with disabilities, including their current access to housing and protection from violence and abuse;

(c) Measures taken to ensure the protection and safety of all persons with disabilities, especially persons with intellectual and/or psychosocial disabilities and persons with disabilities living in rural areas, in situations of risk, including humanitarian emergencies and natural disasters, and to implement effective disaster risk reduction policies in line with the Sendai Framework for Disaster Risk Reduction 2015–2030;

(d) Plans and strategies in place for the dissemination to all persons with disabilities of information about situations of risk and humanitarian emergencies in accessible formats, including sign language, Braille and Easy Read, and in multiple languages.

Equal recognition before the law (art. 12)

10. Please inform the Committee about:

(a) Legislative and policy measures that have been taken to replace substitute decision-making by supported decision-making, particularly for persons with intellectual and/or psychosocial disabilities, including with regard to financial transactions, in the light of the Committee's general comment No. 1 (2014) on equal recognition before the law;

(b) The status of the supported/assisted decision-making bill (Project 122), which was handed over to the Department of Justice in 2015 and which was to uphold the autonomy, rights, will and preference of persons with disabilities in all areas of life;

(c) The number of persons with disabilities who are still under guardianship, disaggregated by age, gender and type of impairment, as well as the plans in place for their removal from guardianship;

(d) Training carried out for all stakeholders, including families and community members, civil servants, social workers and judges, on the legal capacity of persons with disabilities and on good practices in supported decision-making.

Access to justice (art. 13)

11. Please describe:

(a) Measures taken to raise awareness, especially in rural areas, of the 24-hour Gender-based Violence Command Call Centre, which provides support and counselling to persons with disabilities and their families who are exposed to gender-based violence, and to ensure the provision of accessible information and victim support services in all parts of the State party, in particular for women and children with disabilities and persons who are deaf or hard of hearing;

(b) Measures taken to ensure legal assistance for persons with disabilities, including through clinics such as that run by Legal Aid in South Africa;

(c) Legislative or other measures taken to provide procedural, gender- and age-appropriate accommodation for persons with disabilities in legal proceedings and to ensure their effective participation in the justice system;

(d) Measures taken to ensure that judicial and law enforcement officials, including but not limited to lawyers, magistrates, judges, prison staff, sign-language interpreters, the police and penitentiary system officials, are effectively trained on the rights of persons with disabilities;

(e) Measures adopted to provide information about the justice system and its proceedings in multiple languages and in accessible formats such as Braille, tactile, Easy Read and sign language, further to the Committee's previous concluding observations;²

(f) Measures taken to address discriminatory gender stereotypes in the justice system and the stigmatization of women complainants, in particular women with disabilities and women with albinism, as noted by the Committee on the Elimination of Discrimination against Women in its concluding observations adopted in 2021.³

Liberty and security of the person (art. 14)

12. Please inform the Committee of any legislative amendments to repeal provisions that allow for the deprivation of liberty on the basis of impairment, including on the basis of psychosocial disability and intellectual disability. Please provide detailed information, including statistical data, on how many cases of persons with disabilities who are in mental health institutions and similar institutional settings, have been reviewed since the Committee's previous concluding observations.

13. Please provide information on:

(a) The progress made to review the Older Persons Act (2006) and the Mental Health Care Act (2002) to align them with the Convention, as recommended by the Committee in its previous concluding observations;⁴

(b) Measures taken to prohibit forced institutionalization, provide support, including mental health support, and repeal all laws that allow for deprivation of liberty based on impairment;

(c) Measures taken to update the National Mental Health Policy Framework and Strategic Action Plan 2013–2020, which expired in 2020;

(d) Steps taken to consult closely with persons with disabilities and actively involve them, through their representative organizations, in monitoring all places in which persons with disabilities are deprived of their liberty and to provide training to mental health professionals and law enforcement and prison officials on respecting the rights of persons with disabilities in mental health facilities, prisons and detention centres.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

14. Information available to the Committee includes reports of violence, ill-treatment and neglect of children with disabilities in special schools, particularly Ikwezi Lokusa Special School. Please report on urgent measures taken to address violations of human rights at the that school and other similar schools to prevent violence, ill-treatment and neglect against children with disabilities, to investigate cases of ill-treatment of children with disabilities in residential schools, and to provide effective and timely remedies for ill-treatment of children with disabilities.

15. Please provide information on:

(a) Measures taken to protect persons with disabilities, in particular women and girls with disabilities and persons with intellectual and/or psychosocial disabilities, from torture and other cruel, inhuman or degrading treatment or punishment, especially in institutions;

(b) The number of complaints of abuse or cruel, inhuman or degrading treatment and the status of such complaints (i.e., the number of cases pending and the number that have been successfully resolved);

² CRPD/C/ZAF/CO/1, para. 25 (b).

³ CEDAW/C/ZAF/CO/5, para. 21.

⁴ CRPD/C/ZAF/CO/1, para. 27 (c).

(c) Measures adopted to support victims of torture and degrading treatment, including through legal advice, information in accessible formats, counselling and redress, such as compensation and rehabilitation;

(d) Prosecutions and disciplinary measures against perpetrators of torture, cruel, inhuman or degrading treatment or punishment of persons with disabilities, including children in the home, educational institutions and community settings;

(e) Measures taken to monitor conditions in all institutions and settings where persons with disabilities are deprived of their liberty and subjected to any form of torture, cruel, inhuman or degrading treatment or punishment.

Freedom from exploitation, violence and abuse (art. 16)

16. Please inform the Committee about:

(a) Measures adopted to protect all persons with disabilities, in particular women and girls with intellectual and/or psychosocial disabilities and children with disabilities, from all forms of violence and abuse, including corporal punishment, and to prevent and combat trafficking in persons;

(b) Specific measures taken to combat and to protect women and girls with disabilities from discrimination, violence and abuse, including gender-based violence, and to enable them to have access to health services, including psychological services and community-based support, and legal services;

(c) Measures taken to eliminate violence against and corporal punishment, abuse, neglect and unequal treatment of children with disabilities, especially children with autism and children with intellectual and/or psychosocial disabilities, by teachers and peers in all settings, including at home and in schools;

(d) Measures adopted to establish a pre-recruitment vetting procedure for all teachers and officials working with children with disabilities and to ensure that the National Register for Sex Offenders and National Child Protection Register are adequately maintained;

(e) Steps taken to prohibit exploitation of persons of short stature who are enticed to participate in events, which often take place under the banner of awareness-raising, but are principally used by the organizers to raise funds;

(f) Measures taken to provide victims of violence with effective redress, including compensation and rehabilitation, and to ensure that children have access to child-friendly reporting channels, physical and psychological rehabilitation and health services, including mental health services;

(g) Awareness-raising about the 24-hour Gender-based Violence Command Call Centre and about measures to ensure accessibility, including accessible information and victim support services in all parts of the State party, in particular for women and children with disabilities.

Protecting the integrity of the person (art. 17)

17. Please inform the Committee about any measures adopted to implement the Committee's previous recommendations, in particular, measures taken:

(a) To revise the Sterilization Act (1998) and the Choice on Termination of Pregnancy Act (1996) to remove provisions allowing for sterilization and termination of pregnancy under a substitute decision-making regime;

(b) To prevent and prohibit forced sterilization and non-consensual abortions, ensuring, without exception, that all persons with disabilities, including those deprived of their legal capacity, enjoy their right to free and informed consent;

(c) To abolish the use of drugs to induce menstrual suppression, including the use of experimental or new drugs and treatment, without free and informed consent, and to cease using induced menstrual suppression as a condition of admission into education;

(d) To ensure that sunscreen is available to persons with albinism in all provinces and to integrate albinism into the training of health workers.

18. Please provide information about measures taken to abolish harmful traditional and cultural practices, including child marriage, abduction for marriage (*ukuthwala*) and polygamous unions, healer/sangoma cleansing rituals and rape of persons with albinism, particularly affecting women and children with disabilities.

Liberty of movement and nationality (art. 18)

19. Please inform the Committee about measures taken to ensure that persons with disabilities, including migrants with albinism, have access to social services, including housing.

Living independently and being included in the community (art. 19)

20. Recalling the 2015–2016 tragedy that resulted in the death of more than 140 persons with psychosocial disabilities who had been institutionalized in the Life Esidimeni facility, please provide detailed information about measures taken:

(a) To develop and adopt a national strategic and legislative framework on deinstitutionalization for persons with disabilities that includes all the necessary community support, and ensure close consultation with and the active involvement of persons with disabilities at all stages of the deinstitutionalization process;

(b) To implement the deinstitutionalization process for persons with disabilities, including children and older persons with disabilities, and to ensure that the rights of persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, are respected;

(c) To reverse the situation of nearly 600,000 children with disabilities, including children with psychosocial disabilities, who are out of school or studying in institutions termed “specialized schools” or “hostels”, which are often isolated, located far from the children’s families and communities, and lack properly trained staff;

(d) To develop and adopt policies and plans to give effect to the Older Persons Act, including with regard to the provision of adequate community and in-home support and the collection of disaggregated data on older persons with disabilities who require support to live in the community;

(e) To develop policies and plans and to allocate human, technical and financial resources at the national, regional and local levels to ensure community support services for persons with disabilities in urban and rural areas, including personal assistance and grants.

Personal mobility (art. 20)

21. Please inform the Committee about measures taken:

(a) To facilitate the acquisition of mobility and assistive technologies, live assistance and intermediaries, particularly for persons with mobility impairments and persons with visual impairments, especially in remote and rural areas;

(b) To ensure an effective national strategy is put in place for the training and retraining of orientation and mobility practitioners and teachers in the use of devices for persons with mobility impairments and persons with visual impairments, especially in remote and rural areas.

Freedom of expression and opinion, and access to information (art. 21)

22. Please provide information on measures taken:

(a) To promote the use of South African Sign Language, in the wake of its adoption by constitutional amendment in July 2023 as the twelfth official language of South Africa, and to conduct effective training for sign language interpreters;

(b) To enact legislation to ensure that information provided to the general public through the mass media is available to persons with disabilities in multiple languages and in accessible formats, such as Braille, Easy Read and sign language, with technologies appropriate for different impairments, including by ensuring that websites are accessible and comply with the standards developed by the Web Accessibility Initiative of the World Wide Web Consortium;

(c) To make the rights of persons with disabilities an integral part of teacher training courses;

(d) To ensure that television stations provide news and programmes in accessible formats for all persons with disabilities, including persons who are deaf and persons with hearing impairments.

Respect for privacy (art. 22)

23. Please describe the measures taken to ensure respect for the privacy of persons with disabilities, including through safeguards in the collection of personal information.

Respect for home and the family (art. 23)

24. Please report on:

(a) Processes to review legislation and practices that restrict the right of persons with disabilities to marry, found a family and exercise their parental rights;

(b) Resources, including parental guidance and allowances, established to support parents with disabilities in exercising child-rearing responsibilities;

(c) Measures taken to prevent the separation of children with disabilities from their parents on the basis of disability;

(d) The percentage of children with disabilities living in alternative care and in institutionalized settings.

Education (art. 24)

25. Recalling that girls with disabilities face gender-based violence and discrimination in the school environment and unsafe transportation to and from schools,⁵ please provide information on legislative and policy measures taken to address this situation. Please report on measures taken to review the provisions of the Children's Act (2005) on child and youth centres to ensure regulated and safe school environments for students with disabilities.

26. Please describe the measures taken to implement the Committee's recommendations contained in its previous concluding observations concerning inclusive education, reasonable accommodation, data collection, teacher training and eliminating violence in schools.⁶ Please include details on:

(a) Measures taken to give effect to the right to inclusive quality education for all children with disabilities, in line with the Committee's general comment No. 4 (2016) on the right to inclusive education;

(b) Measures taken to end special education, including by eliminating school hostels;

(c) Steps taken to ensure that persons with disabilities have access to post-secondary education;

(d) Policies and plans in the education sector that serve to protect the rights of students with disabilities and how they are enforced;

(e) Legal and policy measures taken in schools to accommodate persons with albinism in education.

⁵ CEDAW/C/ZAF/CO/5, para. 45.

⁶ CRPD/C/ZAF/CO/1, para. 41.

Health (art. 25)

27. Please provide the Committee with information on:

- (a) Legal and policy measures adopted to ensure that health services for all persons with disabilities are accessible, affordable and culturally sensitive, and to prevent the denial of health services;
- (b) The availability of treatment for persons with disabilities based on free and informed consent, including specialized treatment, at all hospitals and steps taken to ensure that persons with disabilities have access to all hospitals;
- (c) Measures taken to ensure that persons with disabilities, including women and girls with disabilities, persons with HIV/AIDS, persons with albinism and persons with intellectual and/or psychosocial disabilities, enjoy their rights to sexual and reproductive health, including access to all information and services;
- (d) Training provided to health-care practitioners to ensure that they are aware of the rights of persons with disabilities and have the tools to provide persons with disabilities with appropriate advice and to avoid discriminatory and negative attitudes towards them, particularly persons with intellectual and/or psychosocial disabilities, persons living with HIV/AIDS and persons with albinism;
- (e) Measures taken to provide medicines, vaccines, medical equipment and health services to persons with disabilities, particularly in rural areas.

Habilitation and rehabilitation (art. 26)

28. Please provide information on measures taken to promote the availability, knowledge and use of assistive devices and technologies designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Work and employment (art. 27)

29. Please inform the Committee of the legal and policy measures taken to implement the right of persons with disabilities to work and employment, in line with the Committee's general comment No. 8 (2022), in particular measures taken:

- (a) To promote the employment of persons with disabilities in the private and the public sectors, including through affirmative action, and to adopt laws and policies on reasonable accommodation;
- (b) To collect data on persons with disabilities currently employed in the open labour market, disaggregated by age, gender, type of impairment and geographical location;
- (c) To adopt a strategy to increase productive and decent work and the employment of persons with disabilities, including through mechanisms to ensure that reasonable accommodation is provided and to prevent discrimination against persons with disabilities and their families in the labour market;
- (d) To apply the principle of equal pay for work of equal value to persons with disabilities;
- (e) To adapt the physical environment of workplaces to ensure it is accessible to persons with disabilities, and to train employers at all levels on respect for the concept of reasonable accommodation;
- (f) To ensure that the labour laws fully and equally protect migrant workers and mineworkers with disabilities, and that workers who have acquired an impairment as a result of their work receive appropriate treatment, rehabilitation and compensation.

Adequate standard of living and social protection (art. 28)

30. Please advise the Committee on steps taken:

- (a) To establish a social protection scheme that is inclusive of all persons with disabilities, aimed at guaranteeing an adequate standard of living, including through

compensation schemes in the form of allowances that will enable persons with disabilities to meet disability-related expenses;

(b) To promote the economic inclusion of all persons, irrespective of disability, sex, gender or place of living.

Participation in political and public life (art. 29)

31. Please provide information on measures taken to promote the effective participation of persons with disabilities in political and public life, including standing for local and general elections and publicly expressing their political opinion.

Participation in cultural life, recreation, leisure and sport (art. 30)

32. Please inform the Committee about measures in place to foster the inclusion of persons with disabilities in cultural life, recreation, leisure and sport, including access to public libraries and national monuments.

33. Please also inform the Committee about measures taken to ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

34. Please provide updated information on:

(a) The achievements of the National Disability Statistics Advisory Group, established in 2017, including the reports it has issued since its establishment, with data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts;

(b) Strategies for the collection of up-to-date disaggregated data on persons with disabilities and how those data are stored, disseminated and accessed for use in planning;

(c) Close consultations with and the active involvement of persons with disabilities, through their representative organizations, in data collection and measures taken to obtain accurate, up-to-date data in multiple languages and in Braille, sign language, Easy Read and electronic formats.

International cooperation (art. 32)

35. Please inform the Committee about the measures adopted to ensure close consultation with persons with disabilities and to actively involve them, through their representative organizations, in international cooperation agreements and programmes, including in monitoring the achievement of the Sustainable Development Goals.

National implementation and monitoring (art. 33)

36. Please update the Committee on:

(a) Measures taken to establish a mechanism and a system of focal points to implement the Convention, and to strengthen the efficiency of existing focal points at the national, regional and local levels;

(b) Measures taken to designate the South African Human Rights Commission as the independent monitoring mechanism, pursuant to article 33 (2) of the Convention, and to allocate sufficient financial resources to enable it to execute its mandate fully;

(c) Mechanisms to ensure the participation of persons with disabilities and their representative organizations in monitoring the Convention, including as part of the designated independent monitoring mechanism.