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Committee on the Rights of the Child

**Concluding observations on the second periodic report of
South Africa***

* Adopted by the Committee at its seventy-third session (13 – 30 September 2016).

I. Introduction

1. The Committee considered the second periodic report of South Africa (CRC/C/ZAF/2) at its 2141st and 2142nd meetings (see CRC/C/SR.2141 and 2142), held on 19 September 2016, and adopted the following concluding observations at its 2160th meeting (see CRC/C/SR.2160), held on 30 September 2016. The Committee welcomes the submission of the second periodic report of the State party and the written replies to the list of issues (CRC/C/ZAF/Q/2/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

II. Follow-up measures undertaken and progress achieved by the State party

2. The Committee welcomes the progress achieved by the State party in various areas, including the ratification of or accession to international instruments, in particular the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2009 and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2003. The Committee also welcomes the adoption of a number of new legislative acts and institutional and policy measures related to children's rights since its last review, including the Children's Act 38 of 2005 and the Child Justice Act 75 of 2008, which are largely in line with the Convention.

3. The Committee also welcomes the progressive application of the rights and principles stipulated in the Convention by the judiciary in the State party jurisprudence, the overall reduction of infant and child mortality and mother-to-child transmission of HIV/AIDS, the increase in birth registration, as well as efforts made to develop a strong legal and policy framework to combat violence.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (6))

The Committee's previous recommendations

4. **The Committee recommends that the State party take all measures necessary to address its previous recommendations of 2000 (CRC/C/15/Add.122) which have not been implemented or not sufficiently implemented and, in particular, those related to legislation (para 10), data collection (para 14), budgetary allocations (para 15), domestic violence, ill-treatment and abuse (para 27), corporal punishment (para 28), primary health care (para 29), adolescent health (para 31), education (para 34) and juvenile justice (para 42).**

Comprehensive policy and strategy

5. The Committee welcomes the adoption of the National Plan of Action for Children in South Africa 2012-2017. However, it is concerned that the implementation of the Plan has been weak, and that no reports on progress have been issued.

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

- (a) Expedite the completion of a comprehensive mid-term review of the Plan;
- (b) Ensure timely issuance and publication of reports as stipulated in the Plan;
- (c) Develop a national plan of action for children for the period after 2017, based on the outcome of the Plan currently in force and with a clear accountability mechanism and sufficient human, technical and financial resources.

Coordination

7. The Committee notes as positive the establishment of the National Children's Rights Intersectoral Coordination Committee (NCRICC) in 2015. However, it is not clear whether the mandate of the Committee includes the implementation of the Convention and the Optional Protocols, as well as the implementation of the National Plan of Action for Children 2012- 2017, and whether it has been given sufficient authority to effectively coordinate activities of all relevant sectors within the Government.

8. **The Committee recommends that the State party ensure an appropriate coordinating body is established at a high interministerial level, as it was originally placed, with a clear mandate and sufficient authority to coordinate all activities related to the implementation, monitoring and evaluation of the Convention at cross-sectoral, national, regional and local levels and provided with the necessary human, technical and financial resources for its operation.**

Allocation of resources

9. The Committee welcomes overall increase in public expenditure relevant to education, health, social protection and juvenile justice during the period under the review. However, the Committee is concerned at:

- (a) The lack of a system to identify and track budget allocation and spending for children;
- (b) The fluctuation of annual increase of expenditure;
- (c) The planned budget cut for personnel expenditure of the Department of Social Development which may undermine the human resources necessary to deliver services to children;
- (d) The lack of robust audits on public expenditure and existence of wasteful or irregular expenditure, including corruption.

10. **With reference to its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party set up a budgeting process which includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, including specific indicators and a tracking system to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention, including by:**

- (a) Setting performance targets linking child-related programme goals to budget allocations and actual expenditures, to allow monitoring of outcomes and impacts on children, including those in vulnerable situations;
- (b) Developing detailed budget lines and codes for all planned, enacted, revised and actual expenditures that directly affect children;

(c) Using budget classification systems that allow expenditures related to the rights of the child to be reported, tracked and analysed.

(d) Ensuring that the fluctuation or reduction of budget allocation for the delivery of services does not reduce the existing level of enjoyment of children's rights;

(e) Strengthening audits to increase transparency and accountability of public expenditure across all sectors and adopting measures to eradicate corruption and to reduce irregular expenditure, in order to mobilize maximum available resources for the implementation of the rights of the child.

Data collection

11. While appreciating the development of a strategy for the collection of disaggregated data covering all areas of the Convention, the Committee is concerned that the publication of the collected data under this strategy has been delayed and that comprehensive and disaggregated data remains unavailable.

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

(a) Expedite the publication and dissemination of data collected under the new strategy;

(b) Ensure that the new data collection system covers collection of disaggregated data for all areas of the Convention, based on the respect for human rights and the principle of self-identification;

(c) Actively utilize the collected data for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;

(d) Make the database accessible to all stakeholders, including all ministries, professionals and civil society organizations working with children and children themselves;

(e) Continue its technical cooperation with among others, UNICEF.

Independent monitoring

13. The Committee welcomes the fact that a Commissioner within the South African Human Rights Commission is dedicated to child rights and education. However the Committee is concerned that:

(a) A Commissioner focused on children's issues is not mandatory under the law;

(b) The resources and capacity of the Commission for protecting and promoting children's rights are not sufficient;

(c) The individual complaint procedure in the Commission is not known to or accessible by children.

14. **In the light of its general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party:**

(a) Legally mandate the South Africa Human Rights Commission to appoint a Commissioner exclusively dedicated to the rights of the child;

(b) Provide sufficient human, technical and financial resources to such function and guarantee its independence in order to effectively promote and protect the rights of the children;

(c) **Raise awareness of children and the general public on the mandate and work of the national human rights institution(s) mandated to protect the rights of the child, and improve accessibility for children to their individual complaint procedures.**

Cooperation with civil society

15. The Committee notes that the Constitution guarantees the access by the public to central and local legislative bodies and that civil society organizations play a key role in service delivery. However, it is concerned at:

(a) Insufficient systematic involvement of civil society organizations working on children's rights in the development of laws, policies and programmes relevant to the implementation of the Convention;

(b) Limited resources made available for civil society organizations working on children's rights in service delivery.

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

(a) **Establish a strategy that enhances the active and meaningful participation of civil society organisations in the development, implementation and monitoring of laws, policies, budgets and programmes relevant to the implementation of the Convention, with transparent and non-discriminatory criteria for the identification of participating organizations, clear objectives and roles for civil society participation and financial support to enable their effective coordination and participation;**

(b) **Provide sufficient resources to civil society organizations for the delivery of services for children.**

Children's rights and the business sector

17. The Committee is concerned that activities of business enterprises operating in the State party, in particular those of extractive industries, have negative impact on the enjoyment of the rights of the child, including through environmental pollution and exploitation of child labour.

18. **With reference to its general comment No. 16 (2013) on the impact of the business sector on children's rights, the Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights. In particular, it recommends that the State party:**

(a) **Establish a clear regulatory framework for the business enterprises operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children's rights;**

(b) **Conduct an independent study on the impacts of environmental pollution caused by the activities of extractive industries on children's health, including those of mining dust and water pollution.**

(c) **Ensure effective implementation by business enterprises, especially both large-scale and artisanal enterprises of extractive industries, of international and national environment and health standards;**

(d) **Establish an effective mechanism for monitoring of adherence to above-mentioned standards by business enterprises, especially both large-scale and artisanal**

enterprises of extractive industries, and appropriately sanction in case of violation and provide remedies to child victims;

(e) Be guided by the United Nations “Protect, Respect and Remedy” Framework (2008).

B. Definition of the child (art. 1)

19. The Committee is deeply concerned that the Children’s Act (2005) sets the minimum age for marriage at 12 years for girls and 14 for boys and that the Marriage Act (1961) and the Recognition of Customary Marriages Act (1998) sets different conditions for marriages for girls and boys under 18 years old.

20. **The Committee urges the State party to harmonize all its legislation in order to ensure that the minimum age for marriage is established at 18 years for both girls and boys.**

C. General principles (arts. 2, 3, 6 and 12)

Non-discrimination

21. The Committee is concerned at the discrimination faced by girls, children living with HIV/AIDS, children with disabilities, indigenous children, stateless children, migrant, asylum-seeking and refugee children, children in street situations, LGBTI children, and children with albinism, in accessing basic and child protection services, and their heightened exposure to violence, abuse and harassment. The Committee is also concerned at the serious divide in access to basic services and adequate standard of living in the country based on race, geography and economic status, with disproportionate disadvantage for children living in rural areas and in urban informal settlements.

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

(a) Place strong focus on the eradication of structural inequality and discrimination in all legislative, policy and programmatic measures to advance the rights of the child, paying particular attention to children living with HIV/AIDS, children with disabilities, indigenous children, stateless children, migrant, asylum-seeking and refugee children, children in street situations, LGBTI children, children with albinism and the accumulative impact of multiple discrimination;

(b) Enhance its efforts to raise awareness of children and the general public on gender equality and actively promote it in education from early childhood education in order to eradicate discriminatory gender-stereotype and gender discrimination.

Best interests of the child

23. The Committee welcomes the explicit recognition in the legislation in the State party that a child's best interests are of paramount importance in every matter concerning the child and the excellent jurisprudence of the judiciary on the application of this right in concrete situations. However, the Committee is concerned at the lack of procedures to evaluate collective impacts of relevant laws and policies on the realization of this right.

24. **With reference to its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:**

(a) **Establish compulsory processes for *ex-ante* and *ex-post* impact assessments of all laws and policies relevant to children on the realization of the right of the child to have his or her best interests taken as primary consideration;**

(b) **Use internationally developed tools in this regard.**

Right to life, survival and development

25. The Committee welcomes the reduction of infant and child mortality rates. However, the Committee notes that infant and child mortality rates remains high due to, among others: (a) violence, including abuse and neglect, and injuries from firearms; and (b) malnutrition, pre-natal condition and preventable diseases.

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

(a) **Address the poverty and structural inequalities underlying the high child mortality in the State party;**

(b) **Enhance its effort to reduce infant and child mortality, addressing the high levels of violence, child malnutrition, prevention of HIV/AIDs and its treatment, and the promotion of child and mother's health taking note of target 3.2 of the Sustainable Development Goals on ending preventable death of children under 5;**

(c) **Implement and apply the OHCHR Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31);**

(d) **Provide support to families, to prevent violence, abuse, neglect and abandonment of children;**

(e) **Strengthen its efforts on firearm control.**

Respect for the views of the child

27. While noting the efforts made, the Committee is concerned that participation of children in public decision-making on issues that affect children is not systematically guaranteed.

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

(a) **Ensure children's meaningful participation in public decision-making at all levels, by allocating adequate technical, human and financial resources for that purpose;**

(b) **Consider institutionalizing the Children's Parliament as a permanent forum.**

D. Civil rights and freedoms (arts. 7, 8, and 13-17)

Birth registration, name and nationality

29. The Committee welcomes the substantial increase of birth registration in the State party. However the Committee is concerned that:

(a) Administrative and practical obstacles in obtaining birth registration, including punitive measures for late registration under the Births and Deaths Registration Act 51 (1992), may have negative and discriminatory impact ;

(b) The Citizenship Act 88 of 1995 sets disproportionately strict conditions for granting the nationality of the State party on certain groups of children, and also allows for deprivation of nationality of children based on the loss of nationality of their parents;

(c) Reportedly there are many children, who either migrated into or are born in the State party, in Child and Youth Care Centres who are undocumented and/or whose births have not been registered;

(d) There are rigid requirement for the possession of birth certificate in accessing social and child protection services.

30. Taking note of target 16.5 of the Sustainable Development Goals on providing legal identity for all, including birth registration, the Committee strongly recommends that the State party:

(a) **Review and amend all legislation and regulation relevant to birth registration and nationality to ensure their full conformity with the Convention, including through removal of requirements which may have punitive or discriminatory impact on certain groups of children;**

(b) **Put in place regulations to grant nationality to all children in the jurisdiction of the State party who are or at risk of being stateless;**

(c) **Regularly monitor and ensure that measures adopted by such legislation, regulations and guidelines guarantee birth registration of all children in the State party, including non-nationals;**

(d) **Systematically identify all undocumented children currently residing in Child and Youth Care Centres in all parts of the State party and ensure their access to birth certificates and nationalities;**

(e) **Ensure that the lack of birth registration does not hinder access to child protection and basic social services while enhancing its efforts for universal birth registration;**

(f) **Consider ratifying the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;**

(g) **Seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF) among others, for the implementation of these recommendations.**

E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Freedom of the child from all forms of violence

31. The Committee is concerned at the very high prevalence of violence against children, including corporal punishment, gender-based violence and harmful practices.

32. **With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and taking note of target 16.2 of the Sustainable Development Goals on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, the Committee urges the State party to develop, adopt and effectively implement a comprehensive national strategy to prevent and address all forms of violence against children and to protect and support child victims of violence. In developing such strategy, State party should:**

- (a) **Ensure that policy responses to violence are developed based on the analysis of objective data;**
- (b) **Ensure meaningful participation of all stakeholders, including children and organizations working with children;**
- (c) **Address structural cases of violence, including inequality, poverty, alcohol and drug abuse and xenophobia;**
- (d) **Pay due attention to groups of children at heightened risk of exposure to violence, including children living in rural areas and urban informal settlements, refugee, asylum-seeking, migrant and stateless children, children in street situations, children belonging to sexual minorities, children with disabilities, indigenous children and children with albinism.**

Corporal punishment

33. The Committee welcomes the prohibition of corporal punishment of children in detention and in alternative care settings under the Children's Act (2005). However, it is concerned that corporal punishment in the home has not been prohibited and is widely practiced and that corporal punishment at school persists in practice despite the legal prohibition. The Committee is also concerned about the lack of data on incidents of corporal punishment in child care facilities.

34. **With reference to its general comment No. 8 (2006) on corporal punishment, the Committee recommends that the State party:**

- (a) **Expedite the adoption of legislation to prohibit all forms of corporal punishment in the home, including "reasonable chastisement";**
- (b) **Develop, adopt and implement a national strategy to prevent and eradicate all forms of corporal punishment;**
- (c) **Strengthen its efforts to raise awareness and build capacity of families, communities, as well as professionals working for and with children, including teachers and care givers on positive, non-violent and participatory forms of child-rearing and discipline;**
- (d) **Regularly and systematically collect data on corporal punishment in all settings, including at home, in schools and child care facilities, and use such data as a basis for effective prevention and eradication of corporal punishment;**
- (e) **Promote regular consultations between students and teachers on how to deal with disciplinary issues in a human rights sensitive manner;**
- (f) **Ensure that those who perpetrate corporal punishment are held accountable.**

Gender based violence

35. The Committee welcomes the development of a legislative, policy and institutional framework to fight gender-based violence. However, the Committee is seriously concerned at:

- (a) The high prevalence of gender-based violence against children, in particular in rural areas and urban informal settlements, both at home and in schools;
- (b) The high prevalence of sexual violence and the low age of the victims, the majority of them being under 15 years of age, and with reportedly an increase of victims younger than 7 years of age;

- (c) The low rates of reporting, prosecution and conviction of perpetrators;
- (d) The Domestic Violence Act (1998) not typifying domestic violence as a criminal offence and being insufficiently gender-sensitive;
- (e) The overall lack and regional disparity of support services to child victims, including emergency shelters, and heavy reliance for delivery of such services on civil society organizations.

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

- (a) **Conduct studies and improve data collection on gender-based violence against children and its structural determinants and actively utilize the analysis of such studies and collected data for developing responses to gender-based violence;**
- (b) **In light of the extreme levels of gender-based violence against girls in informal settlements, conduct research on such violence in informal settlements and develop tailored responses to it;**
- (c) **Strengthen the National Programme of Action to Prevent and Respond to Violence against Women and Children 2013–2017, by equipping it with strong accountability mechanisms and sufficient allocation of technical, human and financial resources for its implementation, and addressing structural causes of gender-based violence;**
- (d) **Raise public awareness, through the media and education programmes, and engage both men/boys and women/girls, on gender equality and the rights of the child;**
- (e) **Ensure that perpetrators of such violence are held accountable and establish a child friendly reporting mechanisms;**
- (f) **Strengthen the provision of services to child victims of such violence by allocating sufficient technical, human and financial resources in order to improve quality, responsiveness and sustainability of such services.**

Harmful practices

37. The Committee is concerned at the high prevalence of harmful practices in the State party, including child and forced marriage, virginity testing, witchcraft, female genital mutilation, polygamy, violent or harmful initiation rites, and intersex genital mutilation. The Committee is further concerned that, although the practice of *ukuthwala* involving children is considered as an ‘abuse of *ukuthwala*’ and is a crime, as the State party noted during the dialogue, this practice still exists.

38. **In the light of its general comment No. 18 on harmful practices (2014), adopted jointly with the Committee on the Elimination of Discrimination against Women, the Committee urges the State party to:**

- (a) **Ensure that the State party’s legislation prohibits all forms of harmful practices used on children in the State party, including through, among others, criminalizing the practice of child and forced marriage and regulation of initiation schools;**
- (b) **Develop and adopt a national action plan to effectively eliminate such practices;**
- (c) **Ensure meaningful participation of all stakeholders, including children affected or at risk of harmful practices and their communities in developing, adopting, implementing and monitoring of relevant laws and policies;**

(d) **Guarantee bodily integrity, autonomy and self-determination of all children, including intersex children, by avoiding unnecessary medical or surgical treatment during infancy or childhood;**

(e) **Build capacity of all professional groups working for and with children to prevent, identify and respond to incidents of harmful practices and to eliminate customary practices and rituals which are harmful to children;**

(f) **Ensure sanctions on perpetrators of harmful practices, including perpetrators of the abuse of *ukuthwala*, and provide effective remedies to the victims of harmful practices.**

F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20-21, 25 and 27 (4))

Children deprived of a family environment

39. The Committee welcomes the development of a legal and policy framework on children deprived of a family environment, which prioritises the prevention of separation of a child from the family and the placement in family-like alternative care if the separation is unavoidable, and the significant progress made with regard to ensuring the enforcement of child maintenance orders. The Committee also notes that the State party has been taking measures aimed at addressing the systemic challenges in foster care. However, it is concerned at:

(a) The large number of children who are deprived of a family environment, including orphans who lost their parents due to AIDS and children who are abandoned due to their HIV/AIDS condition, as well as unaccompanied or abandoned migrant children;

(b) Systemic constraints faced by the alternative care system due to the increase in foster care, including a substantial backlog and lapses of foster care orders;

(c) Increase in the number of children placed in residential care, mainly as a result of abuse, neglect, abandonment, including due to the child's HIV infection, and prolonged stays in residential care institutions such as Child and Youth Care Centres (CYCCs);

(d) Low quality of care, uneven funding to CYCCs across regions; and existence of unregistered CYCCs.

40. **The Committee recommends that the State party, while keeping its focus on family-like alternative care:**

(a) **Expedite actions to resolve systemic challenges in the foster care system and come up with sustainable arrangements for alternative care and their monitoring, based on wide consultation with children, parents and extended families as well as civil society organizations and professionals working on alternative care;**

(b) **Expedite the revision of the Social Assistance Act aimed at introducing an extended support grant for families caring for orphans, while ensuring adequate and feasible monitoring mechanism;**

(c) **Shorten the placement of children in residential care as much as possible, through timely family reintegration and shorter period for the placement review;**

(d) **Strengthen monitoring of the quality of care in residential institutions, including on their adherence to minimum norms and standards, on protection from**

violence and abuse and on provision of care and individual development plans; and provide accessible channels for reporting, monitoring and remedying maltreatment of children;

(e) Reduce regional disparity in funding CYCCs and ensure all CYCCs are registered;

(f) Allocate sufficient resources and build capacity of relevant professionals to improve responses of alternative care mechanisms to meet the needs of children deprived of family environment.

(g) Consider ratifying the 2007 Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance.

G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)

Children with disabilities

41. The Committee welcomes the ratification of the Convention on the Rights of Persons with Disabilities in 2007 as well as the adoption of the Framework and Strategy for Disability and Rehabilitation Services in South Africa 2015-2020. Nevertheless, it is concerned at the multiple layers of discrimination and exclusion faced by the majority of children with disabilities in the State party as well as at the lack of:

(a) Accurate and comprehensive data on children with disabilities;

(b) A comprehensive law and policy to realize the rights of children with disabilities with clear baselines, time frame and indicators for the implementation and mechanisms for monitoring their implementation;

(c) Effective multi-sectoral coordination within the Government, in particular in rural areas, to provide integrated services to children with disabilities;

(d) Effective provision of reasonable accommodation, such as through provision of assistive devices, and services in Brail and sign languages.

42. **With reference to its General Comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

(a) Strengthen systematic and comprehensive collection of disaggregated data on children with disabilities and utilize the outcome for making the policy response more evidence-based and adapted;

(b) Consider developing a comprehensive law and policy based on a human rights model of disability and which address the full range of issues relevant to the rights of children with disabilities, including access to public transport and support to caregivers;

(c) Set up clear baselines, time frame and indicators for the implementation of laws and policies relevant to children with disabilities, and ensure sufficient allocation of technical, human and financial resources for their implementation;

(d) Improve inter-sectoral coordination to provide integrated services to children with disabilities and their families and caregivers;

(e) Establish mechanisms to monitor the implementation of laws and policies which provide for children with disability, with active participation of persons with disabilities, including children, and their representative organizations;

(f) Expedite the implementation of the strategies relevant to the provision of reasonable accommodation with clear timelines and allocation of necessary resources.

43. The Committee welcomes the efforts made to provide inclusive education to all children, including children with disabilities, by developing Full-Service Schools. However, it is concerned at:

(a) The lack of legislation which affirms the right to inclusive basic education for all children with disabilities;

(b) The ineffective implementation of relevant policies due to acute shortage of human resources with expertise on disabilities and insufficient allocation of financial resources;

(c) The failure to provide free compulsory primary education to children with disabilities;

(d) The large number of children with disabilities who are out of school or studying in specialized schools or classes, in particular children with psycho-social disabilities;

(e) Discrimination and violence by teachers and other students against children with disabilities;

(f) Low quality of education and inadequate contents of the curriculum provided to children with disabilities, in particular children with psycho-social disabilities, autism spectrum disorders and sensory disabilities, which do not equip them with capacity for pursuing higher education, employment and autonomous life after school.

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

(a) Review the Education White Paper 6: Special Needs Education: Building an Inclusive Education and Training System (2001) with a view to further developing a legal and policy framework for inclusive education, and to prioritizing expansion of Full-Service Schools and inclusion of children with disabilities into mainstream classes of mainstream schools;

(b) Allocate sufficient technical, human and financial resources for inclusive education, including the funding necessary for guaranteeing the provision of reasonable accommodation;

(c) Ensure free compulsory primary education to all children with disabilities, provide reasonable accommodation, including personal assistants, for free at mainstream schools, and prioritize inscription to a school near to the child's residence to avoid costly transport and boarding;

(d) Develop curriculum, learning and teaching materials which facilitate respect, dignity and inclusion of children with disabilities in order to raise awareness of teachers and students to eliminate the stigmatization of and prejudice against children with disabilities;

(e) Improve quality, adequacy and adaptability of education provided to children with disabilities in order to facilitate their fullest possible social integration and individual development.

Health and health services

45. The Committee welcomes the efforts made to focus on primary health care and community health care as well as to expand child immunization coverage. However, the Committee is concerned at the:

- (a) Disparity in health care provision between rural and urban areas, as well as in public and private sectors;
- (b) Lack of a comprehensive policy and service delivery package on child health;
- (c) Low quality of health care service.

46. **In the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee recommends that the State party:**

(a) **Further strengthen its efforts to reduce disparities in health care service provision across the country, with strong focus on improving access to public primary health care;**

(b) **Develop a comprehensive and multi-sectoral policy and service delivery package on child health, covering neonatal to adolescent health as well as addressing interventions on underlying determinants of health, with clear timelines, baselines, indicators and budget allocation for their implementation;**

(c) **Improve the quality of health care services in general as well as those specialized for children, allocating sufficient human, technical and financial resources, and building capacity of professionals working in the health care system;**

(d) **Establish mechanisms for monitoring the implementation of relevant policies and service delivery on child health, involving children, communities and civil societies working on child and adolescent health;**

(e) **Seek technical assistance from the World Health Organization (WHO) and UNICEF, among others, in this regard.**

Adolescent health

47. The Committee notes that the State party is developing new guidelines for youth and adolescent health in order to address adolescent health comprehensively. However, it is concerned at the heightened health risks adolescents are exposed to, including the disproportionately high rates of:

(a) HIV/AIDS infection, in particular among adolescent girls, due to a lack of access to adolescent-friendly services, discriminatory attitude of health workers against them, and the lack of age-appropriate information on sexual and reproductive health;

(b) Tuberculosis infection, especially among adolescents;

(c) Suicide and depression, including among teenage pregnant girls;

(d) Maternal deaths among adolescents, and the lack of accurate and comprehensive data on maternal deaths;

(e) Alcohol and substance abuse which leads to violence, transport-related deaths and Foetal Alcohol Spectrum Disorders.

48. **With reference to its general comment No.4 (2003) on adolescent health, the Committee recommends that the State party:**

(a) **Expedite the completion of new guidelines for youth and adolescent health, covering sexual and reproductive health, mental health, violence and alcohol and substance abuse;**

(b) **Strengthen its efforts to ensure the full and meaningful participation of adolescents in the development, monitoring and evaluation of laws, policies and**

programmes on child and adolescent health in order to ensure responsiveness of interventions and accurate reflection of lived reality of adolescents;

(c) Enhance effective implementation of sexual and reproductive health policies and programmes for adolescents, ensuring adolescents' access to health goods and services with confidentiality;

(d) Consider ensuring free and discreet access to contraceptives, including in schools;

(e) Raise awareness and build the capacity of health professionals to enable them to deliver child-friendly, non-judgemental and respectful health services to adolescents;

(f) Improve data collection on maternal death, including those occurring outside of health facilities;

(g) Seek guidance from the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22);

(h) Reduce drug use by children by, inter alia, providing them with accurate and objective information as well as life skills education on preventing substance abuse.

HIV/AIDS

49. The Committee welcomes the significant progress made in the reduction of mother-to-child transmission and the increase in the coverage of antiretroviral treatment for children. Nevertheless, the Committee is concerned at the:

(a) Number of new HIV infections in children which remains high;

(b) Significant proportion of maternal deaths attributed to AIDS;

(c) Structural causes of HIV/AIDS infection including gender inequality and violence against women;

(d) Disproportionately higher prevalence of HIV/AIDS among girls;

(e) Lack of adherence and retention to antiretroviral therapy by HIV/AIDS infected mothers and infants and the lack of systematic identification of HIV infection of children older than 18 months;

(f) High prevalence of tuberculosis, including multidrug-resistant tuberculosis, combined with HIV/AIDS infection;

(g) Frequent stock out of medication for HIV/AIDS and tuberculosis

(h) Weak representation of children and institutions and organizations working on children in the South African National AIDS Council.

50. **With reference to its general comment No. 3 (2003) on HIV/AIDS and the rights of the child, the Committee recommends that the State party:**

(a) Sustain the measures in place to prevent mother-to-child transmission of HIV/AIDS and develop a roadmap to ensure its implementation;

(b) Develop policies aimed at addressing multiple discrimination and violence against girls, based on the intersection between violence and HIV/AIDS;

- (c) **Improve follow-up treatment for HIV/AIDS-infected mothers and their infants to ensure early diagnosis, including for children above 18 months old, as well as early initiation, adherence and retention of treatment;**
- (d) **Expedite the adoption and implementation of the National Policy on HIV, Sexually Transmitted Infections and Tuberculosis and improve access to quality, age-appropriate HIV/AIDS, sexual and reproductive health services;**
- (e) **Take effective measures to prevent stock-outs of essential medicines, including medication for HIV/AIDS and tuberculosis;**
- (f) **Facilitate adequate representation of government departments and civil society organizations working on children in the South African National AIDS Council as well as active involvement of children in the development, implementation and monitoring of the National HIV/AIDS and STI Strategic Plans.**
- (g) **Seek technical assistance from, inter alia, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UNICEF.**

Nutrition

51. The Committee welcomes the adoption of the Roadmap for Nutrition in South Africa, 2013-2017 as well as efforts made to facilitate breastfeeding. Nevertheless, the Committee is concerned at:

- (a) Child malnutrition, including undernutrition, micronutrient deficiencies and overnutrition, as key contributing factors for child mortality and child morbidity;
- (b) Child food insecurity caused by, among others, poverty, food price increases, demographic changes, energy costs and climate change;
- (c) Persistent low rate of exclusive breastfeeding up to six months;
- (d) Inadequate nutritious quality of food provided in the school meal programme;
- (e) Increase in prevalence of obesity among children and aggressive marketing of unhealthy food targeting children.

52. **Taking note of Target 2.2 of the Sustainable Development Goals on ending all forms of malnutrition, the Committee recommends that the State party:**

- (a) **Develop and implement a framework law on the right to food as envisaged in the National Policy on Food and Nutrition Security for the Republic of South Africa (2014) paying due attention to the eradication of child food insecurity and malnutrition;**
- (b) **Take all the necessary measures to promote exclusive breastfeeding at least for six months, with appropriate guidance and support for breastfeeding of HIV/AIDS infected mothers, and to regulate the promotion of breast milk substitutes;**
- (c) **Strengthen effective monitoring of the National Schools Nutrition Programme, including the frequency, quality and nutritional value of the food supplied through the programme;**
- (d) **Regulate the marketing of unhealthy foods to children in order to address the rise in child obesity and introduce strategies that enable poor households to access healthy food;**
- (e) **Seek technical assistance from UNICEF and the Food and Agriculture Organisation of the United Nations (FAO) in this regard.**

Standard of living

53. The Committee welcomes the substantial expansion of social security coverages for children in the State party, which resulted in an overall decline in child poverty. Nevertheless, the Committee is concerned that:

- (a) Poverty rate among the age group of 1-17 years is the highest among all age groups;
- (b) Access to the social security benefits for children is hampered by administrative barriers, such as strict requirement of identity documentation, the lack of clarity in eligibility criteria and their assessment, the lack of accessible information on such benefits, inadequate arrangement for children who have child care responsibilities and discrimination and stigma against certain groups of children, such as refugees and teenage mothers;
- (c) The amount of the Child Support Grant falls below the actual cost of providing the service.

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

- (a) **Remove barriers for accessing social security benefits and ensure that all children, in particular infants, adolescents and children with disabilities, and their caregivers eligible for the benefits can access the benefits in a timely manner;**
- (b) **Establish complaint procedures which allow children and their caregivers to file claims in cases of rejection;**
- (c) **Review the amount for the Child Support Grant based on the objective assessment of actual cost for meeting the needs of children living in poverty,**
- (d) **Facilitate active and meaningful participation of children and their caregivers in the development, review, implementation, monitoring and evaluation of social security schemes relevant to children.**

55. The Committee welcomes the progress made to improve access to water and sanitation, and the State party's progressive legal framework on the right to adequate housing. However the Committee is concerned that:

- (a) Despite a substantial increase in the number of people accessing water and sanitation, many children still do not have access to water and sanitation and are exposed to heightened risk of ill-health and sexual violence;
- (b) The lack of affordable and adequate housing is resulting in the creation of informal settlements, and the practice of forced evictions of such settlements persists.

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

- (a) **Continue to advance its efforts to ensure access to safe water and sanitation for all households, schools and health facilities;**
- (b) **Take effective measures to ensure access by all children to adequate and affordable housing;**
- (c) **Take effective measures to prevent forced evictions and provide effective remedies to the victims, taking guidance from the Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, Annex I) in this regard.**

H. Education, leisure and cultural activities (arts. 28, 29, 30 and 31)

Education

57. The Committee welcomes the statement made by the State party during the dialogue that access to education remains a high priority, as well as the significant progress made in improving access to basic education. It also notes the efforts aimed at improving school infrastructure and the quality of education. However, the Committee is concerned at the persistence of the:

(a) Wide disparity in access to quality education according to economic status, race and geography;

(b) Uneven distribution of public resources, resources being allocated to less critical issues rather than to the most urgent ones, and the lack of transparency in management of funding in the education system;

(c) Poor school infrastructure, shortage of educational materials and insufficient numbers and low capacity of teaching staff, including the shortage of home language teachers;

(d) The lack of safety and security at school, due to high prevalence of violence, including bullying as well as sexual abuse and harassment, by students as well as educators;

(e) High dropout rate of pregnant students and their exclusion from schools that still occur in practice.

58. **With reference to its general comment No. 1 (2001) on the aims of education and taking note of target 4.1 of the Sustainable Development Goals on free, equitable and quality primary and secondary education for all, the Committee recommends that the State party:**

(a) **Further enhance its efforts to provide access to free and quality basic education for all children, prioritizing access to education by children facing multiple discrimination;**

(b) **Improve transparency, efficiency and accountability of the management of the budget for education, including through active and meaningful participation of children and civil society organizations in the development of the budget and the monitoring and evaluation of its implementation;**

(c) **Improve the quality of education, including quality and availability of school facilities, educational materials, teaching staff, and curricula, with priority for the most disadvantaged schools;**

(d) **Take effective measures to prevent and eliminate school violence, committed both by students and educators;**

(e) **Expedite the adoption of a new policy on the Prevention and Management of Learner Pregnancy and ensure that pregnant teenagers and adolescent mothers are supported and assisted in continuing their education;**

(f) **Prevent early pregnancy among students by mandatory sexual and reproductive health education at school for girls and boys.**

I. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)

Migrant, asylum-seeking and refugee children

59. The Committee welcomes the development of a legal and policy framework to protect asylum-seeking and refugee children in the State party. However, it is concerned at the:

- (a) Increasing number of unaccompanied children migrating into the State party and the heightened risk of destitution, exploitation, violence and abuse faced by unaccompanied children;
- (b) Lack of accurate and disaggregated data on migrant, asylum-seeking and refugee children, including those who are unaccompanied and/or undocumented, as well as on child victims of trafficking;
- (c) Ineffective implementation of relevant laws and policies;
- (d) Definition of dependants and family under the Refugees Amendment Bill (806 of 2015) which may not fully protect the right to family unification provided by the Convention;
- (e) Risk of deportation faced by migrant, asylum-seeking and refugee children due to the lack of legislation to allow permanent settlement in the State party as a durable solution;
- (f) Arrests and detention of children on account of immigration status.

60. **With reference to its General Comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin and the conclusion of the Day of General Discussion on the rights of all children in the context of international migration (2012), the Committee recommends that the State party;**

- (a) **Strengthen systematic and disaggregated data collection on migrant, asylum-seeking and refugee children, in particular unaccompanied and/or undocumented children; as well as child victims of human trafficking, and conduct study on their situation as a basis for effective responses;**
- (b) **Expedite the development and implementation of a protocol to streamline the delivery of timely child protection services to migrant, asylum-seeking and refugee children, including services on (i) registration and issuance of identity documents; (ii) protection from violence and abuse; (iii) family unification or provision of alternative care; and (iv) access to basic services, and apply such protocol consistently throughout the State party;**
- (c) **Ensure the Refugees Amendment Bill (806 of 2015) is fully consistent with the Convention;**
- (d) **Consider providing migrant, asylum-seeking and refugee children with an option of permanent settlement in the State party to avoid deportation of children;**
- (e) **Expediently and completely cease the detention of children in irregular migration situations.**

Children in armed conflict

61. The Committee notes the large number of children who arrive in the State party as unaccompanied asylum-seeking or refugee children from countries recently affected by

armed conflicts and is concerned at the lack of procedures to identify children affected by and/or involved in armed conflicts, including children being recruited as child soldiers.

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

- (a) **Put in place mechanisms to identify at an early stage children among refugees and asylum seekers coming from countries where armed conflicts exist and who may have been involved in armed conflict;**
- (b) **Train border control services on children's rights, child protection and interviewing skills;**
- (c) **Develop protocols and specialized services to ensure that former child soldiers and child victims of armed conflict are provided with appropriate assistance for their physical and psychological recovery and social reintegration;**
- (d) **Seek technical assistance from UNCHR and UNICEF in this regard.**

Indigenous children

63. The Committee is concerned that indigenous children, including children belonging to Khoi-San peoples, face marginalization and discrimination. In particular, the Committee is concerned at:

- (a) The lack of legal recognition of indigenous peoples and their rights in the State party, including Khoi-San peoples;
- (b) Negative impacts on indigenous children of the historical dispossession of traditional land, which is resulting in, among others, food insecurity, lack of access to water, and extreme poverty;
- (c) Inability of indigenous children to fully enjoy the right to use their own languages, including in education.

64. **With reference to the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention and in line with the United Nations Declaration on the Rights of Indigenous Peoples, the Committee recommends that the State party:**

- (a) **Consider legally recognising the rights of indigenous peoples, including Khoi-San peoples, and with full recognition of the rights of indigenous children;**
- (b) **Develop a national action plan to respect, protect and promote the rights of indigenous children and to eliminate food insecurity, poverty, and vulnerabilities to violence and exploitation of indigenous children with their full and effective participation;**
- (c) **Prevent evictions and displacement of indigenous peoples, including pastoralists, hunger-gatherers and forest people and provide redress to those evicted or displaced from their lands;**
- (d) **Take effective measures to promote indigenous languages, including through the provision of bilingual education to indigenous children in their own indigenous languages as well as in the official languages of the State party;**
- (e) **Consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

Economic exploitation, including child labour

65. The Committee welcomes the ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2000. However, the Committee is concerned at:

- (a) The persistent wide engagement of children in child labour, in particular in agriculture;
- (b) The practice of the worst forms of child labour, and the lack of disaggregated data on children engaged in the worst forms of child labour;

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

- (a) Collect disaggregated data on child labour, including the worst forms of child labour;**
- (b) Ensure effective implementation of laws and policies on child labour;**
- (c) Strengthen inspection of child labour and impose effective penalties on those who economically exploit and abuse children.**

Children in street situations

67. The Committee notes as positive the development of the National Strategy for Children Living and Working on the Streets. However, it is concerned about the large number of children living and working in the streets in the State party and their high exposure to violence and abuse, exploitation, physical mental ill-health, as well as alcohol and substance abuse. The Committee also notes with concern that many unaccompanied children who entered into the State party end up in street situations.

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

- (a) Assess the number of children living and/or working in the streets and update studies on the root-causes of their situations;**
- (b) Implement, monitor and evaluate the National Strategy for Children Living and Working on the Streets with active involvement of children in street situations, while respecting their autonomy and diversity;**
- (c) Ensure that supports under the Strategy, in particular the reintegration with family or placement in alternative care, are provided with full respect for the child's best interests and giving due weight to their autonomous views in accordance with their age and maturity.**

Administration of juvenile justice

69. The Committee notes that the Child Justice Act (2008) raised the minimum age of criminal responsibility to 10 years. However, it is concerned that:

- (a) A legal minimum age of 10 years is still low;
- (b) A large number of children are held in pre-trial detention, some for unduly lengthy periods of time;
- (c) There is a lack of access to educational, health and other services, especially for those in pre-trial detention;
- (d) Detention facilities are overcrowded.

70. **With reference to is general comment No. 10 (2007) on children's rights in juvenile justice, the Committee recommends that the State party provide effective**

implementation of national legislation, in line with international standards, in particular:

- (a) Expedite the review of the minimum age of criminal responsibility with a view to raising it to an internationally acceptable level.
- (b) Reduce the number of children held in pre-trial detention and ensure, by explicit legal provisions, that the competent court makes a final decision on the charges not later than six months after children are presented;
- (c) Guarantee access to education, health and other benefits to all children in detention, including those who are awaiting trial or have not been sentenced;
- (d) Take immediate and necessary measures to reduce over-crowding.

Child victims and witnesses of crimes

71. The Committee is concerned at the lack of a legal framework to protect the rights of child victims and witnesses of crimes and at the lack of quality support and rehabilitation services for them.

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

- (a) Consider developing legislation to protect and empower child victims and witnesses of crimes, addressing, among others, services for physical, psychological and social rehabilitation of victims;
- (b) Allocate adequate human, technical and financial resources to the provision of rehabilitation and support services for child victims and witnesses of crimes in order to make them more sustainable and improve their quality.

J. Ratification of the Optional Protocol on a communications procedure

73. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

K. Ratification of international human rights instruments

74. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the core human rights instruments 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 (1990) and the International Convention for the Protection of All Persons from Enforced Disappearance (2006).

75. The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the involvement of children in armed conflict overdue as of 25 October 2011.

L. Cooperation with regional bodies

76. The Committee recommends that the State party cooperate with the African Committee of Experts on the Rights and Welfare of Children of the African Union on the implementation of the Convention and other human rights instruments, both in the State party and in other African Union member States.

V. Implementation and reporting

A. Follow-up and dissemination

77. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the second periodic report, the written replies to the list of issues of the State party and the present concluding observations be made widely available in the languages of the country.

B. Next report

78. The Committee invites the State party to submit its combined third to sixth periodic reports by 15 January 2022 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in 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) and paragraph 16 of General Assembly resolution 68/268.
