



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination 111th session

Summary record of the 3032nd meeting

Held at the Palais des Nations, Geneva, on Tuesday, 28 November 2023, at 10 a.m.

Chair: Ms. Shepherd

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined ninth to eleventh periodic reports of South Africa (continued)
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1. *At the invitation of the Chair, the delegation of South Africa joined the meeting.*
2. **Mr. Payandeh** (Country Rapporteur) said that it would be timely to consider the suitability and impact of the special measures the State party had implemented to redress inequalities, specifically the Employment Equity Act and the Broad-Based Black Economic Empowerment Act. The Committee would appreciate information on monitoring and evaluation mechanisms for special measures and would like to know whether such mechanisms were regularly reviewed and amended.
3. In view of the need for special measures to combat racial inequalities in employment, an explanation of the Employment Equity Amendment Act of 2022, which limited the scope of application of the Employment Equity Act to exclude employers with less than 50 employees, would be helpful. The Committee would welcome clarification of legislative measures that would exclude certain non-nationals from the labour market or constitute barriers to their employment.
4. The Committee would like to know what measures were being taken to ensure adequate working conditions and protection for workers in the informal economy, a disproportionate number of whom were black people or migrants, and to improve the situation of street vendors, in view of their precarious legal status, lack of opportunities to find other work and poor working conditions. It would be useful to know whether undocumented migrants working in the informal economy could file labour-related complaints or access social services without fear of being deported. As people working in the informal economy did not appear to be covered by the national labour legislation, information on measures to ensure their enjoyment of basic labour rights without discrimination would be welcome. He would also appreciate data on cases of workplace discrimination and information on the rights of victims of such discrimination and the measures taken to prevent it and ensure access to effective remedies.
5. In view of racial disparities in access to quality education and the low rate of attendance of higher education institutions by black South Africans, the Committee would like to receive information on how the State party planned to address inequalities in education. It would be useful to hear about investment in education, particularly early childhood education, to compensate for the socioeconomic obstacles faced by members of groups protected under the Convention.
6. He requested information on efforts to ensure that sufficient resources were allocated to housing, on how discrimination was avoided in awarding financial aid or social housing benefits and on whether non-nationals were able to apply for such benefits. He wondered what measures were being taken to ensure that socioeconomic inequalities did not perpetuate de facto segregation in housing, and he requested further information on legislative initiatives to transform the real estate sector. The Committee had received reports of limited and slow progress in land redistribution, racial inequalities in land ownership and limited land ownership among women. It would appreciate an update on measures to carry out land restitution and to ensure greater equality in land ownership.
7. Older persons who had been marginalized under apartheid were vulnerable to extreme poverty owing to the fact that they had been engaged in low-income work and lacked education. The Committee would like to receive detailed information on eligibility for assistance for older persons, such as targeted grants, and on steps taken to ensure that they were included in broader measures to redress inequalities stemming from apartheid.
8. It would be useful to hear about plans for specific, targeted measures – particularly in rural areas – to combat the practice of *ukuthwala*, or abduction of brides, through law enforcement, social services and other institutions, and about assessments of awareness-raising campaigns related to that practice. He wondered why the progress in the

adoption of the Prohibition of Forced Marriage and Regulation of Related Matters Bill appeared to have stalled. It would be helpful to understand how the Bill related to the judgment in the case of *Jezile v. S* and to receive information on criminal prosecutions and convictions for perpetrators of *ukuthwala* and support for victims.

9. Black and ethnic minority women and girls were reportedly disproportionately affected by poverty and precarious employment. He would therefore like to know about measures to regulate occupational health and safety for domestic workers and workplace safety measures imposed on employers, including with regard to gender-based violence and sexual harassment. It would be helpful to the Committee if the delegation could provide information about the implementation of the judgment in the *Mahlangu and Another v. Minister of Labour and Others* case and about any claims made by domestic workers under the Compensation for Occupational Injuries and Diseases Act. He would appreciate details on efforts to regulate housing standards for live-in domestic workers and to ensure that they enjoyed the right to family life and social life, as well as freedom of movement. Were there measures to inform employers of their obligations and domestic workers of their rights, including the possibility to file complaints or seek remedies for rights violations?

10. The Committee would like to know whether any effective measures were being considered for the protection of persons with albinism and for the prevention of violence against them, whether data on discriminatory acts against persons with albinism were collected and whether persons with albinism would be protected by the planned legislation on hate crimes and hate speech. An update on the reform of the Witchcraft Suppression Act would be helpful.

11. The Traditional and Khoi-San Leadership Act had been declared unconstitutional in 2023 owing to a lack of public participation in the legislative process. The Committee would like to receive information on the current status of the Act and efforts to ensure the necessary participation. He wondered how far the rights of Indigenous Peoples under international law had been taken into account when the Act had been drawn up, and to what extent they were protected. The Committee would also like to receive clarification as to whether the State party recognized the rights of Indigenous Peoples to self-determination. It would be useful to the Committee to find out how compliance was guaranteed in practice with the principle of the free, prior and informed consent of Indigenous Peoples in legislative or administrative decisions concerning their rights and interests.

12. The delegation had stated that violence and discrimination against non-nationals were a reflection of economic problems and competition for scarce resources. He pointed out that the seriousness of racial discrimination was not diminished by it being rooted in socioeconomic issues rather than racist ideology. Decisive action by the State party was required to counter anti-migrant narratives and hate speech and to prevent and react to attacks against non-nationals.

13. **Ms. Esseneme** (Country Task Force) said that the Committee had received reports of racially-motivated police violence against black people during identity checks, and that the Committee against Torture had expressed its concern at reports of acts of torture, assault, rape and death at the hands of the police force (*CAT/C/ZAF/CO/2*). She would like to know what actions were being taken to prevent racial profiling and the excessive use of force by law enforcement officers, with particular reference to training activities and capacity-building on equality and non-discrimination, and how the State party ensured that police officers complied with the requirement to report all cases of discriminatory violence to the Independent Police Investigative Directorate. The Committee also requested information on the number of complaints, investigations, prosecutions and convictions concerning cases of discriminatory violence committed by police officers; disciplinary sanctions imposed on offending police officers, including those who failed to report incidents of violence; and relations between the Directorate and the judicial services.

14. She wished to know what actions had been taken to implement the recommendation of the Truth and Reconciliation Commission to investigate violations of rights and abuses committed during apartheid, prosecute the perpetrators and provide reparations to victims. The Committee would like to receive an explanation for the lack of progress in such cases and information on the roles played by the Department of Justice and Constitutional

Development and the National Prosecuting Authority in implementing the Commission's recommendation. It would appreciate it if the delegation could provide updated information on reparations awarded since 2019, as well as on the drafting of guidelines on housing for victims identified by the Truth and Reconciliation Commission and regulations to implement community rehabilitation.

15. Regarding legal aid, she would welcome information on the procedures undertaken by Legal Aid South Africa when it initiated legal action *ex officio* and when it financed legal action brought by victims of discrimination. Details on provisions to raise awareness of legal aid among its target audience – destitute persons – would be useful.

16. According to the periodic report, all Magistrates' Courts had been designated as Equality Courts in 2009. She would like to receive information on the procedures for ruling on racial discrimination cases and other ordinary cases. She would be grateful for details regarding the use of Equality Courts by litigants and the impact of those Courts in combating racial discrimination.

17. Lastly, it would be useful to know of any mechanism for the follow-up and evaluation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.

18. **Mr. Diaby** (Country Task Force) said that the Committee had become aware of the publication of the White Paper on Citizenship, Immigration and Refugee Protection: Towards a Complete Overhaul of the Migration System in South Africa, which had been approved by the Cabinet very recently. In the White Paper, it was suggested that poor policies and laws had caused violence between nationals and non-nationals in South Africa. Several paragraphs referred to intentions to restrict the socioeconomic rights of non-nationals, including their rights to employment and education, as well as the freedom of movement of asylum-seekers. Judging by the White Paper's paragraphs on birth registration and the right to citizenship, the policies it contained were apparently based on a view that people were obtaining South African citizenship too easily. It was suggested that South Africa could withdraw from conventions on refugees and re-join them with reservations. He would welcome additional information on the White Paper, particularly on the consultation process that had been held with national human rights institutions, civil society and relevant regional and international organizations in drawing it up. It would be useful to know if a human rights assessment had been used in its preparation or if one was foreseen, and how the State party planned to respect human rights guarantees, especially for refugees and asylum-seekers. He wondered whether the Government would extend the public consultation period of the White Paper, which would otherwise last just two months, and what the steps were planned once the public consultation had concluded.

19. The Committee would appreciate it if the delegation could provide information on measures to prevent and combat the exploitation and ill-treatment of migrant workers, especially domestic and undocumented workers, by their employers. Details on measures to allow victims of such exploitation or ill-treatment to file complaints and statistics on the number of complaints, investigations, prosecutions and convictions in such cases would be useful. He also requested updated information on measures to ensure that migrant workers and their families had access to education and health care on the same footing as others.

20. The delegation was invited to provide the Committee with information on the legislative frameworks and policies concerning migrants, asylum-seekers, refugees and stateless persons. He would appreciate updated information on the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, in particular its provisions on non-nationals, and on the measures in place to evaluate and monitor implementation of the Plan.

21. It would be useful to know how the State party ensured that its domestic legislative framework on refugees was in compliance with its international obligations and commitments in that area. He requested details on the Draft National Labour Migration Policy, the Employment Services Amendment Bill and the National Health Insurance Bill. Moreover, he would like to hear about the assessment and management of the short-term visa system and about efforts to address the delays and administrative obstacles faced by asylum-seekers when they tried to renew or obtain documents. What measures were in place to ensure

that refugees and asylum-seekers had access to justice, education, employment and health care without discrimination?

22. The Committee had received reports that refugees and asylum-seekers faced discrimination and obstacles in accessing the Unemployment Insurance Fund, despite the fact that measures had been taken to remedy the situation. The Committee would like to know whether the State party planned to ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. It would also appreciate it if the delegation could provide further information on measures to end the unlawful extended detention of refugees and asylum-seekers.

23. The national legal framework reportedly provided protection for vulnerable migrant children. However, the Committee had been informed that unaccompanied children were prevented from seeking asylum, as they faced administrative obstacles and barriers. For instance, they required the support of a social worker, but a long and costly procedure was reportedly required in order to secure such support, and social workers were already overburdened. The Department of Social Development had taken steps to remedy the situation, for instance by creating a Steering Committee on Unaccompanied and Separated Children. He would be interested to hear about the results of those measures.

24. With regard to the *Centre for Child Law and Others v. Minister of Basic Education and Others* case, in which the High Court had ruled that undocumented children could not be denied access to education, the Committee would appreciate information on the implementation of the ruling and any follow-up procedures.

25. He wished to know what measures had been taken to ensure that all children born in the State party had immediate access to birth registration certificates, regardless of the residency status or citizenship of their parents. The Committee had been informed that legal restrictions were imposed on birth registration for unaccompanied migrant and refugee children. For example, the law reportedly required a DNA test for the registration of a child born to an unmarried South African father and a foreign mother. DNA tests were also required for the registration of children born to a documented father, regardless of whether he was a citizen or a non-citizen, and an undocumented mother.

26. The Committee had been informed that there were no statistics regarding stateless persons in the State party. He wished to know whether stateless persons were registered and, if so, how their status was assessed and what measures were taken to align existing procedures with international norms.

27. The decision by the Minister of Home Affairs to terminate the Zimbabwe Exemption Permit had been contested before the High Court in Pretoria, which had declared the decision unconstitutional and had ruled that the permits would remain valid until June 2024. He would welcome additional information concerning the Zimbabwe Exemption Permit programme. It would be of interest to the Committee to find out whether persons who possessed such permits were guaranteed protection against statelessness.

28. **Ms. McDougall** noted that, according to the land audit commissioned by the Government in 2017, members of the minority white community were overrepresented in terms of land ownership and members of the black community were underrepresented. She wished to know what measures had been taken to implement the recommendations contained in the land audit report. She would also be interested to hear about the situation of unemployed persons, particularly young people in the townships. What steps were taken to create jobs for them and to provide them with the necessary training and skills to find employment?

29. As the State party's Constitution guaranteed economic and social rights and special measures were being implemented in line with article 1 (4) of the Convention, the Government should perhaps review its financial resources in order to meet relevant demands. She wished to know what fiscal and other measures had been taken to guarantee economic and social rights.

30. **Ms. Tebie** said that she would like to hear about the outcome of the National Colloquium on Access to Justice for Persons with Albinism, held in 2019. She would like to know how many complaints from persons with albinism had been received by the courts,

how many persons had been convicted of violations of their rights and whether the victims had access to rehabilitation and redress. She also wished to know whether the process of incorporating the Convention on the Rights of Persons with Disabilities into domestic legislation had been completed.

31. **The Chair**, speaking as a member of the Committee, said that awareness-raising of the population, when combined with the adoption of legislation and prosecution of offences, was undoubtedly the most effective means of combating violence against persons with albinism.

32. **Mr. Guissé** said that migrants had been subjected to serious attacks in South Africa in 2017 and that certain African countries had called for a response from the African Union. As immigration reportedly still posed major challenges, the Committee wished to know what specific action had been taken to address the problem since the 2017 crisis.

33. **Mr. Yeung Sik Yuen** said that, according to a report by AfriForum, the Democratic Alliance had instituted criminal proceedings against a Member of Parliament belonging to the Economic Freedom Fighters party in 2020. He would welcome information on the outcome of the case. He also wished to know whether the proceedings instituted by AfriForum against Julius Malema in 2022 in relation to allegations that he had engaged in hate speech in Senekal had been a private prosecution and, if so, whether the Government had instituted proceedings aimed at preventing such a prosecution. The Equality Court had ruled that no offence had been committed and AfriForum had lodged an appeal against the judgment. It would be useful to know what stage had been reached in the appeal.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

34. **Mr. Lamola** (South Africa) said that the National Assembly would adopt the Prevention and Combating of Hate Crimes and Hate Speech Bill before the end of 2023. Article 1 listed offences motivated by dislike of a victim's culture, ethnic or social origin, nationality, asylum status or other characteristics. Article 4 criminalized communications that incited violence and promoted or propagated hatred on the basis of race or other grounds. The National Assembly permitted all members of the population to comment on proposed bills.

35. The outcome of the proceedings instituted by the Democratic Alliance was unclear. The appeal against the judgment handed down by the Equality Court was still under consideration. The community of black workers in Senekal and the white landowners were currently living and working together, despite the fact that the town had been the scene of a tragedy that had been the subject of much polemic.

36. With regard to land ownership, more than 5 million hectares of land, totalling around 5,500 farms, had been redistributed to more than 30,000 beneficiaries. However, as that land constituted only about 20 per cent of land ownership, the Government had developed programmes aimed at promoting further redistribution, and a bill would shortly be submitted to the National Assembly.

37. A Land Court Act, which would be implemented in 2024, would seek to resolve disputes regarding the distribution of land, as the status quo was unsustainable. Privileged white South Africans should be involved in the process, because an equitable distribution of land and resources would be beneficial for black, white and other communities and would promote racial harmony.

38. **A representative of South Africa** said that references to ethnic and Indigenous groups in the past would have been applicable to the country's African majority, but since the majority had become the governing class with the advent of democracy in 1994, no provision of the Constitution or domestic legislation had referred to a specific group as Indigenous. However, the Constitution referred to Indigenous languages, primarily those spoken by the African majority. In addition, the Traditional and Khoi-San Leadership Act officially recognized Khoi-San groups as Indigenous communities.

39. With regard to racial classification, during the apartheid era reference had been made solely to black and white, with the word "black" referring to Africans, South Africans of Asian or Indian descent and biracial South Africans. Following affirmative action to redress

past inequalities, more than 80 per cent of the population had been recognized as people of African descent, and others were recognized as being of Asian or Indian descent. In addition, biracial people were classified as “coloured”.

40. **A representative of South Africa** said that enrolment in primary education was almost universal, and education was compulsory for children in the 7 to 15 age group. In the 1940s, fewer than 5 per cent of black South Africans had completed 12 years of education, but the proportion had increased over the years to 60 per cent in 2022. South Africa was one of the few African countries that participated in international assessments of the quality of education. Its performance had greatly improved during the past 10 to 15 years, except, of course, during the coronavirus disease (COVID-19) pandemic. Vigorous action was being taken to remedy the impact of the pandemic. South Africa was probably the only African country in which more girls were enrolled in secondary education than boys. The Constitutional Court had ruled that the expulsion of pregnant students from educational institutions violated their constitutional rights. About 75 per cent of pregnant girls remained in school, and about 66 per cent returned to school after giving birth.

41. A total of 54 billion rand (R) had been allocated in the current budget for the support of university students. About a million students, who were mainly black Africans, received support at 26 public universities.

42. The Basic Education Laws Amendment Bill was currently being considered by the National Council of Provinces. It provided for increased monitoring of school attendance and dropout rates, and it required school governing bodies to obtain the approval of the Head of Department of the Province for their language policy.

43. The Department of Basic Education had undertaken an audit of early childhood development and had conducted a survey of preschool children under a programme with the title Thrive by Five. The National Treasury had provided the Department with funds to launch a national nutrition programme for early childhood development centres.

44. Measures had been adopted in response to the High Court ruling on access to education for undocumented children referred to by Mr. Diaby. School principals could no longer prevent undocumented children from enrolling in their schools. In addition, all schools had received circulars requiring all students to have access to services, including nutritional support, transport and access to textbooks and other learning materials.

45. **A representative of South Africa** said that poverty alleviation measures included a comprehensive social security system, established under the Social Assistance Act. A lifecycle approach was taken, and there was a grant for children. Nutritious meals were provided at schools, and some children were exempted from school fees. Support was also provided to some university students. There was a grant for parents of children with disabilities.

46. In 2022 and 2023, grants amounting to R92 billion had been allocated to older persons, and R1.9 billion had been allocated to ensuring their care. Some R44 billion had been distributed through a programme of grants for persons living in poverty, under a programme known as social relief of distress. Over 13 million children had benefited from child support grants, which had totalled R77 billion.

47. **A representative of South Africa** said that community-based drop-in centres provided services to vulnerable children, including migrant children. Those services included psychosocial support, health promotion and economic assistance. Children were assessed in those centres to identify whether they required protection. If so, their cases were referred to the courts.

48. The Older Persons Act provided protections for persons over a certain age. Community-based interventions, such as luncheon clubs, were also in place, where older persons could access certain social assistance programmes. Residential care was available for persons who required a higher level of support.

49. **A representative of South Africa** said that, with regard to *ukuthwala*, the Children’s Act prohibited social, cultural and religious practices that were harmful to children, including child marriage. Awareness-raising campaigns had been carried out in the media to educate

communities about that legislation and the principle of the best interests of the child. The authorities had engaged in dialogue with traditional communities to help them understand the implications of contravening the Children's Act. The effectiveness of the measures could be seen in the drastic decrease in the child marriage rate. In 2008, the authorities had identified 1,984 cases of child marriage; in 2021 they had identified 207. New legislation that criminalized child marriage was being finalized and would be presented to Parliament. It was expected that the legislation would be passed by March 2024. Child victims of *ukuthwala* were taken into alternative care, and family reunification services were provided. They received psychosocial support, assistance in returning to school and educational support in drop-in centres.

50. **A representative of South Africa** said that, under the Refugee Act, asylum-seekers could receive a residence permit enabling them to study, work and gain access to banking services. Just over 1 million such permits had been issued, but many were not active. South Africa had seen a decline in the number of people seeking asylum. Under the Refugee Act, individuals who qualified for refugee status received a permit that granted them the right to reside in South Africa. The permit was renewable, and persons with refugee status could apply for permanent residence or citizenship after five years. Naturalized citizens had the same status as people who were citizens by birth. Refugees were included in the social security system.

51. The Immigration Act made provision for various types of work visas. For general work visas to be granted, employers must prove that they were unable to fill the position in question with a South African national or permanent resident. That requirement did not exist for critical skills visas, which were issued for persons filling posts that were in particularly high demand. The Bill of Rights applied to all people, regardless of their immigration status.

52. Around 11,000 comments had been received from the public during the drafting process for the new legislation against child marriage. Those comments had been taken into account. Individuals living in South Africa on a work visa or with refugee status had the legal right to own property. However, unlike nationals or permanent residents, they could not receive State support to buy property. The Minister of Home Affairs had held a workshop with other Ministers on the prevention of violence against non-nationals, and a plan of action on that issue would be rolled out. Creating structures for social cohesion was the responsibility of local communities.

53. A White Paper containing proposals for reforms regarding citizenship, immigration and refugee protection had indeed been drafted, and the authorities were currently receiving feedback on it from the public. Following the feedback process, it would be presented to the Cabinet for approval, and legislation would be drafted. The idea was to follow best practices from other countries, where legislation on citizenship, immigration and asylum was consolidated in a single act. All new legislation was submitted to the Department of Justice for verification of its constitutionality. If a bill did not meet the requirements of the Constitution, it was shelved. It was hoped that the new legislation, which did not limit the rights of asylum-seekers, would prevent abuse of the South African asylum system. In the past, international mechanisms had suggested that the approach to asylum in South Africa had left the door open for criminals to hide in the country.

54. The issue of statelessness was being considered at the national level. The South African Citizenship Act and the Births and Deaths Registration Act addressed the problem of statelessness among children. In order to facilitate birth registration, offices had been opened in the 251 health facilities, where 65 per cent of all births in the country took place. Birth certificates for children of nationals were issued before they left the health facility. Children of non-nationals were issued a notice of birth, also before leaving the health facility, that could be used to register their birth at the relevant consulate. Efforts were being made to digitize the birth registration system. A DNA test was needed only to prove paternity, in cases of late birth registration.

55. **A representative of South Africa** said that the exemption permit for Zimbabwean nationals was a work permit, not a residence permit, that had no impact on their nationality. There was no risk of them becoming stateless. That permit had been introduced as a short-term measure following the economic collapse in Zimbabwe.

56. **A representative of South Africa** said that, beginning in 2009, owing to instability in Zimbabwe, many undocumented Zimbabwean nationals had been staying in South Africa. The State had developed an exemption permit for Zimbabwean nationals as a temporary measure in response to that situation. It had never been intended as a permanent measure and would be discontinued.

57. The process to renew residence permits for asylum-seekers was not lengthy. It was a fully digital procedure that could be undertaken without engaging with an official in person. However, when decisions had been taken regarding individuals' refugee status, they were obliged to appear before an official. People often absconded at that point in the process.

58. **A representative of South Africa** said that the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance was being implemented alongside anti-xenophobia campaigns, workshops and dialogues. Awareness-raising activities were undertaken to make the National Action Plan and the fact that non-citizens were covered by constitutional rights and obligations better known. Awareness-raising was also conducted to spread knowledge of mechanisms for redress, including the Equality Courts and institutions established to guard democracy in accordance with Chapter 9 of the Constitution. A round-table event had been held in 2022, in collaboration with the United Nations multi-partner trust fund to support the Global Compact for Safe, Orderly and Regular Migration, on the establishment of government structures, the development of an early warning system and social mobilization campaigns for social harmony and cohesion. Regional workshops had been held with the African Policing Civilian Oversight Forum with a view to raising awareness of xenophobia and hate crimes and building capacity to address such phenomena.

59. A recent strategic engagement session had led to a commitment by all relevant stakeholders to collaborate with the Government on the implementation of the National Action Plan. Progress under the Plan would be monitored and periodically assessed. The Department of Justice had strategic oversight and guidance mechanisms to support the implementation of the Plan. A baseline study on levels of discrimination had been undertaken, and a follow-up assessment would be carried out after the first five years of implementation. The South African Human Rights Commission was also responsible for monitoring the Plan's implementation.

60. In 2022, South Africa had held an event marking the twentieth anniversary of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and of the adoption of the Durban Declaration and Programme of Action.

61. **A representative of South Africa** said that a national task force on albinism had been established to monitor policy and service delivery and to coordinate action for persons with albinism. The task force engaged with persons with albinism on the issues that affected them, in line with the recommendations of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism. The White Paper on the Rights of Persons with Disabilities also addressed the situation of persons with albinism and emphasized the principle of non-discrimination. A national action plan on albinism had been developed with the participation of persons with albinism. The plan covered areas such as health, education, social protection, access to justice, economic opportunities and employment. September was albinism awareness month in South Africa, and in 2023 the theme had focused on inclusion.

62. **A representative of South Africa** said that the Constitution provided that all individuals, including migrants, had the right to fair labour practices. The applicability of that provision to migrant workers had been confirmed in two court cases, one of which had been brought by an individual working for a major health insurance provider and the other by a sex worker. The courts had also ruled that platform workers and other individuals in non-standard forms of employment were covered by the provision.

63. The Government had implemented a number of measures to combat the exploitation and abuse of migrant workers, particularly domestic workers and undocumented migrant workers. The Department of Employment and Labour and the Department of Home Affairs were working together to tackle the issue. A system for vetting workers' visas had been developed based on the results of tests conducted in the labour market, the aim being to prevent the exploitation of migrant workers and discrimination against them. There were

plans to establish an interministerial committee on labour migration, to step up the collection and analysis of relevant data and to adopt measures aimed at promoting skills development and training for migrant workers and at protecting their rights and combating irregular migration.

64. As in many countries, domestic workers in South Africa struggled to make their voices heard because it was difficult for them to organize. While there had been major improvements in the defence of their rights since 1994, domestic workers continued to find that the non-standard nature of their employment meant that issues affecting them were inadequately addressed. Discussions to tackle such issues were currently being held with the social partners under the national social dialogue mechanism; there were plans to invite domestic workers themselves to participate. Domestic workers were recognized under the National Minimum Wage Act, and the national minimum wage for domestic and agricultural workers had recently been adjusted to bring it into line with the minimum wage applicable to all other workers.

65. The Mahlangu case of 2020 had led to an improvement in the handling of issues concerning domestic workers. The Mahlangu family had received a lump sum payment, and the Compensation for Occupational Injuries and Diseases Act had been amended to ensure that entitlements for domestic workers, including foreign domestic workers, and their dependents were the same as for all other employees and their dependents. Vulnerable workers were encouraged to visit labour centres to lodge complaints relating to their employment. The centres focused solely on employment-related matters. They did not report to the Department of Home Affairs on the documented or undocumented status of workers.

66. South Africa had been one of the first countries to ratify the International Labour Organization (ILO) Violence and Harassment Convention, 2019 (No. 190). To implement the Convention, the Government had developed a code of good practices and a plan to combat gender-based violence and femicide for 2020–2030, and it had run campaigns and workshops for the social partners in all nine of the country's provinces.

67. The country's courts had heard multiple cases concerning discrimination on the basis of race and gender, including some involving discrimination against white people. A total of 4,315 complaints had been processed by the Commission for Conciliation, Mediation and Arbitration and the courts since April 2022. The Government was currently working on a project to address some of the problems faced by non-citizens in securing entitlements provided by the Unemployment Insurance Fund.

68. **A representative of South Africa** said that the lack of progress in prosecuting perpetrators of human rights violations committed during the apartheid era could be attributed to the fact that many of the cases dated back so far and much of the evidence had been lost or destroyed. All victims of such violations who had been identified by the Truth and Reconciliation Commission had nonetheless received reparations and were able to participate in special education support programmes. The regulations on the community rehabilitation of victims had been finalized and were due to be submitted for public consultation.

69. The Government had not taken any steps towards accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the Convention on the Reduction of Statelessness. It first needed to address the issues facing the migration regime, which was in disarray. Only then could it assess what the next steps should be.

70. The Prevention and Combating of Trafficking in Persons Act had been adopted in 2013, and a national policy framework had recently been finalized and submitted to Parliament. The Government was working to raise awareness of trafficking in persons and had cooperated with the United Nations Office on Drugs and Crime to produce manuals on the matter.

71. The Government had delivered a multi-agency response to the attacks against non-nationals in 2017 and had sought the input of members of the diaspora communities in South Africa. The President had sent a special envoy to the countries of origin of the persons

concerned, and they had committed to working with the South African authorities to address the problem.

72. **Mr. Payandeh** said that the Committee would like to know whether there had been a comprehensive assessment of the impact of the Employment Equity Act and the Broad-Based Black Economic Empowerment Act. It would be helpful for the Committee to receive more detailed information on the practical implementation of the legal framework governing the informal economy, and especially the situation of domestic workers, on whether employers were aware of their obligations and on whether domestic workers had full enjoyment of their rights. He would like to know whether the specific rights of Indigenous Peoples, for example to free, prior and informed consent, were respected in practice.

73. **Ms. McDougall** said that she wished to know what restructuring efforts had been made within the Government to ensure that more resources were directed towards ensuring respect for the population's economic and social rights.

74. **Ms. Ali Al-Misnad** said that the delegation had claimed that South Africa had made progress in terms of its results in the Trends in International Mathematics and Science Study. It was her understanding that South Africa remained among the countries with the lowest rankings.

75. **Mr. Payandeh**, noting the delegation's comments on the White Paper on Citizenship, Immigration and Refugee Protection, said that withdrawing from the Convention relating to the Status of Refugees and then acceding to it with reservations would set a dangerous precedent and would have an adverse impact on efforts to enhance the rights of refugees and non-citizens.

76. The Committee was well aware of the challenges facing the State party due to the legacy of apartheid, the economic situation and the country's existing inequalities. The Committee was deeply concerned about the impact of those inequalities on South African society and the rise in xenophobia, which needed to be addressed. He wished to thank the State party for sending a high-level delegation to engage constructively with the Committee and for the detailed information provided.

77. **Mr. Lamola** (South Africa) said that the Government released data pertaining to the impact of the Employment Equity Act and the Broad-Based Black Economic Empowerment Act each year and hoped to be able to share that data with the Committee. A number of programmes had been developed to empower young people, enhance their skills and ensure that they had access to free higher education. Such programmes were nonetheless insufficient to fully address the problem of youth unemployment. More work was needed in order to support economic growth, with a view to creating more jobs.

78. He agreed with Mr. Amir's comments on Palestine and considered that it was also essential for the international community to address issues in Western Sahara before a tragedy occurred there, too.

79. He wished to thank the Committee for the understanding shown in dealing with a developing country that was still grappling with its dark history of apartheid. All of the Government's efforts were geared towards ensuring that every individual in South Africa had equal opportunities, regardless of their race. The Government continued to face many challenges, particularly in relation to immigration, and would seek to address those challenges in a way that was fully compliant with the provisions of the international conventions to which South Africa was party.

80. **The Chair** said that she wished to know whether measures to help pregnant adolescents remain in education had been taken by all schools and whether fathers who were still in school were also entitled to parental leave. The Committee looked forward to receiving replies to its unanswered questions in writing within the following 48 hours.

The meeting rose at 1 p.m.