

SUMMARY OF **RECOMMENDATIONS** FOR SOUTH AFRICA from the United Nations Committee on Economic, Social and Cultural Rights



UNIVERSITY of the
WESTERN CAPE



DULLAH OMAR INSTITUTE
FOR CONSTITUTIONAL LAW, GOVERNANCE AND HUMAN RIGHTS



**STUDIES IN POVERTY AND
INEQUALITY INSTITUTE**

*Building up knowledge
to break down Poverty*

BLACKSASH
MAKING HUMAN RIGHTS REAL



People's Health
Movement
South Africa



socio-economic rights institute
of south africa

A background graphic consisting of several stylized, line-art hands reaching out from the right side of the page towards the left. The hands are arranged in a vertical column, with some overlapping. They are drawn with simple black outlines on a white background.

**SUMMARY OF
RECOMMENDATIONS FOR
SOUTH AFRICA** from the United
Nations Committee on Economic,
Social and Cultural Rights

Acknowledgements



The activities leading to this publication were undertaken by the Dullah Omar Institute (DOI), University of the Western Cape, Black Sash, the Socio-Economic Rights Institute of South Africa (SERI), Studies in Poverty Inequality Institute (SPII) and Peoples' Health Movement (PHM).

Special thanks go to Dr Khulekani Moyo from the University of Witwatersrand for preparing this document.

Thanks also go to Profs Lilian Chenwi and Jackie Dugard from the University of Witwatersrand for their constructive engagement and suggestions during the preparation of this document.

We would equally like to thank all the NGOs, CBOs, social movements and community members who participated in some of the community dialogues for their feedback.

Produced 2019.

To be cited as: ICESCR Campaign (2019) 'Summary of Recommendations to South Africa from the United Nations Committee on Economic, Social and Cultural Rights'.

Funding for this project was facilitated by the Foundation for Human Rights, which is funded by the Department of Justice and Correctional Services and the European Union under the Sector Budget Support Programme 'Access to Justice and Promotion of Constitutional Rights'.

Disclaimer: Any views and opinions presented in this report are solely those of the authors and do not necessarily represent those of the funders.



Introduction

i. What is the International Covenant on Economic, Social and Cultural Rights?

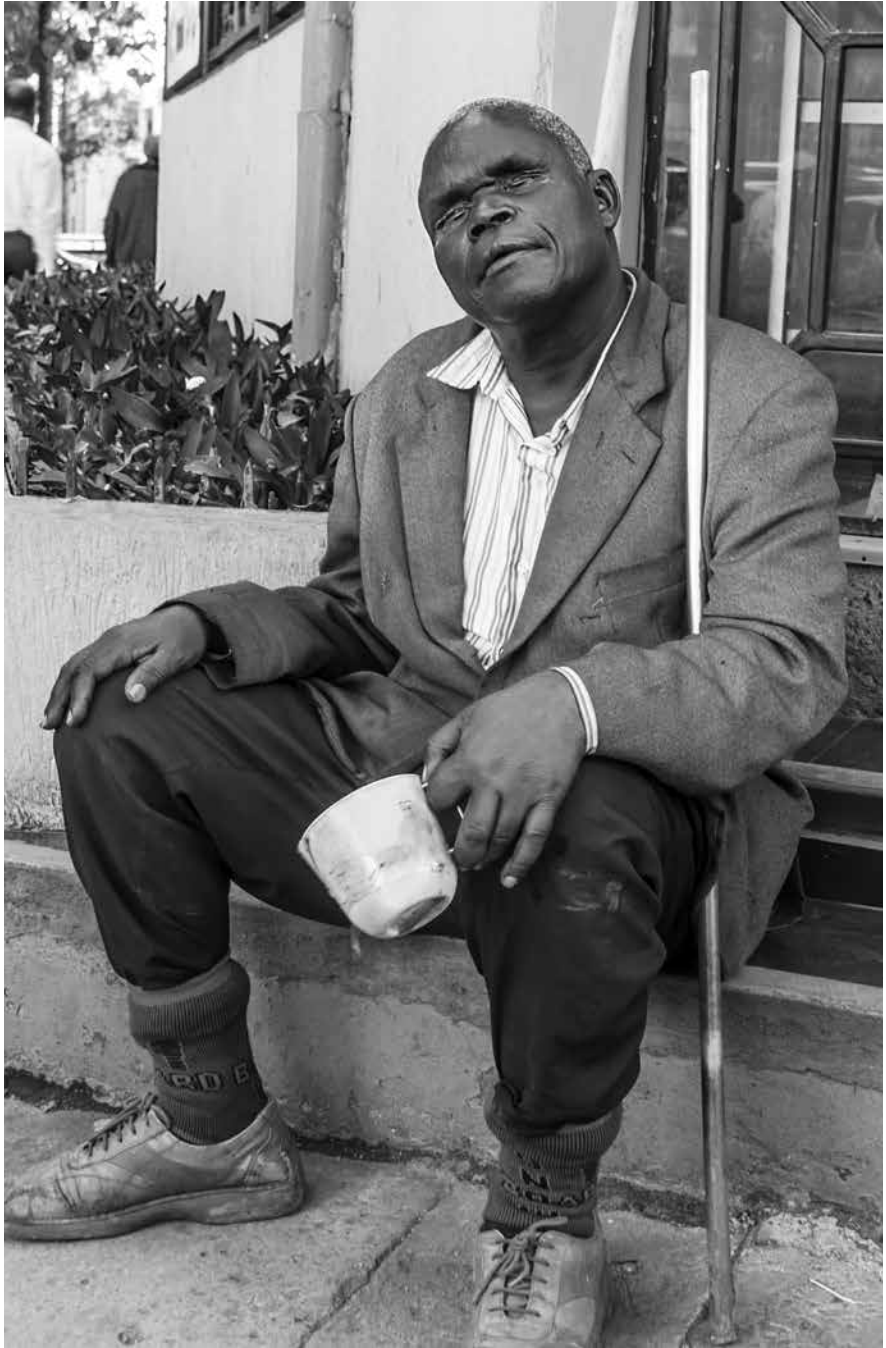
The International Covenant on Economic, Social and Cultural Rights (Covenant) is an international human rights treaty of the United Nations (UN). It was adopted on 10 December 1966 and came into force on 3 January 1976. The Covenant protects a wide range of economic, social and cultural rights (socio-economic rights). Together with the International Covenant on Civil and Political Rights (ICCPR), which was adopted at the same time, the Covenant forms the cornerstone of international human rights law and has been ratified by 169 countries around the world. All African countries, except Botswana, Mozambique and South Sudan, have ratified and are therefore bound by the Covenant. South Africa ratified the Covenant on 12 January 2015.

An Optional Protocol to the Covenant (Optional Protocol) was adopted on 10 December 2008 by the UN and came into force on 5 May 2013. Twenty-four countries have ratified the Optional Protocol of which four of them are African. The Optional Protocol allows people to present complaints at the international level when they cannot access justice in the courts of their country for violations of socio-economic rights. However, their country must first ratify the Optional Protocol. South Africa has not ratified the Optional Protocol yet.

The Covenant recognises that many people do not enjoy some of the most basic rights and responds to the fact that vast numbers of people live in poverty, go hungry, do not have adequate shelter and do not have access to education.

The rights in the Covenant include:

- The right to work and for everyone to earn a living through freely chosen work (Article 6);
- The right to just and favourable conditions of work (Article 7);
- The right to form trade unions and join a trade union of one's choice (Article 8);
- The right to social security, including social insurance (Article 9);
- The right to family protection (Article 10);
- The right to an adequate standard of living, including adequate food, clothing and housing, and the continuous improvement of living conditions (Article 11);
- The right to enjoy the highest possible standard of physical and mental health (Article 12);
- The right to education, including compulsory primary education (Article 13); and
- The rights to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production (Article 15).



ii. What is the Committee on Economic, Social and Cultural Rights?

The Committee is the body of independent experts that monitors implementation of the Covenant by countries. All countries have a duty to submit regular reports to the Committee on how the rights are being implemented in their country. Countries must report initially within two years of accepting the Covenant and thereafter every five years. The Committee examines each report and addresses its concerns and recommendations to the country in the form of 'Concluding Observations'.

iii. The Covenant reporting process

South Africa submitted its initial report to the Committee on 25 April 2017. In October 2018, the Committee reviewed South Africa to see how well the government of South Africa is fulfilling its duties under the Covenant. The Committee made a series of Concluding Observations setting out how South Africa can improve its record in fulfilling socio-economic rights. The South African government is required in terms of its Covenant obligations to report back on its progress on the implementation of specified recommendations by October 2020 and provide another full report to the Committee by 31 October 2023.

The issuance of Concluding Observations is the single most important activity of human rights treaty bodies. It provides an opportunity for the UN to provide an overview of the state of human rights in a country and advice on areas that require improvements. This document is a summary of the Concluding Observations to South Africa.

1. Full implementation of the Covenant into law and policy

The Committee acknowledged that the South African Constitution is particularly progressive in the area of socio-economic rights, and its impact has been further strengthened through the Constitutional Court's interpretation of its provisions. The Committee however noted that the Constitution does not include all the rights in the Covenant, such as the right to work and the right to an adequate standard of living. The Committee recommended that the government must ensure that all rights in the Covenant are included in the South African Constitution. Another key recommendation was for the government to accept the right to free primary education (articles 13 (2) (a) and 14 of the Covenant)¹, as well as to allow the Covenant to be used in domestic courts.

2. Insufficient funding of the South African Human Rights Commission

The Committee recommended to the government to allocate sufficient funding to the South African Human Rights Commission to enable it to effectively carry out its work.

3. Data collection on socio-economic rights

The Committee recommended that South Africa improve its data collection system to enable the collection of comprehensive and reliable data. Such data must be arranged by race, gender and province in order to enable the assessment of the level of enjoyment of rights covered by the Covenant, particularly among disadvantaged individuals and groups.

¹ South Africa's ratification to the Covenant is subject to the following declaration '[t]he Government of the Republic of South Africa will give progressive effect to the right to education, as provided for in Article 13(2) (a) and Article 14, within the framework of its National Education Policy and available resources.'

4. Protection of human rights defenders

The Committee recognised the threats faced by human rights defenders, particularly those working to promote and defend Covenant rights in the mining and environmental sectors. In that regard the Committee recommended to the government to provide a safe environment for the work of human rights defenders to promote and protect socio-economic rights. This involves:

- i. Ensuring that all reported cases of intimidation, harassment and violence against human rights defenders are promptly and thoroughly investigated and the perpetrators are brought to justice;
- ii. Ensuring that law enforcement personnel are appropriately trained so as to prevent the excessive use of force against protesters; and
- iii. Reviewing the law relating to the regulation of protests with a view to preventing it from being abused to suppress peaceful protests.

5. Promotion and protection of the rights of indigenous peoples

The adoption of the Traditional and Khoi-San Leadership Bill was hailed as a step in the right direction in ensuring that indigenous people in South Africa also fully enjoy the rights protected in the Covenant.

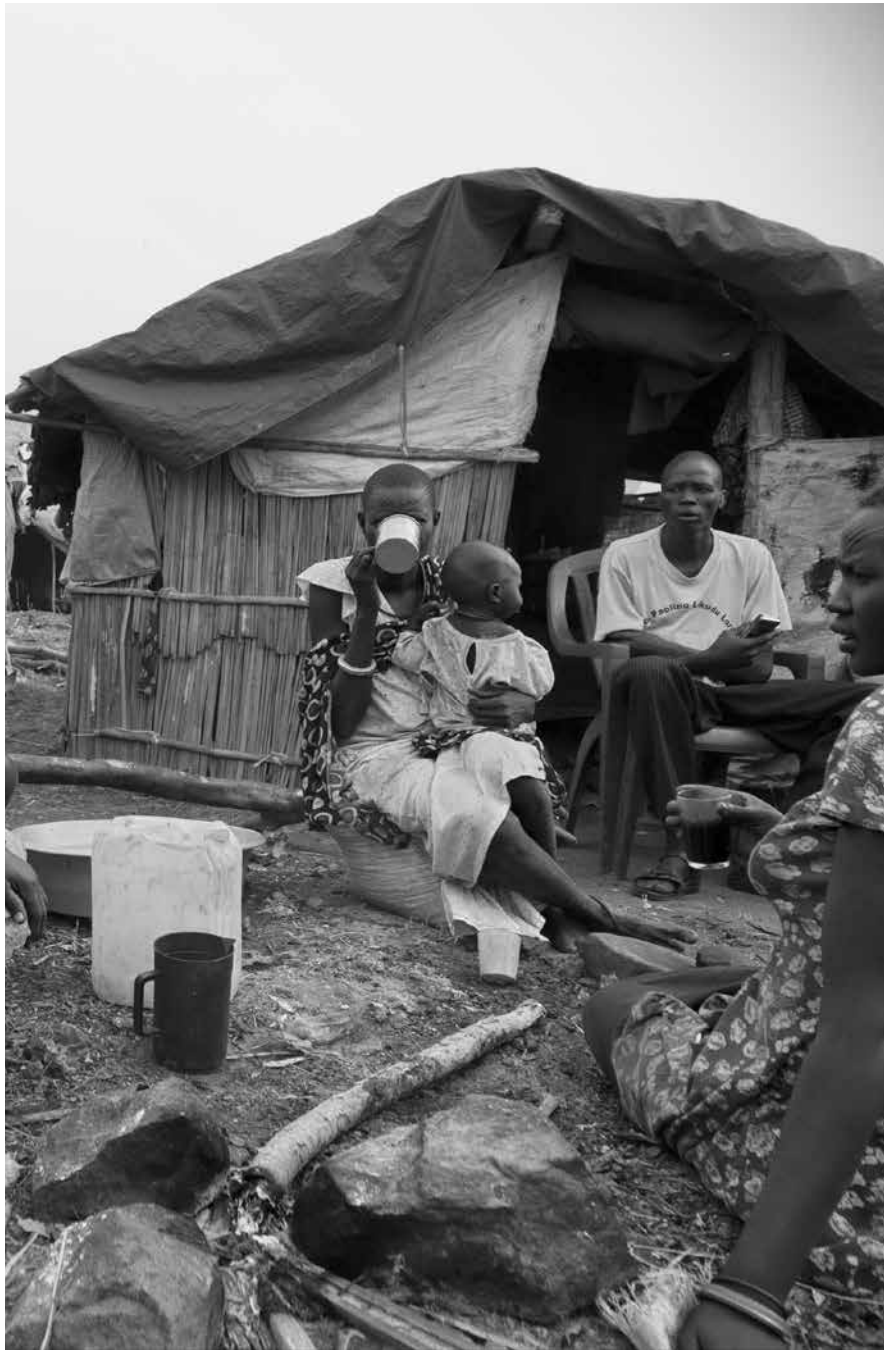
The Committee recommended to the government to:

- i. Ratify the International Labour Organization Indigenous and Tribal Peoples Convention No.169 of 1989;
- ii. Ensure that indigenous people fully enjoy the rights protected in the Covenant; and
- iii. Fully consult with, and afford indigenous people the opportunity to participate in the implementation of the Traditional and Khoi-San Leadership Bill.

6. Government must address inequality

The 'unacceptably high levels of economic and social inequality' were highlighted, and in the Committee's view, are an indication that the model of economic development pursued by the government is not sufficiently inclusive. The Committee noted:

- i. Significant inequalities in the country, both between provinces and between rural and urban municipalities.
- ii. The country's financial policy and tax laws do not enable it to raise sufficient resources required to reduce such inequalities;
- iii. No human rights impact assessment was conducted, particularly on low-income households before the value-added tax (VAT) was increased; and
- iv. The prevalence of illegal financial flows and tax avoidance, which has a serious impact on the ability to raise sufficient financial resources to implement its socio-economic rights obligations.



The Committee made a series of recommendations, key of which were that the government must:

- i. Review its taxation and spending policy in order to have sufficient income to fulfil its duties;
- ii. Reduce regional disparities in the enjoyment of the rights under the Covenant;
- iii. Assess the impact of the increase in VAT, particularly on low-income households, and take corrective actions as necessary;
- iv. Increase efforts to stop illicit financial flows and tax avoidance; and
- v. Re-examine its growth model in order to move towards a more inclusive development pathway.

7. Implementation of austerity measures

The Committee was concerned that the government has introduced austerity measures which have resulted in significant budget cuts in the health, education and other public service sectors, and this may further worsen inequalities in the enjoyment of the rights under the Covenant.

According to the Committee, where austerity measures are unavoidable, they should be temporary, covering only the period of the crisis, necessary and proportionate and should not result in discrimination and increased inequalities.

The Committee recommended that the government increase the level of funding in the areas of social security, health and education.

8. Persons with albinism

The plight of persons with albinism was of particular concern to the Committee, in light of evidence that persons with albinism continue to be subjected to attacks and face discrimination in enjoying their rights under the Covenant, including the right to work and the right to education. The Committee recommended that the government put more effort into eliminating discrimination and violence against persons with albinism through:

- i. Strengthening the legal framework;
- ii. Raising public awareness and engaging with traditional leaders and healers in a coordinated and coherent manner; and
- iii. Facilitating the access of persons with albinism to work and education by providing them with the necessary support and assistance.

9. Enabling asylum seekers access to social services

The Committee acknowledged that the country hosts a large number of refugees and asylum seekers who have been forced to flee their countries. While noting that significant progress has been made in processing applications for asylum, the Committee was concerned at the large backlog of asylum applications pending in the appeal process and the proposal to establish asylum-processing centres in border areas. Implementing such a plan may restrict the access of asylum seekers to legal assistance, health care, education and social assistance allowances.

The Committee recommended to the government to:

- i. Quickly clear the backlog of asylum applications pending in the appeal process;
- ii. Ensure that asylum seekers are guaranteed effective access to legal assistance, basic health care and education and are supported in applying for social assistance allowances; and
- iii. Ensure that asylum seekers can support themselves and enjoy the right to work.

10. Reduce high levels of unemployment

Unemployment is considerably high in the country, and stands at 27.5 per cent among the general population and at 39 per cent among young people. While taking note of the range of programmes already in place to help job seekers find employment, the Committee expressed concern at such high rates of unemployment, including the inadequate implementation of the 2 per cent employment quota for persons with disabilities in the private sector.

The Committee recommended that the government:

- i. Make every effort to reduce the high rates of unemployment, including by improving both opportunities for vocational training and the educational curriculum, as well as by developing programmes, particularly for young people, to meet current labour market demands and by providing employers with incentives to hire young people; and
- ii. Effectively implement the 2 per cent employment quota for persons with disabilities, particularly in the private sector, and ensure that such workers' workplace needs are provided for.

10.1 Precarious employment in the formal and informal economies

An issue of particular concern to the Committee is the large number of workers working in the informal economy without labour rights and sufficient social protection. There is currently no legislative framework regulating the informal economy, thus exposing such workers to the risk of abuse by employers and law enforcement authorities. Another concerning issue is what the Committee referred to as 'the increasing casualisation of employment in the formal economy.' In light of such concerns, the Committee recommended that the government:

- i. Introduce laws to regulate the informal economy, with a view to protecting workers from abuse, including by law enforcement officials;
- ii. Extend the coverage of the labour and social security legislation to these workers;

- iii. Facilitate the transition of workers in the informal economy to the formal economy; and
- iv. Prevent and mitigate the casualisation of work in the formal economy.

11. Protection of the rights of sex workers

The Committee was concerned that sex workers, most of whom are women, do not enjoy the rights covered by the Covenant, particularly the right to work, the right to health and trade union rights. The Committee also expressed its concern that sex workers are subjected to frequent harassment and arbitrary arrests and detention, as well as being coerced into free sex and the giving of bribes to the police owing to the criminalisation of the sale of sex. Such criminalisation of sex work makes it difficult to report physical and sexual violence against sex workers.

The Committee recommended that the government:

- i. Impose an immediate moratorium on arrests of sex workers until the legal status of sex work is determined;
- ii. Consider decriminalising the sale of sex;
- iii. Protect sex workers from police harassment, as well as from sexual and physical violence and exploitation by traffickers, establishment owners and others;
- iv. Provide support and assistance to victims of harassment, violence and exploitation; and
- v. Take measures to curb the demand for prostitution and provide sex workers with alternative livelihood opportunities.

12. Labour rights of domestic and farm workers

The Committee acknowledged that the Basic Conditions of Employment Act and Sectoral Determination 7 provide some level of labour and social protection for domestic and farm workers. The Committee however expressed concerns that:

- i. Domestic workers and farm workers often labour under exploitative conditions;
- ii. Domestic workers are not covered for occupational injuries and deaths under the Compensation for Occupational Injuries and Diseases Act;
- iii. Although the accommodation provided is a core component of the wage received, the standard of accommodation is not regulated; and
- iv. The law provides neither for unannounced labour inspections carried out in domestic settings nor for effective mechanisms allowing domestic workers to make formal complaints about their working conditions.

A series of recommendations were made by the Committee, including:

- i. The government must put efforts to protect domestic and farm workers from exploitation and to provide them with enhanced labour and social protection;
- ii. Strengthening the law to cover domestic workers for occupational injuries and deaths, and provide legal guidance on the standard of accommodation;
- iii. Regularly carry out unannounced labour inspections in domestic settings;
- iv. Ensure that domestic and farm workers have access to effective complaint mechanisms; and
- v. Raise public awareness of the rights of domestic workers.

13. Working and living conditions in the mining sector

An area which came under particular scrutiny related to the working conditions of mineworkers and the lack of labour inspections in the mining sector, which have led to a high incidence of occupational injuries and diseases. Of considerable concern as well is that most mineworkers live in informal settlements around mines without water, sanitation facilities or electricity, and that social and labour plans are often not implemented by employers. Female mineworkers are often subjected to discrimination and exposed to sexual violence.

The Committee made recommendations to the government to improve the working and living conditions of mineworkers by:

- i. Ensuring the strict enforcement of the Mine Health and Safety Act and the Occupational Health and Safety Act in the mining sector;
- ii. Strengthening labour inspections in the mining sector;
- iii. Ensuring that injured mineworkers and mineworkers with occupational diseases have access to effective care and are able to take legal actions against their employers;
- iv. Carrying out regular risk assessments of hazards to the safety and health of mineworkers, in particular temporary or contract workers;
- v. Promoting the safety and dignity of female mineworkers, addressing gender inequalities and violence, and eradicating the male-dominant work culture in the sector;
- vi. Improving living conditions in mineworker communities, and ensuring mineworkers' access to adequate housing, water, electricity, sanitation, health care, education and other social services; and
- vii. Strictly enforcing social and labour plan-related obligations and imposing penalties on employers in cases of non-compliance, including by revoking their licences.



14. Minimum wage must ensure an adequate standard of living

Regarding the minimum wage, the Committee expressed its concern that:

- i. The current hourly minimum wage (20 rand) does not ensure workers and their families an adequate standard of living;
- ii. The minimum wages for domestic workers and farm workers have been set at a level even lower than that for the interim period; and
- iii. A large number of workers are not covered by the minimum wage bill.

The Committee's key recommendations were for the government to:

- i. Apply the same minimum wage across all sectors, including the domestic, farm and retail sectors; and
- ii. Raise the national minimum wage and regularly adjust it to the cost of living so as to ensure an adequate standard of living for workers and their families.

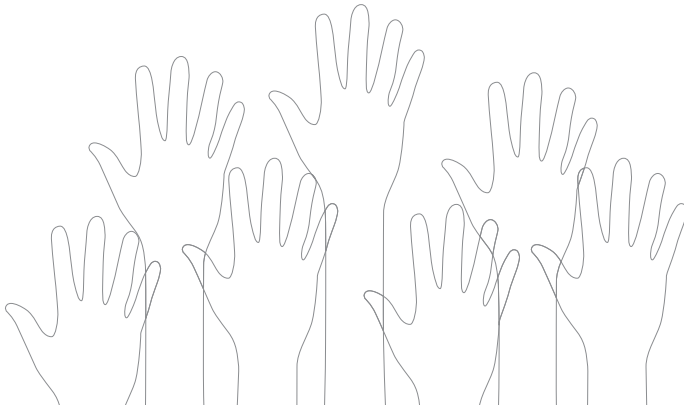
15. Close gender pay gap and ensure equal pay for work of equal value

The gender pay gap, which stands at 27 per cent, as well as the high percentage of women in precarious employment, has an effect on women's enjoyment of their rights under the Covenant throughout their lives. Of particular concern is that labour laws and collective agreements do not incorporate the principle of equal pay for work of equal value.

The Committee recommended that the government put more effort to close the gender pay gap between men and women and that it ensures that the principle of equal pay for work of equal value is incorporated into labour laws and collective agreements and is effectively implemented.

16. Sufficient funding for labour inspections

The Committee recommended to the government to increase the level of funding allocated to the Directorate of Inspection and Enforcement Services and ensure that there is a sufficiently paid cadre of labour inspectors to reduce the high rate of turnover. The Committee also called upon the government to ensure that compliance orders of labour inspectors are implemented.







17. Protection of trade union rights

Of particular concern to the Committee is that domestic workers, farmworkers and workers in precarious employment are often excluded from the collective bargaining process. In light of the above concern, the Committee recommended to the government to ensure that:

- i. All workers, including those in precarious employment, effectively participate in the decision-making process relating to their working conditions as provided for in the Constitution and labour laws; and
- ii. The amendments to the Labour Relations Act must provide for stronger protection of labour rights, including the right to strike.

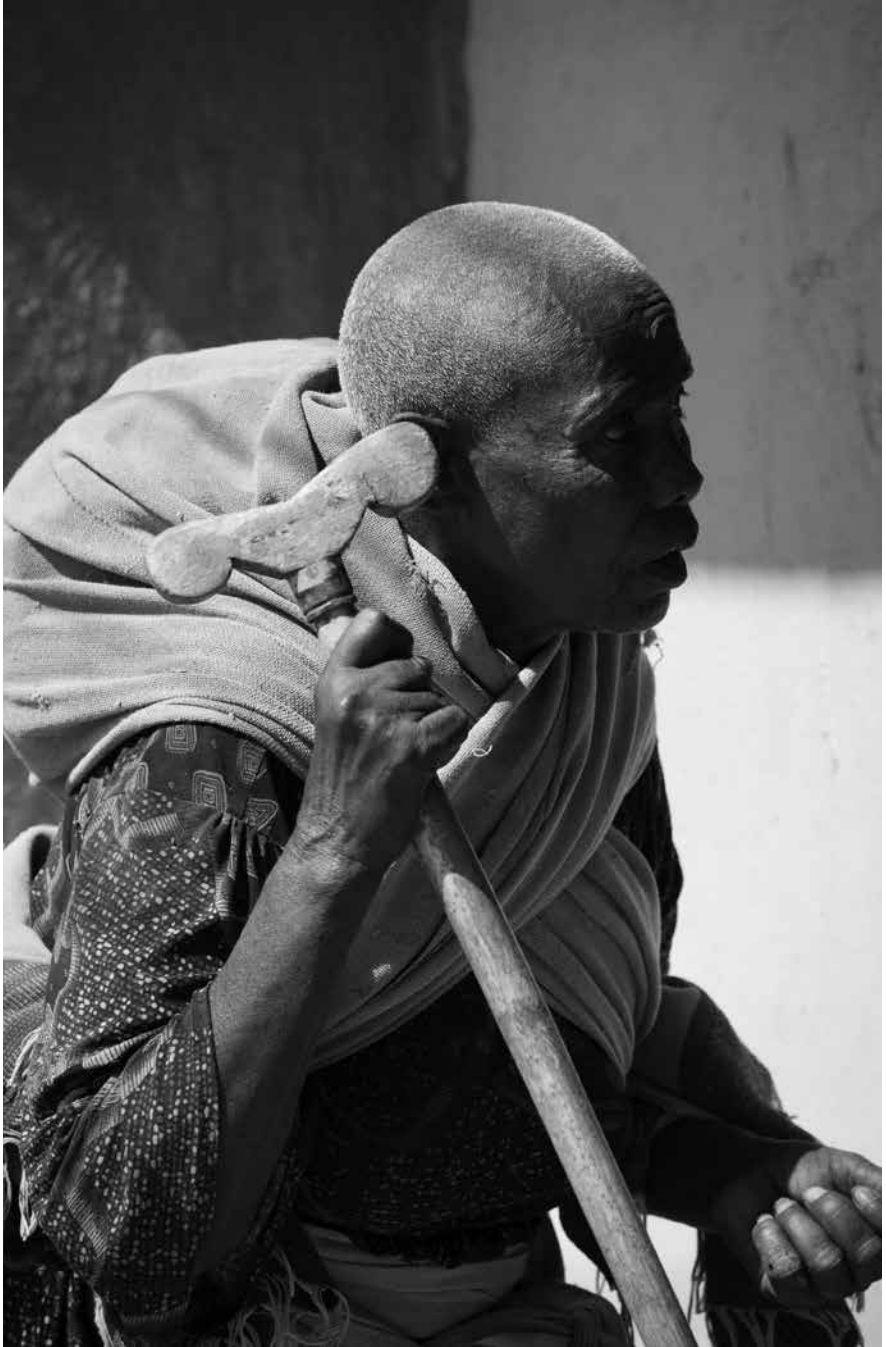
18. Social security

While acknowledging that social grants have been an important instrument in reducing poverty in the country, the Committee remains concerned that the poverty ratio in the country is unacceptably high. The Committee highlighted the following important points:

- i. The levels of government social assistance benefits are too low to ensure an adequate standard of living for recipients and their families;
- ii. Those with little or no income who are between the ages of 18 and 59 and are capable of working are not covered by existing schemes;
- iii. The coverage of the Unemployment Insurance Fund benefits remains low and excludes workers in the informal economy, seasonal workers and the self-employed; and
- iv. Data and bank accounts belonging to social grant recipients have been misused and a large number of unauthorised deductions from social benefits have been recorded.

The Committee made a series of recommendations, including the requirement for the government to:

- i. Raise the levels of government social assistance benefits to a level that ensures an adequate standard of living for recipients and their families;
- ii. Ensure that those between the ages of 18 and 59 with little or no income have access to social assistance;
- iii. Expand the coverage of the Unemployment Insurance Fund benefits to all workers, regardless of their status;
- iv. Consider the possibility of introducing a universal basic income grant; and
- v. Address the situation brought about by the outsourcing of the social grants payment system and ensure that all the payments are made in a timely manner during the transition period.



19. Improvement required in birth registration

Ten per cent of children in South Africa remain unregistered and birth registration is hindered, particularly for those with one or more foreign parents and those of single fathers, owing to extra requirements such as paternity testing. The Committee was also concerned that section 4 (3) of the Citizenship Amendment Act is interpreted restrictively to benefit only children born after 1 January 2013, thus exposing many of those born before that date to the risk of statelessness.

The Committee recommended to the government to:

- i. Facilitate birth registration by streamlining the registration procedure and helping parents meet the requirements, through, for example, reimbursing the costs of proof-of-paternity tests where such tests have established paternity; and
- ii. Apply the citizenship laws in such a way that children of foreign nationals are not exposed to the risk of statelessness.

20. Age of marriage and legal recognition of Muslim marriages

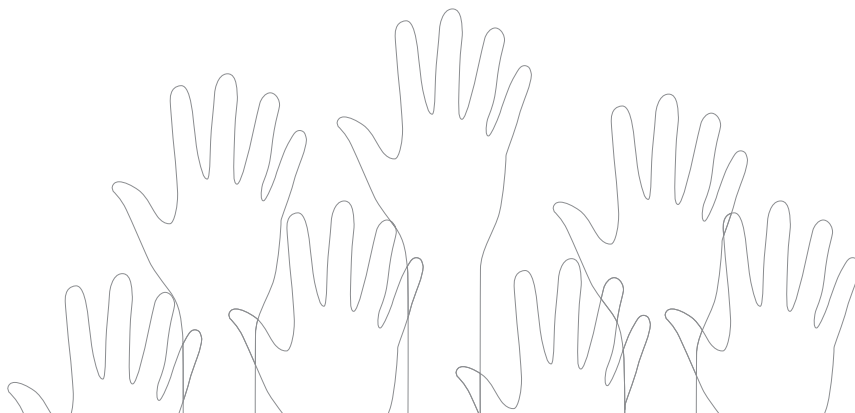
The Committee expressed concern at the discrepancy in the minimum age of marriage between boys and girls, as well as the lack of legal recognition of Muslim marriages and its negative consequences for women whose Muslim marriages are not officially registered.

In that regard, the Committee recommended to the government to harmonise all its relevant laws to ensure that the minimum age for marriage for boys and girls is brought into line with international standards. It also recommended to the government to facilitate the recognition of Muslim marriages, while providing appropriate safeguards for women's rights.

21. Harmful practices: virginity testing and ukuthwala

While acknowledging that section 31 of the Constitution protects the rights of cultural, religious and linguistic communities, the Committee expressed concern about the impact on children of practices such as virginity testing and ukuthwala, which, in the absence of the consent of the girl concerned for the latter, is considered as a form of trafficking.

The Committee recommended to the government to combat harmful practices, such as ukuthwala and virginity testing, including by raising awareness of the negative impacts of such practices on girls and women throughout their lives, and ensure that such practices are completely prohibited.



22. Malnutrition among children and the right to adequate food

The Committee highlighted the lack of a law to ensure the right to food as well the high incidence of food insecurity and malnutrition in the country, particularly among children. The Committee expressed its concern that the child support grant (at 400 rand per month) is below the food poverty line and that an estimated 18 per cent of eligible children do not benefit from the grant, owing to a lack of documentation. In light of the above the Committee recommended that the government:

- i. Increase the child support grant at least up to the level of the food poverty line;
- ii. Ensure that all eligible children benefit from the grant;
- iii. Increase the level of child support grants for orphaned and abandoned children living with relatives; and
- iv. Adopt a law protecting the right to adequate food and nutrition, and develop a national food and nutrition security strategy.

23. Right of access to adequate housing

The Committee welcomed efforts made by the government to provide social housing to low-income families. The Committee, however, remained concerned at the:

- i. Large number of people living in inadequate housing, including those in informal settlements, without access to basic services;
- ii. Growing number of informal settlements in urban areas due to rapid urbanisation, and the decrease in the number of social housing units provided by the government.
- iii. Reports of illegal evictions and the excessive use of force during evictions, as well as evictions taking place without municipalities offering suitable alternative accommodation; and
- iv. Dire housing and living conditions of farm dwellers.

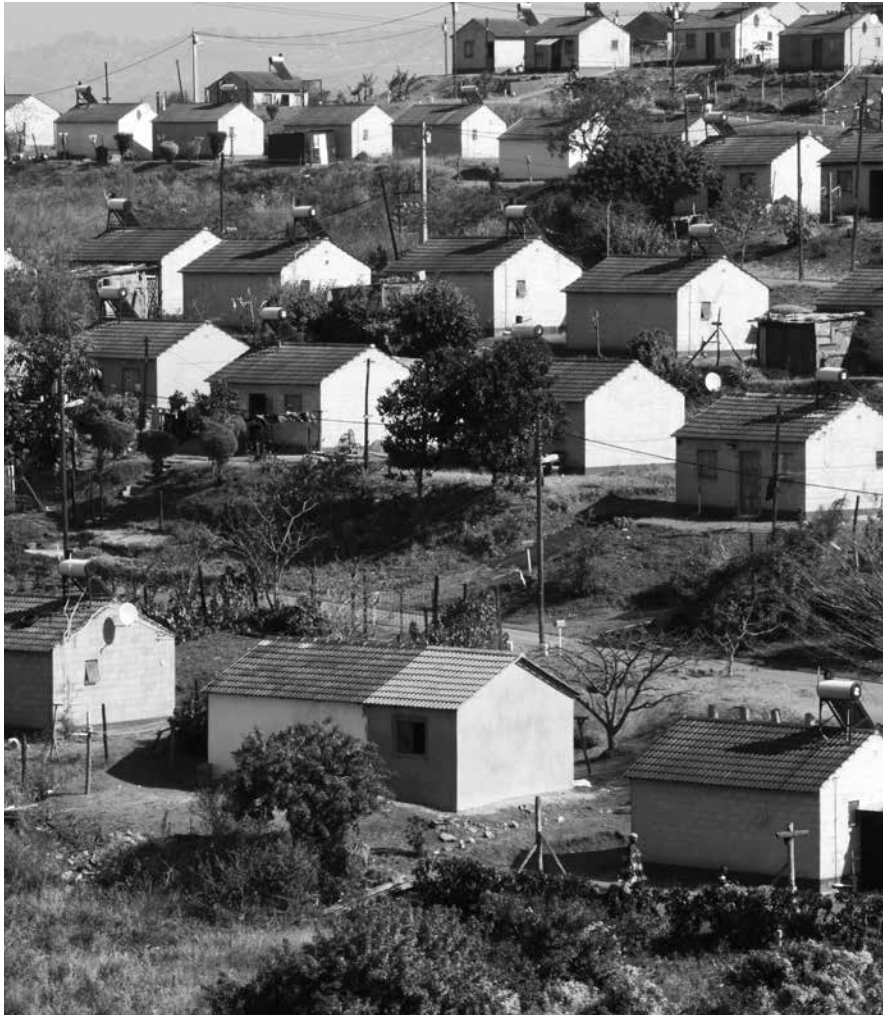
The Committee recommended to the government to:

- i. Improve housing conditions and to meet increasing demand, including by continuing to provide adequate social housing in urban areas and to upgrade housing conditions in informal settlements;
- ii. Ensure that evictions are carried out only as a last resort, without the use of force and in compliance with international standards; and
- iii. Improve the housing and living conditions of farm dwellers in full compliance with the Covenant and other international human rights standards, especially the requirement that evicted occupiers are provided suitable alternative accommodation.

24. Slow pace of land reform and equitable access to land

The slow pace of land reform in the country was of particular concern to the Committee, noting that the government has failed to meet its own resettlement targets. The Committee also expressed concern at the inadequate post-settlement support and lack of training to beneficiaries of land redistribution. Also of concern to the Committee is that women own only 13 per cent of agricultural land and that they still face discrimination in access to land, owing to traditional inheritance practices.

The Committee recommended to the government to accelerate the implementation of the land redistribution and restitution policies and provide the beneficiaries with adequate support to productively use the land and improve their livelihoods. The Committee further recommended to the government to ensure that women have equal access to land and land ownership.



25. Access to adequate health

While noting that South Africa is working towards universal health care coverage through the adoption of the National Health Insurance Bill, the Committee was concerned at the large disparities between the public and private health care systems, with the public system at a disadvantage in relation to the number of medical professionals, medical equipment and medical expenditure, as well as between rural and urban areas in registering with the National Health Insurance Fund and accessing health-care services. While noting the progress achieved in making antiretroviral treatment accessible to HIV patients, the Committee was concerned that a significant number of patients still do not have access to such treatment.

The Committee recommended that the government:

- i. Expedite the adoption of the National Health Insurance Bill;
- ii. Address the large disparities between the public and private health-care systems, as well as between rural and urban areas, by securing a sufficient number of medical professionals, improving medical equipment; and
- iii. Ensure that all people in need of life-saving treatment have access to affordable medicines, in particular antiretroviral drugs for people living with HIV.

26. Access to sexual and reproductive health care

The Committee expressed concern at the low number of health-care centres that provide abortion services, and limited accessibility of facilities offering such services, particularly in rural areas. Also of particular concern to the Committee is the high incidence of teenage pregnancy, which leads to high school dropout rates among girls.

In light of the above concerns, the Committee recommended that the government:

- i. Ensure that facilities and services for sexual and reproductive health, including for abortion, are available and accessible to all, in particular in rural areas;
- ii. See to it that physicians who invoke conscientious objection provide referrals within their own facility or to a nearby facility so that their objection does not impede women's access to abortion services;
- iii. Reduce the high rate of teenage pregnancy and ensure access to and availability of sexual and reproductive health information and contraceptives for all, including teenage girls and boys, in particular in rural areas; and
- iv. Provide the necessary support services for pregnant adolescent girls, including measures to enable them to continue their education.



27. State of school infrastructure and its impact on the right to education

Another area of particular concern to the Committee is the state of the school infrastructure. Issues of concern included:

- i. The state of public-school infrastructure that is generally poor;
- ii. A number of schools have limited or no access to water, sanitation facilities or electricity; owing to budgetary cuts and, in some cases, mismanagement of funds;
- iii. The high dropout rates among schoolchildren, mainly due to weak learning foundations;
- iv. The practice of charging fees in the form of voluntary contributions in no-fee schools, and at the discriminatory effects of fee exemptions in fee-paying schools, particularly on children of single parents;
- v. The lack of guidance on the roles and responsibilities of private-sector actors in education; and
- vi. The low participation of children from low-income families in early education, in spite of efforts from government.

The Committee made a series of recommendations, focusing on the need by the government to:

- i. Improve school infrastructure and ensure that all schools have access to water, sanitation facilities and electricity by allocating and effectively managing a sufficient level of funding;
- ii. Reduce the school dropout rate by improving the acquisition of foundational numeracy and literacy;
- iii. Ensure that no-fee schools stop charging parents fees and review the requirements for fee exemption in fee-paying schools, with a view to ensuring that disadvantaged children are not discriminated against;
- iv. Improve the regulatory framework to define the roles and responsibilities of private-sector actors, and monitor the education provided by such actors; and
- v. Guarantee high-quality early education for all children, especially those from disadvantaged families.



28. Disabled and migrant, refugee and asylum seeking children's access to education

Particular focus was also placed on the plight of children with disabilities. The Committee was concerned that a large number of children with disabilities do not attend school and that such children, particularly those from low-income families, do not benefit from no-fee schools. The Committee further expressed concern at the significant number of undocumented migrant, refugee and asylum-seeking children that are not enrolled in formal education.

In light of the above concerns, the Committee recommended to the government to:

- i. Immediately roll out the no-fee schools programme in State-run schools for children with disabilities who cannot be accommodated in mainstream schools;
- ii. Ensure that inclusive education is a guiding principle in all education plans and programmes, including by providing reasonable accommodation for children with disabilities; and
- iii. Ensure that all migrant, refugee and asylum-seeking children have access to education regardless of their immigration status.

29. Protection of indigenous languages

The lack of protection of endangered languages and the lack of teaching of indigenous languages and knowledge systems in the public-school system was of particular concern to the Committee.

The Committee recommended to the government to:

- i. Protect endangered languages and ensure that indigenous languages and knowledge systems are taught in the school system; and
- ii. Strengthen the mandate of the Pan South African Language Board in that regard.

30. Ensuring accessibility and affordability of the internet

The Committee expressed concern at the limited access to the internet, particularly in rural areas and in schools, as well as the lack of affordability of the internet for the most disadvantaged groups. The Committee recommended to the government to adopt relevant measures to ensure the accessibility and affordability of the internet, particularly in schools and rural areas and for the most disadvantaged groups.

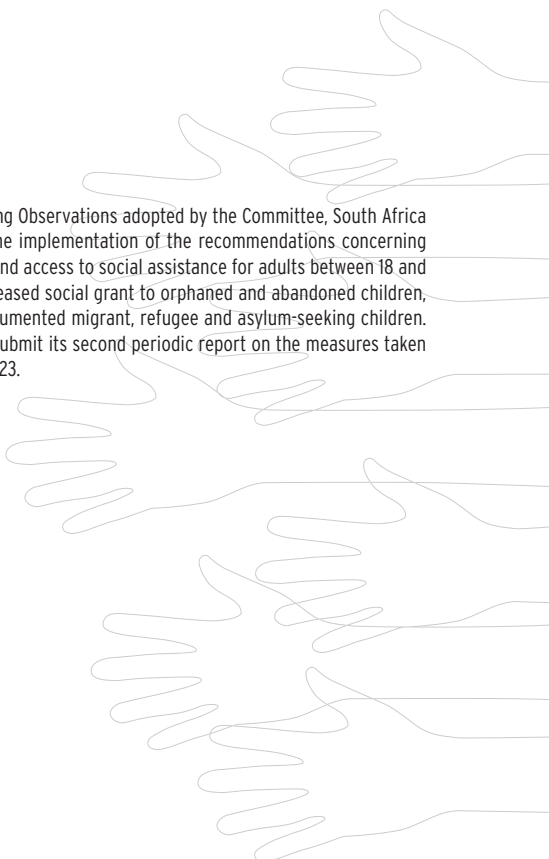
31. Other recommendations

The Committee also made a number of recommendations to the government, key of which focused on the need for the government to:

- i. Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- ii. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- iii. Ensure the full enjoyment of the rights contained in the Covenant in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed;
- iv. Take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights;
- v. Widely publish these Concluding Observations; and
- vi. Engage with the South African Human Rights Commission, non-governmental organisations and other members of civil society in the follow-up to the Concluding Observations and in the process of consultation at the national level prior to the submission of its next periodic report.

Conclusion

In accordance with the procedure on follow-up to Concluding Observations adopted by the Committee, South Africa is required to provide, by October 2020, information on the implementation of the recommendations concerning the preparation of a composite index on the cost of living and access to social assistance for adults between 18 and 59 years of age, information concerning the proposed increased social grant to orphaned and abandoned children, and information concerning access to education for undocumented migrant, refugee and asylum-seeking children. Additionally, the South African government is required to submit its second periodic report on the measures taken to fulfil its obligations under the Covenant by 31 October 2023.



The Dullah Omar Institute

New Social Sciences Building
University of the Western Cape
Robert Sobukwe Road
Bellville, Cape Town

Private Bag X17, Bellville 7535

Phone: +27 21 959 2950/2951

Fax: +27 21 959 2411

e-mail: serp@uwc.ac.za

www.dullahomarinstitute.org.za

Black Sash National Office

Elta House
3 Caledonian Road
Mowbray, Cape Town

PO Box 1282, Cape Town 8000

Phone: +27 21 686 6952

Fax: +27 21 686 6971

e-mail: info@blacksash.org.za

www.blacksash.org.za

**Studies in Poverty and
Inequality Institute (SPII)**

Old Trafford 3 Building
Isle of Houghton
36 Boundary Road

Parktown, Johannesburg

PO Box 31747, Braamfontein 2017

Phone: +27 11 833 0161/2

Fax: +27 11 832 3085

e-mail: advocacy@spii.org.za

www.spii.org.za

**Socio-Economic Rights
Institute of South Africa (SERI)**

6th floor Aspern House
54 De Korte Street
Braamfontein, Johannesburg

Phone: +27 11 356 5860

Fax: +27 11 339 5950

e-mail: sanele@seri-sa.org

www.seri-sa.org

People's Health Movement

129 Rochester Road
Observatory, Cape Town

Phone: +27 21 447 5770

e-mail: secretariat@phm-sa.org

www.phm-sa.org

