

Advance unedited version

Distr.: General
15 November 2021

Original: English

**Committee on the Elimination of Discrimination
against Women****Concluding observations on the fifth periodic report of South
Africa***

1. The Committee considered the fifth periodic report of South Africa (CEDAW/C/ZAF/5) at its 1839th and 1840th meetings (see CEDAW/C/SR.1839 and 1840) held on Friday 5 November 2021. The Committee's list of issues and questions is contained in CEDAW/C/ZAF/Q/5 and the replies of South Africa are contained in CEDAW/C/ZAF/RQ/5.

A. Introduction

2. While the Committee appreciates the submission by the State party of its fifth periodic report, it regrets the delay of four years and eight months in submitting the report. The Committee welcomes the State party's follow-up report (CEDAW/C/ZAF/CO/4/Add.1) and its written replies to the list of issues and questions raised by the pre-sessional working group, while noting that both documents were received with considerable delay. It appreciates the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party's high-level delegation, which attended the dialogue remotely and was headed by Her Excellency Ms Maite Nkoana-Mashabane, Head of Delegation and Minister at the Department of Women, Youth and Persons with Disabilities. The delegation also included representatives of Department of Social Development, Department of Health, South African Police Service, National Prosecuting Authority, Department of Education, Department of Justice, Department of Public Service and Administration, Department of Environment, Forestry and Fisheries and, Department of Home Affairs, Department of Labour and Employment, Department of Small Business Development, and the Department of Agriculture, Land Reform and Rural Development.

B. Positive Aspects

4. The Committee welcomes the progress achieved since the consideration in 2011 of the State party's combined 2nd, 3rd and 4th periodic reports (CEDAW/C/ZAF/CO/4) in undertaking legislative reforms, in particular the adoption of:

(a) The Recognition of Customary Marriages Amendment Act 1, amending the Recognition of Customary Marriages Act (RCMA), Act No. 120 of 1998, to regulate the proprietary consequences of customary marriages entered into before the entry into force of 1998 Act, in June 2021;

* Adopted by the Committee at its eightieth session (18 October to 12 November).



- (b) The Legal Aid South Africa Act (No. 39 of 2014), in December 2014;
- (c) The Employment Equity Act (No. 47 of 2013), in January 2014;
- (d) The Judicial Matters Second Amendment Act (No. 43 of 2013), in January 2014 to commence in January 2020 except Section 4;
- (e) The Prevention and Combating of Torture of Persons Act (No. 13 of 2013), which criminalizes torture, in July 2013;
- (f) The Prevention and Combating of Trafficking in Persons Act (No. 7 of 2013), in July 2013.

5. The Committee notes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption or establishment of the following:

- (a) The National Policy on the Prevention and Management of Learner Pregnancy in Schools, to reduce the incidence of early pregnancies among students through the provision of quality comprehensive sexuality education, in 2021;
- (b) The National Strategic Plan on Gender-based Violence and Femicide for the period 2020–2030, and the Gender-based Violence and Femicide Council, in 2020;
- (c) The National Policy Framework on the Management of Trafficking in Persons Offences (NPF), which strengthens service delivery to respond to the needs of victims, in 2019;
- (d) The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (2019/20 – 2023/24), which provides a definition of discrimination against women, in 2019;
- (e) The National Strategic Plan on HIV, STIs and TB 2017–2022, which aims at addressing social and structural barriers that increase women's vulnerability to infection, preventing new infections, increasing protection of human rights, and improving access to justice, in 2017;
- (f) The Framework and Strategy toward Gender Mainstreaming in the Environment Sector 2016–2021, which aims to ensure that initiatives integrate a gender perspective into the whole project cycle management, in 2016;
- (g) The National Strategy for Intersectoral Management of Sexual Offences, which seeks to enhance women's access to sexual offences courts by providing access to services such as court preparation programme or information materials, in 2014;
- (h) The National Intervention Strategy for Lesbian, Gay, Bisexual, Transgender and Intersex Sector, which aims at responding to and prevent gender-based violence against LGBTI persons, in 2014;
- (i) The South African Integrated Programme of Action Addressing Violence against Women and Children (2013–2018), which provides for a shift from crisis response to focus on prevention and early intervention, in 2013.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international and regional treaties:

- (a) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2019;
- (b) The International Covenant on Economic, Social and Cultural Rights, in 2015;
- (c) Convention No. 189 on Decent Work for Domestic Workers of the International Labour Organization, in 2013.

C. Sustainable Development Goals

7. The Committee welcomes the international support for the climate change and the Sustainable Development Goals and calls for the realization of *de jure* (legal) and *de facto* (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of the State party and to adopt relevant policies and strategies to that effect.

D. Parliament

8. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, annex VI to E/CN.6/2010/CRP.2). It invites the State party to encourage the National Assembly, in line with its mandate, to take necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.

E. Principal areas of concern and recommendations

Gender-Based violence against women

9. The Committee acknowledges the efforts to address gender-based violence against women and girls in the State party, including the adoption in 2020 of the National Strategic Plan on Gender-based Violence and Femicide. However, it Committee notes with concern the persistence of systemic failures in the implementation of legislation and policies to address gender-based violence and of rampant levels of gender-based violence, including femicides, across the State party. In particular, the Committee notes with concern:

(a) That gender-based violence is exacerbated by a culture of silence and impunity;

(b) Failure by the South Africa Police Service (SAPS) to systematically investigate, prosecute and adequately punish negligence and mishandling of cases by SAPS officers;

(c) The lack of regular training for judges, prosecutors and police officers on the strict application of criminal law provisions on gender-based violence against women;

(d) The particularly high risk of gender-based violence of women and girls facing intersecting forms of discrimination, such as LGBTI women, refugee women, women with disabilities and women and girls with albinism.

10. The Committee urges the State party to:

(a) Raise awareness of women's human rights among traditional and community leaders and the general public, with the active participation of women's organizations and women human rights defenders, and on the specific risk of gender-based violence for women and girls facing intersecting forms of discrimination, such as lesbian, bisexual and transgender women, migrant, refugee and asylum-seeking women, women living with disabilities and women and girls with albinism;

(b) Ensure systematic training for judges, prosecutors, police and other law enforcement officers on the strict application of criminal law provision on gender-based violence against women and gender-sensitive investigation and interrogation procedures, and create an enabling environment for women and girls to report gender-based violence by addressing stigmatization of victims, discriminatory stereotypes and judicial gender bias;***

(c) **Strengthen victim support services, including adequately funded shelters and safe houses, throughout the State party, in particular in rural and remote areas.*****

11. The Committee notes with concern that the National Council on Gender-based Violence and Femicide has not yet been established, despite its announcement by the President in April 2020. It also notes with concern the lack of information on the human, technical and financial resources for the implementation of the National Gender-based Violence and Femicide Strategic Plan for the Period 2020–2030.

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

(a) **Expediently establish the National Council on Gender-based Violence and Femicide, provide the Council with adequate human, technical and financial resources, a strong mandate and ensure its independence; and**

(b) **Ensure 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 establish effective mechanisms for coordination and results-based monitoring and evaluation.**

13. The Committee notes that the Domestic Violence Act (1998) defines domestic violence and provides for the issuing of protection orders. The Committee is concerned, however, about the absence of a specific criminal offense of domestic violence. The Committee further notes that various Bills are still pending, namely the Domestic Violence Amendment Bill; the Criminal and Related Matters Bill; and the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill, and that there is a lack of disaggregated data on the incidence of domestic violence.

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

(a) **Implement the recommendations of the Committee in the report of its inquiry concerning South Africa under article 8 of the Optional Protocol to the Convention (CEDAW/C/ZAF/IR/1), within a clear time-frame, in accordance with the Committee’s General recommendation No. 35 (2017);**

(b) **Adopt legislation to specifically criminalize domestic violence and femicide and ensure that both crimes are subject to public prosecution;**

(c) **Expediently adopt the Domestic Violence Amendment Bill; the Criminal and Related Matters Bill and the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill;**

(d) **Ensure that all cases of domestic violence and femicide are investigated, prosecuted, that perpetrators are adequately punished and can be brought to justice ex officio and that victims have effective access to remedies, including issuance of protection orders, and full reparation; and**

(e) **Systematically provide statistical data on the scope and extent of domestic and other forms of gender-based violence against women, disaggregated by age, ethnicity, disability, socioeconomic status and relationship between the victims and the perpetrator.**

Women’s Rights and Gender Equality in Relation to the COVID-19 Pandemic and Recovery Efforts

15. The Committee notes the efforts made by the State party to combat the COVID-19 pandemic and the allocation of resources to this end. Nevertheless, it is concerned by the lack of information on the measures taken to address the impact of the pandemic on women’s rights and gender equality and ensure women’s participation in the development, adoption and implementation of post-COVID-19 recovery programmes and strategies. The Committee is also concerned at the reported reluctance among women and men in the State party to obtain COVID-19 vaccinations, especially in rural areas.

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

(a) **Redress long-standing inequalities between women and men and give a new impetus to the implementation of gender equality by placing women at the centre of COVID-19 recovery efforts as a strategic priority for sustainable change, in line with the Sustainable Development Goals;**

(b) **Ensure that women and girls are not relegated to domestic and other stereotypical gender roles in the context of COVID-19 responses and recovery efforts;**

(c) **Ensure the meaningful participation of women and girls, including those belonging to disadvantaged and marginalized groups and rural women and girls, in the design and implementation of COVID-19 recovery programmes and strategies;**

(d) **Ensure that women and girls benefit equally from economic stimulus packages, including financial support for unpaid care roles, that are aimed at mitigating the socioeconomic impact of the pandemic; and**

(e) **Ensure that all women and girls have free access to COVID-19 vaccinations, including in rural and remote areas, and conduct awareness raising and media campaigns to address misperceptions about the risks of vaccinations as opposed to the risks of COVID-19 and its long-term effects as well as fake news propagated by vaccine opponents.**

Visibility of the Convention and its Optional Protocol

17. The Committee notes with concern the lack of awareness among women about their rights under the Convention and of the complaints and inquiry procedures under the Optional Protocol thereto, especially in rural areas.

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

(a) **Raise women's awareness of their rights under the Convention and the remedies available to them to claim violations of their rights, including the communications and inquiry procedures under the Optional Protocol to the Convention, and disseminate information on the Committee's jurisprudence under the Optional Protocol and its General Recommendations in accessible and inclusive formats, including in rural areas and among disadvantaged marginalized groups of women;**

(b) **Provide systematic capacity-building for judges, prosecutors, law enforcement officers and lawyers to enable them to apply, invoke and/or refer to the provisions of the Convention directly and to interpret national legislation in line with the Convention;**

(c) **Implement the National Roadshow on International, Continental and Regional Women's human rights.**

Constitutional and Legislative framework

19. The Committee welcomes the adoption of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (2019/20 – 2023/24), which provides a definition of discrimination against women, and the statement made by the delegation during the dialogue pointing at the efforts of the State party towards incorporating the Convention through the adoption of various legislations. It notes that the Constitution of South Africa contains, in its Chapter 2, a Bill of Rights that upholds the right to equality and prohibits discrimination on the basis of sex. The Committee is, however, concerned that the Women's Empowerment and Gender Equality Bill has long since lapsed and that the State party has not yet adopted a law specifically prohibiting discrimination against women, in line with the Convention. The Committee is further concerned about the lack of information on cases in which the Convention and the Optional Protocol have been applied or invoked in courts.

20. **The Committee recalls the State party's obligations under articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals and recommends that the State party:**

(a) **Adopt a comprehensive gender equality law as well as a definition of discrimination against women that covers both direct and indirect discrimination in the public and private spheres, including intersecting forms of discrimination, in accordance with articles 1 and 2 of the Convention;**

(b) **Incorporate the principle of substantive equality into national law and strengthen existing legislation on gender equality accordingly; and**

(c) **Include information on an annual basis in its next periodic report on the number and outcome of cases in which provisions of the Convention have been invoked, applied or referred to in court proceedings.**

Women's Access to Justice

21. The Committee notes that Legal Aid South Africa has identified women, particularly in divorce, maintenance, and domestic violence proceedings, for prioritization in relation to the provision of free legal aid. However, it notes with concern that Legal Aid South Africa lacks the human, technical and financial resources necessary to deliver on its mandate. The Committee notes with concern the barriers to women's access to justice, including victim support services in the State party, in particular in domestic violence cases. It also notes with concern the low prosecution and conviction rates in cases of sexual offences. It is further concerned about the persistence of discriminatory gender stereotypes in the justice system and stigmatization of women complainants, in particular those living in informal settlements, women migrant workers, rural women, women with disabilities and women with albinism.

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

(a) **Ensure that Legal Aid South Africa has adequate human, technical and financial resources to deliver on its mandate to provide adequate legal assistance free of charge to women without sufficient means;**

(b) **Ensure that all cases of gender-based violence against women, including sexual violence, are duly investigated, and perpetrators are prosecuted and adequately punished, and that victims have access to adequate reparations;**

(c) **Provide capacity-building to the judiciary, prosecutors, police and other law enforcement officers and court clerks on the strict application of the Domestic Violence Act and the Sexual Offences Act, gender-sensitive investigation and interrogation methods, proper case management and the collection and use of forensic evidence, and their role in protecting, encouraging and assisting victims in reporting cases of domestic violence against women; and**

(d) **Systematically collect data on the number and types of services provided by Legal Aid South Africa to women and girls that deserve special attention, and review the funding and design of these services accordingly.**

23. The Committee notes that Equality Courts hear cases of discrimination, hate speech and harassment, including against women, and that the Commission for Gender Equality is mandated to provide assistance to women complainants in bringing cases to Equality Courts. The Committee notes, however, that Equality Courts are concentrated in urban areas, which makes it difficult for rural women, in particular those without sufficient means to travel, to access justice and reparations. It further notes that many women are unaware of the Equality Courts as well as the lack of data on the number and outcome of cases brought before the Equality Courts.

24. **The Committee recommends that the State:**

(a) **Raise awareness among women, including women belonging to ethnic minorities, women with disabilities, migrant women, and lesbian, bisexual and transgender women, about the legal remedies available to them in case of discrimination;**

(b) **Ensure that Equality Courts are accessible to women in rural areas;**

(c) **Ensure the collection of disaggregated data on the number and outcome of cases of discrimination against women and the outcome of such cases.**

25. The Committee is concerned that the 'opt-out' section may have been removed in the last version of the Traditional Courts Bill, meaning that women could not appeal decisions of traditional courts to the ordinary courts.

26. **The Committee recommends that the State party review the draft Traditional Courts Bill to ensure that women are able to opt out of proceedings before traditional courts and appeal their decisions before the ordinary courts.**

National Machinery for the advancement of women

27. The Committee welcomes the establishment in 2019 of the Department of Women, Youth and Persons with Disabilities within the Presidency. However, it notes the limited capacity and human, technical and financial resources of the Department, as well as the insufficient number of gender focal points at different governmental and institutional levels. The Committee is further concerned about the lack of coordination and collaboration between the different mechanisms of the national machinery and the limited participation of civil society, women's and youth organizations as equal partners in the process of strengthening the capacity of the national machinery.

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

(a) **Allocate adequate human, technical and financial technical resources to the Department of Women, Youth and Persons with Disabilities;**

(b) **Increase the number of gender focal points in line ministries and municipal administrations and ensure that they have sufficient authority to participate in decision-making structures;**

(c) **Strengthen coordination and collaboration between the different bodies of the national gender machinery at the national, regional and local levels and in the justice system;**

(d) **Ensure the meaningful participation of civil society, women's and youth organizations in the process of strengthening the capacity of national machinery;**

(e) **Establish a standing inter-ministerial Committee for coordination of women's rights reporting obligations and follow up on implementation of the CEDAW recommendations.*****

National human rights institutions

29. The Committee notes that the Constitution established six independent state institutions to strengthen democracy, including the South African Human Rights Commission as the national human rights institution, the Public Protector, and the Commission for Gender Equality, which is mandated to promote respect, protection, development and attainment of gender equality. The Constitution provides that the Commission for Gender Equality is independent and accountable to the National Assembly. The Commission for Gender Equality monitors, investigates, researches, educates, advises Parliament and reports on issues concerning gender equality, and monitors compliance with Regional and International Conventions. However, the Committee notes with concern the limited human, financial and technical resources of the Commission for Gender Equality.

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

(a) **Allocates adequate human, technical and financial resources to the Commission for Gender Equality;**

(b) **Strengthen the South African Human Rights Commission to effectively discharge its mandate.**

Temporary special measures

31. The Committee notes that the State party continues to implement a 50/50 gender representation policy in the public service, and that more than 40 percent of positions at the senior management level are held by women. However, it notes with concern the lack of temporary special measures to achieve substantive equality of women and men, including

quota systems, in other areas of the Convention where women are underrepresented or disadvantaged, including in private the sector.

32. In line with article 4 (1) of the Convention and its general recommendation No. 25 (2004) on temporary special measures, the Committee recommends that the State party adopt temporary special measures, such as statutory quotas and preferential recruitment of women, to increase the participation of women in political and public life, education and employment. It also recommends that the State party establish time-bound targets and benchmarks, accompanied by sanctions for non-compliance, to accelerate the achievement of substantive equality of women and men in all areas in which women are disadvantaged or underrepresented, especially in managerial positions.

Stereotypes and harmful practices

33. The Committee is concerned about the persistence of patriarchal attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and society in the State party. It notes with concern that the Children Act prohibits virginity testing only for children under the age of 16, and that girls in rural areas frequently undergo so-called “virginity testing”, which invades their privacy and has adverse effects on their development, including school dropouts. The Committee is also concerned about the persistence of harmful practices, mainly *ukuthwala* (abduction of women and girls) for child and/or forced marriage and female genital mutilation (FGM) in certain communities despite its prohibition under the Children’s Act. The Committee further notes the lack of disaggregated data on harmful practices, especially *ukuthwala*.

34. Recalling joint general recommendation No. 31 of the Committee /general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, the Committee recommends that the State party:

(a) **Amend the Children’s Act to prohibit so-called virginity testing for all women and girls and ensure the enforcement of the Act, including in rural areas;**

(b) **Criminalize the harmful practice of *ukuthwala* and ensure that all cases of *ukuthwala* and female genital mutilation are investigated, that perpetrators are prosecuted and adequately punished and that women and girls in such unions have access to protection, including adequate shelters, and victim support services;*****

(c) **Expediently adopt a comprehensive strategy to eliminate discriminatory stereotypes and all harmful practices, such as so-called “virginity testing”, *ukuthwala*, female genital mutilation, and child and forced marriages, and ensure that victims have access to adequate support services and rehabilitation programmes;**

(d) **Raise awareness among traditional and religious leaders, parents, teachers, women and the public about the criminal nature and devastating impact of harmful practices on the lives of women and girls and provide systematic training to judges, prosecutors, the police and other law enforcement officers on the strict application of criminal law provisions prohibiting harmful practices.**

Trafficking and exploitation of prostitution

35. The Committee notes the statement made by the delegation during the dialogue that the Prevention and Combating of Trafficking in Persons Act (Act No. 7) covers all forms of trafficking and that data indicate a high conviction rate for offences in trafficking cases. It also notes the launch in 2019 of the National Policy Framework on the Management of Trafficking in Persons Offences as well as the adoption of the new SOP for victims’ identification. However, the Committee remains concerned that the State party is a source, transit and destination country for trafficking in persons, and that there is a lack of data and statistics on the extent of trafficking and its root causes. The Committee is further concerned about the lack of gender-sensitive awareness among the relevant authorities dealing with victims of trafficking as well as assistance provided to victims. The Committee is also concerned about information received concerning the labour exploitation of some foreign women health professionals (doctors and nurses).

36. **The Committee recommends the State party to:**

(a) **Urgently implement the Prevention and Combating Trafficking in Persons Act, 2013 (Act No. 7), and collect data on trafficking, disaggregated by sex, age, nationality, ethnicity, disability and socioeconomic status to address the impact of the Prevention and Combating Trafficking in Persons Act, 2013 (Act No. 7);**

(b) **Provide capacity-building for the judiciary, law enforcement officials, immigration and law enforcement officers, border guards and social workers on the application of the Trafficking Act and gender-sensitive procedures for early identification and referral of victims to appropriate services;**

(c) **Ensure that women victims of trafficking are provided with adequate protection, such as witness protection programmes and temporary residence permits, irrespective of their ability or willingness to cooperate with the prosecution authorities;**

(d) **Ensure that traffickers and their accomplices are prosecuted and adequately punished;**

(e) **Investigate complaints and ensure that foreign women health professionals' rights are protected.**

37. The Committee notes with concern reports of gender-based violence and exploitation of women in prostitution victims of trafficking.

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

(a) **Address the root causes of prostitution and adopt economic and public policies that support sustainable livelihood options and basic living standards for women and girls in poverty;**

(b) **Eliminate gender-based violence, discrimination and sexual exploitation of victims of trafficking and ensure that they have access to justice, including legal aid and adequate reparations, protection, including shelters, and health care;**

(c) **Provide exit programmes and alternative income-generating opportunities to women who wish to leave prostitution, as well as rehabilitation and reintegration programmes.**

Equal participation in political and public life

39. The Committee welcomes the increase in women elected to the National Assembly following the May 2019 elections (45%). However, it notes with concern that women's representation in local government and in the judiciary remains low, and that no concrete measures have been taken to implement the 50/50 gender representation policy. The Committee also notes with concern that the Traditional and Khoisan Leadership Act (Act 3 of 2019) requires a quota of only 30% for women's representation in the National House of Traditional Leaders. The Committee is further concerned at the very low participation in political and public life by women belonging to disadvantaged and marginalized groups.

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

(a) **Accelerate the adoption of the Women Empowerment and Gender Equality (WEGE) Bill, and intensify its efforts to increase women's representation at decision-making level, in both elected and appointed positions;**

(b) **Take temporary special measures, such as statutory quotas and a gender parity system in the public and foreign services, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, to increase women's representation in ministerial positions, municipal councils, the judiciary, the public service and the foreign service;**

(c) **Provide capacity-building on political leadership and campaigning skills and access to campaign financing to women candidates, including women with disabilities and women with albinism, and raise awareness among political leaders and the public about the fact that the full, equal, free and democratic participation of women**

in political and public life on an equal basis with men is required for the full implementation of the Convention;

(d) Ensure respect for the required quota for women’s representation in the National House of Traditional Leaders, and amend the Traditional and Khoisan Leadership Act (Act 3 of 2019) to increase the quota, with a view to achieving parity in traditional governance systems.

Nationality

41. The Committee notes the statement made by the delegation during the dialogue that the State party has initiated a birth registration project to ensure the registration of all births that take place in the health facilities, which enables birth registrations at all 1445 health facilities with maternity wards. However, it is concerned that women and girls living in rural areas and informal settlements in urban areas face challenges in accessing birth registration and identity documents, depriving them of access to basic services and COVID-19 vaccinations. The Committee also notes with concern that lack of safeguards in the Births and Deaths Registration Act, 1992 (Act No. 51) prevent children of undocumented women from becoming stateless.

42. The Committee recommends that the State party:

(a) Facilitate access to birth registration and identity documents for women and girls living in rural areas and informal settlements in urban areas through affordable and easy procedures, including online and through mobile civil registration units, with a view to ensuring their access to basic services and COVID-19 vaccinations; and

(b) Amend the Births and Deaths Registration Act, 1992 (Act No.51) to ensure that children of undocumented women do not become stateless.

Education

43. The Committee notes with concern the alarming rate of learner pregnancy in the State party, which is an important factor for the high dropout rate among schoolgirls. In this regard, it notes that the draft policy for the prevention and management of learner pregnancy in schools, which seeks to ensure that pregnant girls are able to attend school until they give birth and are readmitted following childbirth, is still pending cabinet promulgation. The Committee also notes with concern the high dropout rates among girls during the COVID-19 pandemic and the lack of data disaggregated by ethnicity, age, disability, urban and rural area and socioeconomic background on school dropout among girls.

44. The Committee recommends that the State party:

(a) Expediently adopt and implement the National Policy for The Prevention and Management of Learner Pregnancy in Schools and ensure that all pregnant girls are able to attend school until they give birth and that young mothers are readmitted as soon as they are ready to proceed with their schooling;

(b) Adopt targeted measures to combat school dropout, focusing on measures to retain rural girls in school and to increase their attendance at the primary and secondary levels;

(c) Systematically collect data on school dropout rates among girls, disaggregated by ethnicity, age, disability, urban and rural area, and socioeconomic background, and provide continuing education programmes for women and girls who were unable to complete their schooling.

45. The Committee notes with concern that girls, continue to face gender-based violence and discrimination in the school environment and unsafe transportation to and from schools, in particular girls with disabilities. It is also concerned about the high risk of sexual harassment, abuse and exploitation in educational settings despite the adoption of the Protocol for Management & Reporting of Sexual Abuse & Harassment in Schools in 2018. The Committee is further concerned about the lack of awareness raising campaigns at schools to eliminate discriminatory stereotypes and gender-based violence.

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

(a) **Ensure safe educational environments that are free from gender-based violence and discrimination and ensure safe transportation to and from schools for all girls;**

(b) **Address cases of sexual harassment, abuse and exploitation of girls and women in educational institutions through confidential and independent reporting mechanisms and adequate sanctions and provide appropriate support services to victims;**

(c) **Include in school curricula education on women's rights and gender equality, the role of men and boys in preventing sexual and gender-based violence and harmful practices, and ensure capacity-building for teachers on these aspects.**

Employment

47. The Committee notes with appreciation the amendment to the Employment Equity Act (No. 47 of 2013) to explicitly incorporate the principle of equal pay for work of equal value. It notes with concern, however, the limited enforcement of this principle and the persistent gender pay gap in the State party. The Committee notes that the State party has developed a Policy and Procedure on the Management of Sexual Harassment in the Public Service (PPMSHPS) in 2013, to promote a workplace free of sexual harassment. However, it regrets the lack of information on the number and outcomes of complaints of sexual harassment in the workplace in both the public and private sectors.

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

(a) **Conclude without delay the ongoing review of wages, and effectively enforce the principle of equal pay for work of equal value in order to narrow and close the gender pay gap by conducting regular labour inspections, applying gender-neutral analytical job classification and evaluation methods and conducting regular pay surveys;**

(b) **Collect data on the number and outcomes of complaints of sexual harassment in the workplace.**

49. The Committee is concerned that women care workers and domestic workers, including women migrant workers, do not benefit from the same level of protection and benefits as other workers, in particular with regard to minimum wages, paid holidays, maximum weekly hours and regular days of rest, and mechanism for monitoring workplace conditions. It also notes with concern that the Basic Conditions of Employment Act, Sectoral Determination 7 Domestic Worker Sector, does not protect the rights of women domestic workers to privacy, freedom of movement, adequate housing or provision of food for live-in domestic work, family reunification and their right to form or join trade unions. It further notes that the Compensation for Occupational Injuries and Diseases Amendment Bill (2020), which would enable women domestic workers to claim compensation for occupational injuries and diseases from the Compensation Fund, has still not been adopted.

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

(a) **Ensure that women care workers and domestic workers enjoy the same labour protection as workers in other sectors in respect of remuneration and conditions of work, and that it is enforced through regular and unannounced labour inspections;**

(b) **Strengthen labour inspection services to monitor conditions of domestic work effectively and to receive, investigate and address complaints of exploitation and abuse in the workplace;**

(c) **Accelerate the adoption of the Compensation for Occupational Injuries and Diseases Amendment Bill.**

Economic empowerment of women

51. The Committee welcomes the statements made by the delegation during the dialogue that departments set aside 40 per cent of their public procurement spending for women

entrepreneurs; and that incubation hubs were set up to assist women in informal sectors to improve their capability in terms of making business by using digital platforms. However, it notes the lack of information on women's access to loans and other forms of financial credit, and the provision of specific training on entrepreneurship for women; as well as the absence of programmes to support entrepreneurship and promote the economic empowerment of women.

52. The Committee recommends that the State party develop and implement policies and programmes for the economic empowerment of women and to this end:

(a) Adopt a national programme on women's economic empowerment in order to create an enabling environment for women, especially those who are unemployed or employed in the informal sector, to enable them to become economically independent;

(b) Design specific interventions to leverage opportunities for the economic empowerment of women, in particular young women who wish to manage their own businesses;

(c) Provide adequate support for women's entrepreneurship by facilitating their access to financial services, including low-interest credit, and other economic opportunities.

Health

53. The Committee notes the statement made by the delegation during the dialogue that the decision to suspend "non essential" health services during the COVID-19 pandemic, mainly sexual and reproductive health services and HIV/AIDS treatment, has been lifted with immediate effect. It also notes the statement made by the delegation indicating that mobile health units ensure access to health care for women in rural areas. However, the Committee remains concerned about women's limited access to health care, including sexual and reproductive health services, in particular in rural areas, especially during the COVID-19 pandemic. It notes with concern the high number of early pregnancies and women's and girls' limited access to information on sexual and reproductive rights, modern forms of contraception and safe abortion services. The Committee notes with concern reports of forced sterilization of women living with HIV/AIDS in public health facilities, discrimination against women with disabilities, women with albinism, women in prostitution, migrant, asylum-seeking and refugee women seeking to access sexual and reproductive health services, and particularly safe abortion.

54. The Committee recommends that the State party:

(a) Ensure that women have adequate access to health care, in particular sexual and reproductive health services such as safe abortion and post-abortion services, including in rural areas;

(b) Ensure adequate access to information for adolescent girls and young women about sexual and reproductive health and rights, including on the prevention of early pregnancy and sexually transmitted infections;

(c) Immediately stop the practice of forced sterilization of women living with HIV/AIDS and amend the Sterilisation Act 44 of 1998 in order to require the free, prior and informed consent of the woman concerned to any intervention;

(d) Ensure that women with disabilities, women with albinism, women exploited in prostitution and migrant, asylum-seeking and refugee women have affordable access to sexual and reproductive health services, including safe abortion and post-abortion services, free from gender-based violence, discrimination or harassment.

Rural Women

55. The Committee notes the statement made by the delegation during the dialogue that the State party has taken measures to fast-track women's access to land under its land redistribution programme. However, it remains concerned that rural women are

disproportionately affected by poverty. It also notes with concern the persistence of discriminatory customary practices that continue to restrict rural women's access to land ownership, property and inheritance, despite the amendment to the Recognition of Customary Marriages Act No. 120 of 1998, regulating the property consequences of customary marriages.

56. The Committee recommends that the State party:

(a) **Ensure that legislation and policies on land reform and land use fully recognise and protect the right of rural women to land ownership and use;**

(b) **Ensure rural women's access to basic services, including housing, clean water, sanitation and electricity, as well as to economic opportunities and technological progress;**

(c) **Collect data on rural women's access to land and inheritance, and develop policies and programmes to ensure their economic empowerment.**

Climate Change and Disaster Risk Reduction

57. The Committee commends the State party for developing a Green Fund and Policy to promote the economic empowerment of women in the Green Economy. The Committee notes that the National Climate Change Response White Paper recognises that women are particularly vulnerable to the negative effects of climate change, and that it includes among its principles the fulfilment of special needs and circumstances. It notes the statement made by the delegation during the dialogue that a dedicated monitoring and evaluation system checks how the country is transitioning to a climate-resilient society. It is concerned, however, about women's limited participation in decision-making processes related to climate change and disaster risk reduction in the State party.

58. The Committee recommends that the State party:

(a) **Ensure the participation and leadership of women in making decisions in regard to the switch from coal-based to low-carbon-based energy sources and affordable and sustainable alternative energy sources;**

(b) **Promote the employment of women in various sectors of the green economy and provide them with the requisite skills and training and education to take full advantage of economic opportunities in this sector;**

(c) **Ensure that women are meaningfully involved in the development, adoption and implementation of legislation, policies and programmes on climate change, disaster response and disaster risk reduction, including: the national dialogue to raise awareness on the importance of gender and climate change mainstreaming; the South Africa's gender and climate change action plan; the gender and climate budgeting and tracking system; and the climate change education and public awareness outreach.**

Disadvantaged groups of women

59. The Committee notes with concern information received on the situation of women and girls facing intersecting forms of discrimination, including LGBTI women, migrant, refugee and asylum-seeking women, women living with HIV/AIDS, women with disabilities and women with albinism, and the lack of data on measures taken by the State party to comply with its due diligence obligation to prevent and protect these women from gender-based violence.

60. The Committee recommends that the State party:

(a) **Ensure that allegations of gender-based violence against women facing intersecting forms of discrimination are promptly investigated, perpetrators prosecuted and adequately punished, and that survivors have access to victim support services and adequate reparations;**

(b) **Provide information in its next periodic report on the situation of women facing intersecting forms of discrimination, including LGBTI women, migrant, refugee**

and asylum-seeking women, women with HIV, women with disabilities and women with albinism, and on measures taken to address such discrimination.

Marriage and Family Relations

61. The Committee takes note of the ongoing process of harmonisation of legislation governing marriage in the State party in a single Marriage Bill. However, it notes delays in the adoption of the Bill and that Muslim and Hindu marriages are only recognised in terms of religious marriages in the State party. The Committee further notes with concern that the Recognition of Customary Marriages Act allows for child marriage with the consent of parents.

62. The Committee recommends that the State Party expeditiously adopt a single Marriage Bill to align customary laws and practices in the field of marriage, in conformity with the Convention, including in relation to succession and inheritance and custody of children, and to ensure that its provisions are enforceable under the jurisdiction of civil courts. It recommends that the State party adopt legislation to recognize Muslim and Hindu marriages. The Committee also recommends that the State party amend, without delay, the Recognition of Customary Marriages Act to raise the minimum age of marriage to 18 years for both girls and boys without exception, and enforce the prohibition of child and/or forced marriage, particularly in rural areas and within traditional communities.

Amendment to article 20 (1) of the Convention

63. The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.

Beijing Declaration and Platform for Action

64. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action and to further evaluate the implementation of the Convention in the context of the Beijing +25 Review to achieve substantive equality of women and men.

Dissemination

65. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language(s) of the State party, to the relevant State institutions at all levels (national, regional, local), in particular to the Government, Parliament and the judiciary, to enable their full implementation.

Ratification of other treaties

66. The Committee notes that the adherence of the State party to the nine major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of South Africa to consider ratifying the treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.

Follow-up to concluding observations

67. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 10 (b) (c), 28 (e), 34 (b) above.

Preparation of the next report

68. The Committee requests the State party to submit its sixth periodic report, which is due in November 2025. The report should be submitted on time and cover the entire period up to the time of its submission.

69. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I).
