

**CONCLUDING OBSERVATIONS AND RECOMMENDATIONS OF THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD TO
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ON ITS SECOND
PERIODIC REPORT ON THE IMPLEMENTATION OF THE AFRICAN CHARTER
ON THE RIGHTS AND WELFARE OF THE CHILD**

September 2023

I. Introduction

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) extends its compliments to the Government of the Republic of South Africa for submitting its second periodic report on the status of implementation of the African Charter on the Rights and Welfare of the Child (the African Children's Charter/the Charter).
2. During the 41st Ordinary Session, which was held from 26 April to 06 May 2023, the Committee considered the periodic report of the Republic of South Africa submitted in compliance with its obligation under Article 43 of the Charter.
3. The Committee takes note of the written replies to its list of issues and appreciates the Republic of South Africa for sending its Delegation, led by Mr. Linton Mchunu, Director-General/ Permanent Secretary: Social Development, for a productive discussion with the Members of the ACERWC. The discussion undoubtedly assisted the Committee to better understand the measures that the State Party has undertaken towards the implementation of the Charter as well as the challenges faced. After careful consideration of the facts in the reports, the replies to the list of issues, and the information provided during the constructive dialogue, the Committee adopted the following concluding observations and recommendations to provide guidance for enhanced implementation of the Charter in the State Party.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee would like to recognise and appreciate the Government of the Republic of South Africa for undertaking a number of measures to realise the implementation of the provisions of the African Children's Charter. In particular, the Committee recognises the following measures as they meaningfully contribute to the country's journey towards the full implementation of the African Children's Charter:
 - i. Enactment of the Social Assistance Amendment Act, 2020;
 - ii. Amendments to the Regulations to the Social Assistance Act, 2004;
 - iii. Enactment of the Customary Initiation Act;
 - iv. The adoption of policies, frameworks and strategies such as the National Plan of Action for Children (NPAC) 2019-2024, Children's Manifesto, National Child Care and Protection Policy (NCCPP), National Policy Framework (NPF) on Trafficking in Persons (TIP), Draft National Policy on the Prevention and Management of Learner Pregnancy in Schools, Child Offender Policy, Policy on Offenders with Disabilities, ECD Registration Framework, Youth Crime Prevention Strategy, Guidelines for the Provision of Policing Services, SOP on Policing of Vulnerable Children, and SOP for TIP, Victim Identification, Victim Assistance and Referral Systems;
 - v. Making use of the African Children's Charter in the National Courts;
 - vi. Institutional mechanisms for the promotion and protection of the rights and welfare of children;
 - vii. Training of professionals working with or for children; and
 - viii. Community engagement and education.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee notes with appreciation the adoption of new laws, policies, strategies and frameworks as well as the revision of laws that is taking place to ensure compliance with the African Children's Charter. The Committee, in its previous concluding observations and recommendations had recommended for the State Party to withdraw its reservation to the International Covenant on Economic, Social and Cultural Rights (ICESCR) so that education is made immediately available and to also consider ratifying the Third Optional Protocol to the Convention on the Rights of the Child (CRC) on the Communication Procedure. Whilst the Committee notes from the State Party's response to the List of Issues that the Constitutional Court has held that education is an immediately realisable right, it is noted that the State Party has not withdrawn its reservation to the ICESCR. The State Party has further not yet ratified the Third Optional Protocol to the CRC on the Communication Procedure. The Committee, therefore, reiterates its previous recommendations and urges the State Party to consider withdrawing its reservation under the ICESCR and ratify the Third Optional Protocol to the CRC on the Communication Procedure.
6. The Committee notes from the State Party report that the budget allocated to the SAHRC may not be sufficient to enable the institution to carry out all its constitutional obligations. The Committee also notes the competing government needs and diminishing national fiscus in the State Party, which may also negatively impact the realisation of children's rights. The Committee, therefore, recommends the State Party mobilize resources and increase its budget allocation for children's rights sectors and programs.
7. The Committee notes from the State Party report that a process overseen by a Task Team is underway for moving the Office on the Rights of the Child (ORC) to the Presidency. However, the Committee notes from some reports that this has stalled, with little progress made in the past two years, and the process has not been inclusive. In its response to the List of Issues, the State Party indicated that efforts to migrate the ORC have been escalated to the Forum of Directors-General (FOSAD) and have greatly improved. While commending the efforts undertaken, the Committee recommends the State Party to continue accelerating the process of migrating the ORC, undertake consultations to ensure a smooth transition and set up strong governance and coordination structures for it.
8. The Committee observes no information on the State Party report on centralized and updated data collection and management systems concerning children. The Committee also noted in its discussions with the Delegation that there are some challenges with regard to adequate disaggregation of data by age and gender to assist in reporting. The Committee emphasizes that the lack of accurate and disaggregated data on various important child rights indicators impedes the ability to make a proper assessment of the situation of children and determine progress on the implementation of the Charter. The Committee recommends that the State Party establish a systematic way of collecting disaggregated, sufficient, and reliable data on children.
9. The Committee commends the initiative to develop the National Child Rights Monitoring, Reporting and Follow-up Framework and recommends the State Party to accelerate its finalization and adoption.

B. Definition of the Child

10. The Committee commends the State Party for adopting a number of laws, harmonizing the definition of a child in line with the African Children's Charter.
11. However, the Committee notes with concern some reports that highlight the lack of legislative, policy or other regulatory amendments to give effect to 18 as the common marriageable age across all marriage legislation. For instance, the proposed Children's Amendment Act has not explicitly increased the marriageable age to 18, and in terms of the Marriage Act 25 of 1961 and the Recognition of Customary Marriage Act 120 of 1998, children can get married with parental consent.
12. The Committee, therefore, reiterates its previous recommendations and encourages the State Party to harmonise the definition of the child under civil, customary, and common laws in line with article 2 of the Charter and to ensure the effective implementation of article 21(2) of the Charter, which prohibits child marriage and sets the minimum age for all types of marriages at 18, without exceptions.

General principles

Non-discrimination

13. The Committee appreciates the legislative and other measures taken by the State Party to eliminate all forms of discrimination, including discrimination against asylum seekers, migrant, refugee and stateless children. The Committee welcomes the development of the Protocol on Discrimination on the Prevention, Elimination and Management of Unfair Discrimination in Schools. However, the Committee notes from some reports that, despite the existence of laws prohibiting discrimination, migrant children are being discriminated and cannot access crucial services for their survival. Further, the reports allege that despite the monumental Makhanda ruling which stated that all undocumented children, including the children of migrants, are entitled to receive basic education, migrant children and children of migrant parents are still being turned away from receiving education. The Committee therefore recommends the State Party to:
 - a) Place strong focus on the eradication of structural inequalities and discrimination in all legislative, policy and programmatic measures;
 - b) Conduct sensitization initiatives in schools and communities to empower citizens about the laws and
 - c) Adequately monitor the implementation of the School Admissions Policy.

The best interests of the child

14. The Committee notes the information from some reports that although steps have been taken to ensure the best interests of the child in decision-making, the needs of children are not prioritised and anticipated in cases of emergency and recent states of emergency such as the COVID-19 and the KZN floods, show the State's slow response to ensuring that the disruptions to the education of the children affected are remedied. The Committee recommends the State Party

reviews all emergency-related policies, legislation, and administrative actions to be aligned with this principle.

The right to life, survival and development

15. The Committee notes with appreciation the steps taken by the State Party to promote the right to life, survival and development as had been recommended by the Committee in its previous recommendations, including through the expansion of the HIV prevention programme and antiretroviral therapy programme, reduction of incidences of crimes against children and the signing of a protocol to collaborate on road safety programmes.
16. However, the Committee notes from some reports that child income poverty is high and unequal. In 2019, it was reported that 56% of children live below the upper-bound poverty line of R 1,227.00. However, the proportion of economically disadvantaged children is much higher in former Apartheid homelands and in rural areas. In 2022, it was reported that more than one in every three children in South Africa live below the food poverty line of R663 per month. Reports further indicate that half of all child deaths in hospitals are associated with malnutrition and that stunting has worsened, with 27 out of 100 children under the age of 5 being stunted. The Committee further notes that homicide rates remain high in relation to children.
17. The Committee also notes from the Government's response to the list of issues that Investigations around the death of children in the Enyobeni Tavern Disaster are ongoing.
18. The Committee, therefore, recommends for the State Party to:
 - a) Adequately monitor the implementation of the National Food and Nutrition Plan (2018-2023) and report on its effectiveness during its next report;
 - b) Strengthen school nutrition programmes and expand feeding programmes to children in vulnerable situations and children living in the rural areas;
 - c) Continue intensifying its efforts towards lowering homicide rates against children and
 - d) Ensure the finalization of prosecutions pertaining to the Enyobeni Tavern Disaster and include details on the outcome of the court proceedings in the next periodic report.

Participation of the child

19. The Committee appreciates the initiatives taken by the State Party to ensure child participation, including the adoption of the Child Participation Framework, as per the Committee's previous concluding observations and recommendations. The Committee encourages the State Party to continue its efforts in ensuring the meaningful participation of children through the Nelson Mandela Children's Parliament (NMCP) and provide regular updates to the children on commitments made during the NMCP proceedings. The State Party is further recommended to increase and maximize the provincial mechanisms for child participation in the NMCP to ensure that the NMCP plays its intended role in boosting child participation in policy and law development.

C. Civil rights and freedoms

Name, nationality, identity and registration at birth

20. The Committee notes with appreciation the various efforts made by the State Party to ensure birth registration of children including the Early Birth Registration Campaign and the rolling out of birth registration in health facilities.
21. Despite various progressive developments, the Committee notes that some children still face challenges in accessing birth certificates and identity documents. Reports indicate that there are some instances where DNA tests of fathers are required prior to birth registration. Whilst the Delegation highlighted that such measures are meant to prevent child trafficking, the Committee notes that some parents may not be able to afford to undergo DNA testing. The Committee, therefore, recommends that the State Party consider other forms of proving paternity for the purposes of birth registration, including court orders recognising paternity.
22. The Committee further notes that orphaned or abandoned children continue to face barriers such as delayed registration. It is noted that whilst the Births and Deaths Registration Act No 51 of 1992 (BDR Act), read with its regulations, allows a social worker to register the birth of such children, in practice, the local offices require social workers to find parents and bring them to the office to participate in the registration process. The Committee recommends that the State Party addresses such impediments by enforcing the BDR Act, putting in place policies to allow social workers to be prioritised at the local offices where they are acting on behalf of children in need of care and protection, and waiving all fees connected to such cases. Further, regular capacity strengthening of officials at the registry offices should be conducted to ensure that they are aware of the legislative provisions relating to the birth registration of children.
23. Furthermore, the Committee notes a lack of enforcement of court orders related to birth registration. It is noted that the Constitutional Court of South Africa handed down judgment in ***Centre for Child Law v. Director General: Department of Home Affairs and Others*** in 2021, where it struck section 10 of the Births and Deaths Registration Act No 51 of 1992 (BDR Act) which did not allow unmarried fathers to register their children in the absence of the mother. Furthermore, the Court declared various parts of the BDR Act unconstitutional as they prevented children from being registered where a parent could not provide a valid passport and a valid visa or permit. Reports, however, indicate that no circular / directive has been sent to the local offices instructing them to and how to register such births. As a result, such children are still left unregistered. The Committee recommends the State Party ensure compliance with all court rulings, amend the BDR Act and other relevant laws and enact supporting regulations to strengthen the rights of all children to birth registration, identity documents, and nationality.
24. The Committee further notes that despite its previous concluding observations and recommendations to enable stateless children to obtain nationality and a number of court rulings ordering the Department of Home Affairs to adopt regulations to implement the provisions of the Citizenship Act allowing stateless children born in South Africa to automatically acquire citizenship, reports

indicate that there is no legislation or procedures in place to identify and document stateless children. The Committee, therefore, reiterates its previous recommendations and urges the State Party to ensure that there is regulation facilitating the implementation of the relevant Sections of the Citizenship Act, which provides application platforms enabling every stateless child to apply for citizenship.

25. The Committee notes from reports that children aged 16 are required to be accompanied by parents when applying for IDs, and there are challenges when parents are absent or when an ID is blocked where a parent's citizenship is being investigated, thereby hindering children from acquiring IDs. The State Party is urged to ensure that IDs are issued to children at 16 years of age as required by law without any hindrance.
26. Overall, the Committee urges the State Party to take measures to enforce existing policies and laws through the publication of circulars directing lawful administrative processes and designing training programmes for various stakeholders, including civil registrars, legislators, members of the government, law enforcement agencies, health workers and allied personnel, and the judiciary and all those involved in the processing of vital statistics at all levels.

Freedom of expression, conscience, thought, religion, assembly, and protection of privacy

27. The Committee notes that the South African Constitution ensures children's rights to fundamental freedoms enshrined in the African Children's Charter. The Committee also welcomes the amendment to the Criminal Procedure Act, which protects the identity of children in judicial proceedings, either as children in conflict with the law, child victims, or witnesses. The Committee commends the State Party's efforts to protect children's privacy and personal information online through the enactment of the Protection of Personal Information Act (POPIA).
28. The Committee recommends the State Party to:
 - a) Conduct capacity-strengthening initiatives to educate stakeholders in the justice system as well as the media on the protection of children's right to privacy in court proceedings and
 - b) Disseminate information and conduct awareness-raising initiatives in collaboration with CSOs, targeting communities, stakeholders, businesses and the media to educate the citizens on the protection of children's privacy and personal information online.

D. Protection against abuse and torture

29. The Committee notes the legislative, administrative, social and educational measures to protect children from all forms of abuse, torture, inhuman or degrading treatment. The Committee appreciates that the Constitutional Court issued a judgment declaring that the common law defence of reasonable and moderate parental chastisement is inconsistent with the Constitution. The Committee recommends the State Party finalise the Criminal Procedure Amendment Bill and the Victim Support Services Bill, which all seek to ensure the protection of children against abuse.
30. The Committee appreciates the measures taken by the State Party to tackle violence in schools, such as the approval of the Protocol to deal with Incidences of Corporal Punishment in Schools and other school-based violence prevention

programmes. The Committee, however, notes from some reports that corporal punishment and violence against children still persist in schools, including special schools and not all schools benefit from the school-based violence prevention programmes. Furthermore, some children are not aware of these initiatives, and incidences of violence against learners and staff remain rife in schools across the country.

31. The Committee recommends the State Party to:

- a) Adequately monitor the effectiveness of the independent complaints platforms established and ensure that incidences of corporal punishment in schools are adequately remedied;
- b) Strengthen preventative, positive discipline measures to curb violent behaviour in schools;
- c) Ensure that security staff are adequately trained to protect learners and effectively handle cases of violence in schools.

32. The Committee appreciates measures taken by the State Party to tackle violence against children in general, including the education and awareness-raising measures to protect children with albinism from violence. It is, however, noted that there are still high rates of violence against children in communities. The Committee recommends the State Party to:

- a) Continue with its efforts to promote positive discipline through awareness creation, training those who are working for and with children, such as teachers and caregivers, and hold accountable educators and caregivers who still inflict corporal punishment on children;
- b) Provide appropriate temporary safe spaces for children with albinism who are at risk of violence, guided by the principle of the best interests of the child and respecting all their rights, including the right to parental care and protection;
- c) Provide psychosocial, medical and other support to children with albinism who are victims of violence and abuse based on their condition; and
- d) Evaluate the impact and do a cost-benefit analysis of the various campaigns and projects undertaken to prevent violence against children and disseminate the results.

E. Education, leisure, recreational and cultural activities

33. The Committee acknowledges the steps taken by the State Party to strengthen the inclusive education system, to equalize access for the most marginalized, and to ensure the provision of ECD education. The Committee, however, notes that the R17 subsidy provided per child to ensure the provision of ECD education is insufficient. The Committee recommends the government to:

- a) Increase the R17 subsidy per qualifying child per day; and

34. The Committee appreciates the adoption of the Department of Basic Education's Policy on the Prevention and Management of Learner Pregnancy in Schools. The Committee recommends the State Party to:

- a) Finalise and adopt the Implementation Plan for the Policy on the Prevention and Management of Learner Pregnancy in Schools;
- b) Sensitize educators and other students about the Policy to prevent discrimination against pregnant girls in schools and
- c) Monitor the overall implementation of the Learner Pregnancy Policy and report to the Committee about its successes and challenges.

35. The Committee notes from the State Party report that the sanitary dignity programme is implemented to ensure the provision of sanitary towels and also

through curriculum under Comprehensive Sexuality Education, where information around puberty and menstrual hygiene is shared with both girls and boys in schools. The Committee, however, notes from some reports that lack of access to sanitary wear remains an issue that severely affects the ability of children to attend school. The Committee, therefore, recommends the State Party to put in place measures and programmes to provide sanitary wear to children in all provinces, including in the rural areas.

36. The Committee commends the State Party for its strides in providing safe and enabling school infrastructure, including through the implementation of the Accelerated School Infrastructure Delivery Initiative. However, the Committee noted from some reports that pervasive underspending and lack of prioritization of school infrastructure remains a challenge; many schools are still overcrowded, austerity measures by the government negatively impact the right to basic education, and funds are being mismanaged or underspent. The reports allege that in June 2020, as part of the government's austerity measures, R1.7 billion was cut from school infrastructure grants, with another R 4.4 billion of grant money used for new COVID-19 costs in the sector. The Committee reiterates its previous recommendations and encourages the State Party to strengthen the implementation of the Accelerated Schools Infrastructure Delivery Initiative, urgently equip schools with relevant infrastructures, and prioritise funding for school infrastructure.
37. The Committee appreciates the measures taken by the State Party to ensure inclusive education for children with disabilities. The Committee, however, notes the challenges faced by children with disabilities in relation to education, such as the lack of public schools that cater for their needs, lack of legislation giving full effect to the right to inclusive education for all children with disabilities, high education and transport costs, and lack of budgetary allocations for the promotion of inclusive education, among others. The Committee also notes from some reports that there has not been much progress in the implementation of the Screening, Identification, Assessment, and Support Policy (SIAS Policy). The Committee, therefore, recommends the State Party to:
- a) Continue its efforts in ensuring inclusive education for children with disabilities, including the mobilisation of resources to support the education of children with disabilities;
 - b) Promulgate into law White Paper 6 on Special Needs Education, Building an Inclusive Education and Training System. This would ensure that the State has a statutory obligation in respect of children with disabilities as it would codify and streamline all measures undertaken by the State Party to provide basic education to all children, especially children with disabilities, and
 - c) Accelerate and improve efforts to implement the SIAS Policy.
38. The Committee further recommends the government address deteriorating infrastructure in recreational facilities and the lack of supervision of children in communal play spaces and facilitate initiation or sponsorship of aftercare programmes, sports and culture-based afterschool programmes and community policing initiatives.

F. Basic health and welfare

39. The Committee commends the State Party for its various initiatives aimed at improving access to health and health care services. These include, inter alia, the reduction of infant and child mortality, implementation of the National Health Insurance and adoption of the National Food and Nutrition Security Plan

(2018-2023). The Committee, however, notes from some reports the challenges faced, including the lack of access to quality health services in rural areas, lack of universal immunization, lack of access to clean water, and the impact of climate change, among others.

40. The Committee recommends the State Party to:

- a) Increase the budgetary allocation for the health sector to increase the accessibility and quality of the health care offered by the Government, with particular attention being paid to the remote areas;
- b) Continue with its efforts to reach all communities with immunization programs and provide sufficient vaccination to all children to prevent diseases and
- c) Launch programs and strategies to increase access to clean drinking water in both urban and rural areas;
- d. Develop climate change adaptation strategies that integrate nutrition and food security, maternal and childcare and feeding practices, and health, including environmental health and water and sanitation;
- e. Ensure that children and their families in areas susceptible to food crises brought on by climate change are equipped to deal with the effects by increasing national capacity for alternative feeding, micronutrients, and models for alternative, climate-adapted crops, sustainable food systems, anticipatory action, and shock-response systems, among other things;
- f. Put in place water, sanitation and waste removal policies prioritising the provision of services to households where children are found;
- g. Conduct sensitization campaigns for communities and children to ensure that the citizens are aware of the risks of climate change on children's right to health and
- h. Fully integrate climate change considerations and their impact on children's right to health into the next periodic report.

Children with disabilities

41. The Committee appreciates measures taken by the State Party to enhance the provision of integrated services to children with disabilities and their families. The Committee recommends the State Party to:

- a) Ensure that health services are accessible and affordable for children with disabilities;
- b) Consider subsidizing the cost of protective gear and equipment that children with albinism need to cater for their health needs and
- c) Put in place measures to ensure that health infrastructure is disability friendly, that there are adequate medical personnel to assist children with disabilities, and provide psychosocial support for children diagnosed with a disability, including sign language interpreters for children with hearing impairment.

G. Family environment and alternative care

42. The Committee commends the State Party for adopting legislative, judicial, administrative and other measures with regard to family environment and alternative care. The Committee also notes from the Government's response to the list of issues that Child and Youth Care Centers (CYCCs) are present in all the provinces, and the State increased the unit cost per child per month to R4000 since the 2019/2020 financial year to ensure the provision of adequate

quality services to children in CYCCs. The State developed programmes rendered in Child and Youth Care Centers to ensure the provision of quality services to children in CYCCs (Therapeutic programme for sexually abused children, programme for exploited children, guidelines for independent living programmes, life skills). However, the Committee learned from reports that the quality of care received by children at the CYCCs is subpar, and the centres are also understaffed. The Committee recommends the State Party continue conducting regular monitoring at a provincial level to ensure compliance with minimum standards. The State Party is further recommended to finalise the draft monitoring tool that was developed so as to guide the State Party in assessing the efficacy of the CYCCs.

43. The Committee further recommends that the Government promotes deinstitutionalization strategies, including reunification services, to ensure that children having biological parents reunify with their parents. In the absence of biological parents, alternative family care should be provided.
44. The Committee further notes from the State Party report that the Child Support Grant (CSG) has not been increased due to the current fiscal climate prevailing in the country. The Committee, therefore, recommends the State Party to double its efforts in mobilizing resources to increase the CSG so as to address all basic needs of children in the State Party.

H. Special protection measures

Refugee and displaced Children

45. The Committee notes with concern that the State Party has not taken adequate steps to address the needs of refugee and displaced children and to implement the Committee's previous recommendations. It is further noted that the Face-to-Face Project launched in partnership with the Scalabrini Centre in the Western Cape to offer a range of services to refugees, asylum seekers and migrants, including unaccompanied minors, has not been rolled out to other provinces. Therefore, the Committee recommends the State Party to:
 - a) Facilitate intensive integration support and alternative care arrangements for refugee children;
 - b) Consider rolling out projects aimed at offering services to refugees, asylum seekers and migrants, including unaccompanied minors, to all the other provinces;
 - c) Waive all fees applicable to applications for immigration permits for unaccompanied children so that these children benefit from the provision of Section 31(2) (b) of the Immigration Act; and
 - d) Ensure that a social worker is always assigned to assist unaccompanied children by amending section 32 of the Refugees Act, which makes it discretionary for a Children's Court to order a social worker to assist such a child to make an application for asylum.

Administration of Juvenile Justice

46. The Committee urges the State Party to continue its efforts in ensuring pre-trial diversion of children in conflict with the law and ensure that children in conflict with the law placed in Secure Care Centers have access to basic services.

47. The State Party is also recommended to finalise the review of the Policy on Offenders with Disabilities and ensure the protection of the rights of children with disabilities in conflict with the law.

Children in conflict situations

48. Even though the State Party report does not provide any information with regard to children in conflict situations, the Committee notes that there have been instances of civil unrest in the country, and children have been affected by the effects. The civil unrest that rocked South Africa between 9-17 July 2021 resulted in mass looting and burning businesses and schools in both Gauteng and KwaZulu Natal (KZN) provinces. Reports allege that over 139 schools were also vandalized in KZN province, resulting in the temporary displacement of learners from the affected schools. The Committee, therefore, recommends the State Party to:

- a) Sensitize communities about the negative impacts of attacks and destruction of schools and school properties during civil unrest and
- b) Establish essential lessons for preventing, managing, and resolving future socio-political unrest in the State Party.

Children of imprisoned caregivers

49. The Committee commends the State Party for ensuring the protection of the rights of children of imprisoned caregivers. The Committee recommends the State Party to continue with its efforts in ensuring that children of imprisoned caregivers have access to basic services such as health, birth registration, adequate nutrition and recreational facilities.

Sale, abduction and trafficking of children

50. The Committee notes the various initiatives undertaken to address the sale, abduction and trafficking of children, such as the enactment of the Trafficking in Persons Act (TIP Act), the NPF on Prevention and Combating of TIP, as well as capacity strengthening initiatives among other initiatives. The Committee recommends the State Party to:

- a) Expediently review its strategy for repatriation of victims of trafficking, including the provision of appropriate reception and care centres;
- b) Finalise the Communication and Awareness Strategy to raise public awareness and prevent human trafficking;
- c) Finalise the Generic Training Manual on the TIP Act to promote the institutionalisation of training of the various role-players in the criminal justice system, thereby making provision for standardised, integrated and multi-disciplinary training to role-players throughout the criminal justice value chain;
- d) Ensure effective prosecution and conviction of the perpetrators and support and reintegrate victims of sale, abduction, and trafficking;
- e) Put in place measures to ensure reunification of child trafficking victims with their families;
- f) Collaborate with other countries in the region to prevent child trafficking; and
- g) Continue engaging with families and communities in combatting child trafficking.

Children in street situations

51. The Committee notes the measures taken by the State Party to alleviate the plight of children in street situations. The Committee recommends the State Party to:
- a) Effectively monitor the implementation of the policy for children living and working in the streets and include details on the progress made and challenges in the next report and
 - b) Ensure rehabilitation and reintegration of children in street situations.

Child labor

52. The Committee appreciates the efforts taken by the State Party to eliminate all forms of child labour. The Committee, however, notes with concern the prevalence of child labour in the informal sector in the State Party. The State Party's response to the List of Issues highlights that the latest Survey of Activities of Young People (SAYP), which reported on activities of young people between the ages 7–17 years for the year 2019, pointed out that in 2019, the highest number of children engaged in economic activities were involved in the production of goods and services for household consumption only (97,2%); subsequently, children who were involved in economic activities were involved in market production activities and those involved in both market and own production activities (1,9% and 0,9% respectively). The Committee recommends the State Party adopt policies and frameworks to address child labour in the informal sector. Furthermore, with regard to child labour in general, the Committee recommends the State Party to:
- a) Systematically collect, monitor and make available information on child labour complaints as well as the types and numbers of inspections conducted, citations issued, prosecutions undertaken, and penalties applied in relation to child labour violations;
 - b) Develop systems for providing children removed from hazardous work and worst forms of child labour with support services and training;
 - c) Mitigate economic vulnerabilities associated with child labour, such as expanding child-sensitive social protection programmes to poor, marginalized and vulnerable households and
 - d) Consider developing a National Baseline Assessment and National Action Plan on Business and Human Rights, which include children's rights.

Drug abuse

53. The Committee notes from the State Party report that the State Party has undertaken some initiatives to address the incidences of alcohol and substance abuse by children. The Committee recommends the State Party to ensure that children who are victims of drug and substance abuse receive adequate psychosocial and medical assistance to be rehabilitated.

54. The Committee is informed by some reports that although the Liquor Act 59 of 2003 expressly prohibits and criminally penalizes the sale or supply of liquor and methylated spirits to minors, alcohol sales to minors are common in townships and villages. The June 2022 Enyobeni Tavern Disaster is an example of such. The Committee, therefore, recommends the State Party to ensure the enforcement of the Liquor Act through conducting regular inspections at Taverns and other hot spots to ensure that liquor is not sold to minors. The State Party is further encouraged to continue with its efforts in sensitizing taverns on how to comply with and implement legislative requirements that prevent the selling of alcohol to children and prevent their access to liquor facilities.

Sexual exploitation and abuse

55. The Committee appreciates the measures taken by the State Party to address sexual exploitation and abuse of children. The Committee is, however, concerned with the high number of cases of sexual violence against children in the State Party, with the 2019/2020 Annual Crime Statistics report indicating that more than 24,000 children were sexually assaulted in South Africa. The Committee also notes the prevalence of online sexual exploitation in the State Party and the lack of knowledge regarding the services available for children in sexual abuse and violence, whether in the home, community or school. The Committee further notes from some reports that children are particularly vulnerable to sexual exploitation in travel and tourism due to the tremendous growth of the tourism sector in the past decade. The State Party is recommended to:

- a)** Cooperate with local authorities, community leaders, religious and traditional authorities and local civil society organisations to implement policies and measures to prevent and combat sexual violence in both urban and rural areas;
- b)** Ensure that Internet service providers control and block child sexual abuse material as soon as possible as part of their prevention measures;
- c)** Ensure that law enforcement bodies are educated on interviewing child victims and on investigating and prosecuting these types of crimes (including online sexual exploitation);
- d)** Consider adopting measures to prevent convicted child sex offenders from reoffending in other countries, such as through cross-border exchange of information by placing travel restrictions on convicted offenders;
- e)** Disseminate information at various levels and conduct awareness raising regarding access to support services to ensure that child victims are able to open cases, provide evidence and receive therapeutic intervention for sexual violence that they have experienced;
- f)** Adopt and implement specific protocols, guidelines or codes of conduct in the context of the risks of sexual exploitation of children in the tourism industries;
- g)** Adopt legislative measures that would make extradition for the commission of specified child sexual abuse offences possible without the prior existence of a treaty between South Africa and other countries;
- h)** Engage with travel and tourism stakeholders and lay down standards (e.g. through enforceable codes of conduct) in order to combat sexual exploitation and abuse of children in the tourism sector and

- i) Ratify the AU Convention on Cybersecurity and Personal Data Protection (Malabo Convention).

Harmful social and cultural practices

56. The Committee notes, with appreciation, the number of initiatives undertaken by the State Party to eliminate harmful social and cultural practices despite their high prevalence in the country. It is, however, noted from the State Party report that virginity testing of children between 16 and 18 is allowed according to the provisions of the Children's Act 38 of 2005, and the Act has not been amended to ban the practice of virginity testing with regard to all children. The Committee recommends the State Party to intensify legislative amendments to ban this practice with regard to all children.
57. The Committee welcomes the adoption of the Customary Initiation Act in 2021 to regulate customary initiation practices in South Africa. Notably, the Act also prohibits female circumcision and genital mutilation as part of customary initiation practices. The Committee recommends the State Party to continue sensitizing communities and traditional leaders on their legislative mandate to perform their functions and roles as provided for in the Customary Initiation Act.
58. The Committee learned from the delegation that there are incidences of forced circumcision in the State Party wherein, in some instances, children as young as 7 years are abducted for these purposes, and some traditional leaders doing this practice demand money from families. The Committee emphasizes its previous recommendations and urges the State Party to intensify the investigation and prosecution of cases of kidnapping boys to unofficial initiation schools and incidents of death of children in such schools.
59. The Committee notes from the State Party report that the Government is amending legislation, through the Children's Amendment Bill and the draft Green Paper on Marriages, to prohibit child marriages. The Committee recommends the State Party to fast-track the amendment process and ensure that all legislation explicitly criminalises and/or prohibits child marriage and *ukuthwala* without exceptions.

I. Children's Responsibilities

60. The Committee notes, with appreciation, that the State Party has taken measures to ensure that children are educated and informed of their responsibilities under the Charter, for instance, through the compulsory subject on Life Skills and Orientation. The Committee, however, notes from reports that the teaching of Life Skills and Life Orientation subjects is not comprehensive enough to give children the full scope of their social responsibilities and how their responsibilities are applied in real-life situations. Reports indicate that this is attributed to the inability of educators to create an open and stimulating environment to discuss children's rights and responsibilities, traditional views that influence how the subject is presented, and the lack of platforms for children to provide their input to the Life Orientation curriculum. The Committee recommends the State Party to:
 - a) Capacitate educators on how to appropriately teach the Life Orientation subject, particularly sensitive topics that affect the lives of children as well as their rights and responsibilities;

- b) Create platforms for children to provide feedback and inputs on the teaching of the Life Orientation subject and
- c) Continue its monitoring initiatives in schools to ensure that curriculum coverage with regard to Life Skills and Life Orientation is achieved.

IV. Conclusion

61. The African Committee of Experts on the Rights and Welfare of the Child commends the Government of South Africa for its efforts to implement the African Children's Charter and aspires for the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow-up Mission to assess the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its next periodic report on September 2026 in accordance with the Committee's Guidelines of Consideration of State Party Periodic Reports.
62. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Republic of South Africa the assurance of its highest consideration.