

Universal Periodic Review
(27th session, April-May 2017)
Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III - F, J, K, and P)

SOUTH AFRICA

I. BACKGROUND AND FRAMEWORK

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

I.1. Table:

Title	Date of ratification, accession or succession	Declarations /reservations	Recognition of specific competences of treaty bodies	Reference to the rights within UNESCO's fields of competence
Convention against Discrimination in Education 1960	Ratified 09/03/2000	<i>Reservations to this Convention are not permitted</i>		Right to education
Convention on Technical and Vocational Education 1989	Not party			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	10/07/1997 Ratification	<i>Not bound by the provisions of Article 16, paragraph 1 regarding compulsory contributions</i>		Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	Not ratified			Right to take part in cultural life
Convention on the Protection and Promotion of the	21/12/2006 Ratification			Right to take part in cultural life

Diversity of Cultural Expressions 2005				
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II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

1. NORMATIVE FRAMEWORK

1.1. Constitutional Framework

1. **The Constitution of 1996**¹ states that “everyone has the right to basic education, including adult basic education, and to further education, which the state, through reasonable measures, must make progressively available and accessible.”²
2. **Article 29** further asserts that “everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable”³ and that “Everyone has the right to establish and maintain, at their own expense independent educational institutions that do not discriminate on the basis of race, are registered with the state and maintain standards that are not inferior to standards at comparable public educational institutions.”⁴

3. **Article 6** provides that the official languages are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.

1.2. Legislative Framework

4. **The National Education Policy Act (NEPA), 1996** (Act 27 of 1996), brought into law the policies and legislative and monitoring responsibilities of the Minister of Education, as well as the formal relations between national and provincial authorities. It laid the foundation for the establishment of the Council of Education Ministers, as well as the Heads of Education Departments Committee (HEDCOM), as intergovernmental forums that would collaborate in the development of a new education system. NEPA therefore provided for the formulation of national policy in general, and Further Education and Training policies for curriculum, assessment, language and quality assurance.⁵
5. **The South African Schools Act (SASA), 1996** (Act 84 of 1996), is aimed at ensuring that all learners have the right of access to quality education without discrimination, and makes schooling compulsory for children aged 7 to 15. It provides for two types of schools, namely independent and public schools. The provision in the Act for

¹ <http://www.unesco.org/education/edurights/media/docs/aa27260c75751075e142a17ae974cc0c3fbd124c.pdf>

² Constitution of the Republic of South Africa, Article 29, §1.

³ Constitution of the Republic of South Africa, Article 29, §2.

⁴ Constitution of the Republic of South Africa, Article 29, §3.

⁵ Education for All 2015 National Review Report: South Africa, p. 8, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

democratic school governance through school governing bodies has been effected in public schools countrywide. The school funding norms outlined in SASA prioritise redress and target poverty regarding the allocation of funds for the public schooling system.⁶

6. The Adult Basic Education and Training (ABET) Act, 2000 (Act 52 of 2000) regulates adult basic education and training; provides for the establishment, governance and funding of public adult learning centres; provides for the registration of private adult learning centres; and provides for quality assurance and quality promotion in adult basic education and training.⁷

7. The Employment of Educators Act, 1998 (Act 76 of 1998), regulates the professional, moral and ethical responsibilities of educators, as well as teachers' competency requirements. The Act, and the South African Council for Educators (SACE) that the Act brought into being, regulate the teaching corps.⁸

8. The Higher Education Act, 1997 (Act 101 of 1997)⁹ provides for the establishment of a single national coordinated higher education system which key features are: *i*) a programme-based definition of higher education; *ii*) introduction of a national and institutional planning process linked to a new funding formula that would enable the higher education system to be steered to meet national development goals; *iii*) democratization and reform of the governing structures of higher education institutions; *iv*) incorporation of colleges offering higher education programmes into the higher education system; and *v*) establishment of a regulatory framework for the registration of private providers of higher education programmes. The Act also provides a statutory basis for the Council on Higher Education.

9. The Higher Education Amendment Act, 2002 (Act 63 of 2002) clarifies and brings legal certainty to labour and student matters regarding the mergers of public higher education institutions. It provides clarity on the authority to take the decision to merge and to give a name and physical location to a new institution.¹⁰

10. The Further Education and Training (FET) Colleges Act, 2006, (Act 16 of 2006) provides for the regulation of further education and training, the establishment, governance, funding and employment of staff for public FET colleges, and the registration of private FET colleges. The Act also makes provision for the promotion of quality in further education and

⁶ Education for All 2015 National Review Report: South Africa, p. 8, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>. The SASA was amended by the **Education Laws Amendment Act, 2005** (Act 24 of 2005), which authorises the declaration of schools in poverty-stricken areas as "no-fee schools", and by the Education Laws Amendment Act, 2007 (Act 31 of 2007), which provides for the functions and responsibilities of school principals.

⁷ Education for All 2015 National Review Report: South Africa, p. 8, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁸ Education for All 2015 National Review Report: South Africa, p. 8, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁹ <http://www.unesco.org/education/edurights/media/docs/6632a25ede62557f0a25d5e8f7e6aef9d5a02e4c.pdf>

¹⁰ National Report submitted for the 48th session of the International Conference on Education, 2008, pp. 4-6, accessible at: http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/South_Africa.pdf.

training. All registered FET colleges become autonomous bodies with their own Councils rather than being the direct responsibility of the provincial departments of education.¹¹

11. The Republic of South Africa has a number of legislative procedures in place to uphold the right of women and girls, such as **the Promotion of Equality and Prevention of Unfair Discrimination Act** (Act 4 of 2000), the **Employment Equity Act** (Act 55 of 1998), the Domestic Violence Act (Act 116 of 1998), and the **Constitution of South Africa** (Act 108 of 1996).

The South African Schools Act (Act 84 of 1996) is a good example of how national legislation is fulfilling its constitutional duty to ensure equal opportunities for boys and girls. Section 3 makes provision for compulsory school attendance and places a legal obligation on parents to send their children to school. The purpose of Section 3 is to protect children's right to education, while Section 5 of the Act guarantees equal access to public schools (Republic of South Africa, 1996b).¹²

1.3. Institutional Framework

12. In South Africa primary education spans Grades 1 to 7, and provides educational opportunities for children aged 7 to 13 years. Children in this age range are therefore regarded as being of the appropriate official age to be in the primary level of education. The Education Laws Amendment Bill of 2002 set the age of admission to Grade 1 as the year in which the child turns 7. However, a Constitutional Court challenge to the Bill in 2003 resulted in the school-going age to Grade 1 being changed to age five, for children who would turn six on or before 30 June in their Grade 1 year (Department of Education, 2004).

1.4. Policy Framework

i) General information

13. The State has undertaken system-wide reforms to improve the availability and accessibility of education, especially for the majority of children. Measures include the restructuring of the education system, an increased education budget, infrastructure development, and special steps to ensure the inclusion of especially marginalised children, including those in poverty, in rural areas and with disabilities.

14. The different levels of education, which fall under the management of the Departments of Basic Education (DBE), Higher Education and Training (DHET) and Social Development (DSD), were restructured to improve availability of pre-primary, primary and secondary education.¹³

¹¹ National Report submitted for the 48th session of the International Conference on Education, 2008, pp. 4-6, accessible at: http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/South_Africa.pdf.

¹² Education for All 2015 National Review Report: South Africa, p. 27, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

¹³ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 53-54. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=_CRC%2fC%2fZAF%2f2&Lang=en.

➤ **Non-discrimination**

15. Various policies and laws outlaw discrimination and guarantee children equal access to education and educational facilities. The Promotion of Equality and Prevention of Unfair Discrimination Act, South African Schools Act, Admission Policy for Ordinary Schools Act (1996), White Paper 6 on Inclusive Education (2001) and the National Policy on HIV/AIDS for Learners and Educators in Public Schools (1999) all prohibit the unfair exclusion of learners on the full range of internationally and nationally legally prohibited grounds.¹⁴

ii) Inclusive Education

➤ **Early childhood care and education**

16. The programme is designed to improve the quality of early childhood development services in Grade R and registered early childhood development (ECD) centres. This will impact on the lives of approximately 85% of the 5-year-olds in public primary schools and about 43% of 0 to 4-year-old children attending ECD facilities.

17. One of the most important interventions to improve quality and throughput in the Foundation Phase has been the introduction of a reception year, Grade R, at public primary schools, community-based sites and through independent provision. Education White Paper 5 set full coverage of Grade R by 2010 as a target, with 85% of provision located in public primary schools and 15% through community sites (Department of Education, 2001). The target was later shifted to 2014. Although funding has been a constraint on expansion, the Department of Basic Education has continued to provide ECD programmes to children aged five and six years through provision of Grade R classes in primary schools.¹⁵

➤ **Primary education**

18. Education in South Africa is mandatory between the ages of 7 and 15. This includes Grades 1 to 9 and the government aims to ensure that no child is denied this right by socio-economic factors (Republic of South Africa, 1996). Provision of primary education is the responsibility of the nine Provincial Education Departments (PEDS) as well as the national Department of Basic Education (DBE). In recent years government has also made more effort to include Grade R (pre-primary) as part of the formal education system.¹⁶

19. In 2013, approximately 5% of children aged 7 to 18 were not attending an educational institution, numbering over 500 000 children out of school.¹⁷

➤ **Secondary education**

¹⁴ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 55. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2f2&Lang=en.

¹⁵ Education for All 2015 National Review Report: South Africa, p. 11, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

¹⁶ Education for All 2015 National Review Report: South Africa, p. 15, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

¹⁷ Education for All 2015 National Review Report: South Africa, p. 16, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

20. As of 2015, only a few nations charge lower secondary school fees, including South Africa.¹⁸

21. The barriers to school attendance at the secondary level are similar to those at the primary level, but are intensified. The cost of secondary schooling is often higher and more difficult for families to afford; secondary schools tend to be farther from home, often requiring transportation; and the pressure to earn an income keeps many adolescents out of the classroom.

22. In contrast to the low percentage of children attending secondary schools in sub-Saharan Africa, participation in South Africa of 14 to 18-year-old children has increased from approximately 88% in 2002 to 90% in 2013. This achievement is supported by the strong legislative framework and policies that encourage children of school-going age to attend school regardless of their social or economic status. Policies such as the no-fee school policy and school fee exemptions are designed to encourage participation in primary and secondary education. These policies apply to all eligible children attending primary and secondary schools.¹⁹

23. According to the Age Admission Policy, 16 to 18-year-olds are children who are of appropriate age for enrolment in the FET band of schooling, which corresponds to Grades 10, 11 and 12. However, children in this age group are also encouraged to enrol at other educational institutions after completing Grade 9, such as FET colleges, and indeed many do. Overall, the percentage of 16 to 18-year-old children attending educational institutions increased by 3% between 2002 and 2013, from almost 83% in 2002 to 86% in 2013.²⁰

➤ **Technical and vocational education**

24. The democratic government has focused on consolidating and increasing access to tertiary institutions. This included closing or absorbing 120 colleges of education whose quality was uneven into universities and universities of technology (formerly technikons) (OECD, 2008). Between 2003 and 2005, the original 36 universities and technikons were merged into 23 higher education institutions.²¹

25. To address the problem of unemployed and unskilled youth, the National Senior Certificate for adults was registered. The National Certificate Vocational system was introduced in 2011. This is a significant milestone in developing alternative avenues for skills development.²²

➤ **Higher education**

26. University enrolment has almost doubled, increasing from 495 356 students (universities, technikons and teachers' training colleges) in 1994 to 938 201 students (public universities and

¹⁸ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. xiii.

¹⁹ Education for All 2015 National Review Report: South Africa, p. 18, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²⁰ Education for All 2015 National Review Report: South Africa, p. 19-20, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²¹ Education for All 2015 National Review Report: South Africa, p. 21, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²² Education for All 2015 National Review Report: South Africa, p. 22, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

universities of technology) in 2011. Between 1991 and 2011, 991 759 university beneficiaries received National Student Financial Aid Scheme loans and bursaries worth R25 billion.²³

➤ **Formal and non-formal education**

27. Access to learnership programmes has improved. The number of unemployed people completing learnerships increased from about 16 000 in 2009 to about 22 000 in 2013. However, placing learners in experiential learning and sustainable employment remains a challenge while relations between training institutions and industries are weak.²⁴

➤ **Literacy**

28. There are a number of Acts and programmes that have been promulgated and introduced to eradicate illiteracy in the country. These include the Adult Education and Training Act, (Act 52 of 2000, as amended) and the Kha Ri Gude Mass Literacy Campaign. The Adult Education and Training Act aims to regulate adult education and training; to provide for the establishment, governance and funding of public adult learning centres; to provide for the registration of private adult learning centres; to provide for quality assurance and quality promotion in adult education and training; to provide for transitional arrangements; and to provide for related matters. The Kha Ri Gude Mass Literacy Campaign teaches adults to read and write: it is designed to fulfil the Education for All commitment of reducing the illiteracy rate by half by 2015, thereby improving the knowledge base of the economy. It caters for illiterate adult learners who are 15 years and above, in all nine provinces and covers all the official languages. The programme also caters for disabled learners.²⁵

29. In order to facilitate the effective implementation of the programme, the Department of Basic Education (DoBE) has recruited and trained about 75,000 community-based volunteer coordinators, supervisors and educators or literacy training facilitators, including 100 blind and 150 deaf educators who provide specialised instruction to their illiterate compatriots with disabilities.

30. Over the years, the campaign has involved a diverse and inclusive group of learners. About 20% of the learners enrolled are aged 60 and above.²⁶

iii) Quality education

➤ **Curriculum**

31. The outcomes-based curriculum introduced in 2005 proved to be difficult to implement and was subsequently replaced by various revisions, including the National Curriculum Statement Grade R–12 and the Curriculum and Assessment Policy Statements (CAPS) between 2011 and

²³ Education for All 2015 National Review Report: South Africa, p. 21, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²⁴ Education for All 2015 National Review Report: South Africa, p. 22, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²⁵ Education for All 2015 National Review Report: South Africa, p. 23, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²⁶ UNESCO Institute for Lifelong Learning, available at: <http://www.unesco.org/uil/litbase/?menu=4&programme=69>.

2014. The CAPS spelt out what teachers should teach and assess, how lesson plans should be prepared, and how teaching should take place. This was crucial for addressing curriculum gaps that were apparent in the outcomes-based curriculum. The Curriculum and Assessment Policy Statements also introduced English as a subject in the early grades to ease the transition to instruction in English for learners who were not first-language English speakers.

32. To strengthen teaching and learning, additional measures were taken such as the Annual National Assessments (ANA) system was introduced to enable objective assessment of the education system below Grade 12. ANA tests are set nationally which means that they enable all learners below Grade 12 to be assessed against the same standards. Such tests did not exist before.²⁷

➤ **Human Rights education and Learning Environment**

33. The education system has numerous mechanisms to promote children's knowledge of, and respect for, their rights and those of others. These include: (a) the establishment of a dedicated Social Cohesion and Equity in Education Directorate within the DBE to promote mainstreaming of human rights teaching and practices in the system; (b) the inclusion of human rights education in the curriculum; (c) the development of an Integrated Strategy on HIV and AIDS; (d) practical curricular, training and awareness-raising interventions to address gender-based barriers and violence in schools; and (e) the establishment of peer-education groups in schools.²⁸

34. The Department of Education introduced an Advanced Certificate in Education on Human Rights and Values in seven universities in 2004. Nearly 1000 teachers graduated from this programme in 2006 and a formal evaluation of the course suggests that it has had great success in impacting classroom practice of educators. The Department developed a box of materials that has been provided to more than 1000 schools across all the provinces. A guide for teachers on how to infuse human rights and values issues into the curriculum has also been provided to all schools in the country.²⁹

35. The MoMath Project in South Africa, started in 2007, uses mobile phones to give grade 10 students access to mathematics content and support. The content, aligned with the national curriculum, is freely available to participating learners and teachers who received appropriate training. By the end of 2011, the project had reached 25,000 learners, 500 teachers and 172 schools in four provinces. It led to a 14% increase in mathematics skills, with a majority of learners using the application even over holidays and weekends.³⁰

36. The State's ability to ensure the equitable availability of education has been hampered by educational infrastructure backlogs rooted in apartheid fiscal and development policies. Measures that are in place to address infrastructure variability and inequity give priority to educational facilities serving poor, often rural communities. Innovations include the

²⁷ Education for All 2015 National Review Report: South Africa, p. 33, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

²⁸ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 56. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2f2&Lang=en.

²⁹ Report submitted for the Seventh Consultation on the implementation of the Convention and Recommendation against Discrimination in Education (2000-2005), 2007, pp. 13-14

³⁰ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 213.

development of a National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and the accompanying Guidelines Relating to Planning for Public School Infrastructure (2012) and National Guidelines for School Library and Information Services (2012), all which have sought to standardise acceptable levels of infrastructure across the provinces and districts.³¹

➤ **Language of instruction**

37. The Language in Education Policy (LiEP) (1997) and National Curriculum Statements (2011) require that learners be taught in their home language in the Foundation Phase. They also provide that children have the right to be taught in their language of choice where it is reasonably practicable.

38. The Education Laws Amendment Act 2011 strengthened protection of the use of official languages by providing that the governing body of a public school must ensure that (a) there is no unfair discrimination in respect of any official languages that are offered as subject options, and (b) the first additional language and any other official language is offered at the same level.

39. The LiEP has faced several implementation challenges, including difficulties in transitioning from Grade 3 (which can be taught in a non-English language) to Grade 4 (which is taught in English); insufficient home-language teachers; and insufficient materials in the relevant languages. The Minister has responded with measures such as compelling schools to offer English as an additional language in the Foundation Phase so that all Grade 3 learners can cope with the transition to Grade 4.

40. The Language Policy for Higher Education requires all higher education institutions to develop their own language policies that promote multilingualism and enhance equity and access in higher education. In addition, an advisory panel has been established on the use of African languages at post-school level.³²

➤ **Learning outcomes**

41. In South Africa, there is a vast gap in learning between rich and poor, with only 14% of poor adolescents achieving the minimum standard in mathematics, comparable to the performance of poor students in Ghana, a country that has less than one-fifth South Africa's wealth.³³

42. In KwaZulu-Natal province of South Africa, where education helped people escape poverty after the apartheid era, an additional year of schooling increased consumption expenditure by 11%.³⁴

³¹ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 54. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2f2&Lang=en.

³² South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 57-58. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2f2&Lang=en.

³³ EFA GMR 2013-14, p 20 <http://unesdoc.unesco.org/images/0022/002256/225660e.pdf>

³⁴ EFA GMR 2013-14, p 145 <http://unesdoc.unesco.org/images/0022/002256/225660e.pdf>

43. In South Africa, two of the wealthiest provinces – the Western Cape and Gauteng – registered the highest percentage of students performing above the minimum learning level in mathematics and reading in the 2007 SACMEQ assessment. In these two provinces, almost 60% of students perform above the minimum learning level in mathematics while in the poorest province, Limpopo, only 11% of students are able to do so.³⁵

➤ **Quality**

44. South African learners perform poorly in international, regional and national literacy and numeracy assessments compared to learners in other developing countries. The education sector has, in furtherance of concluding observation No. 34, made intensive reform interventions to address the underlying causes of poor education. These include: (a) improving access to, and the quality of, ECD services; (b) improving the content and quality of the curriculum to ensure it supports the realisation of the aims of education (c) introducing annual national learner assessments that use international benchmarks; (d) developing the Strategic Planning Framework for Teacher Education and Development in South Africa 2011–2025, which aims to improve the qualifications, competencies and numbers of teachers, especially in under-serviced areas; (e) ensuring that all children have adequate learning and teaching support materials; and (f) improving systems to ensure enhanced, standardised and equitable funding and implementation of national education policies in all provinces and districts. (See annex II L for details.)³⁶

45. The Department has set targets for improving learner performance through a number of initiatives, including:

- The National Strategy For Learner Attainment (NSLA) Framework calls for accountability from all layers of the sector; that is, national, provinces, districts and schools.
- All languages' development strategies in the DBE have been collated in the Framework for Strengthening Languages in the Department of Basic Education.
- The Maths, Science and Technology (MST) Strategy and Implementation Plan seek to improve enrolment in maths, science and technical subjects and improve the performance of learners in these subjects.
- The Literacy and Numeracy (LITNUM) Strategy seeks to develop reading and writing, and the issue of numbers (mathematics) in the General Education and Training (GET) band. This strategy flows into the MST and the EAC strategies in the FET.
- A monitoring plan for curriculum coverage has been developed and will be implemented in all provinces.

iv. Education management

³⁵ EFA GMR 2013-14, p 197 <http://unesdoc.unesco.org/images/0022/002256/225660e.pdf>

³⁶ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 56. Available at: http://tbinternet.ohchr.org/_layouts/treatybodytext/external/Download.aspx?symbolno=CR%2FC%2fZAF%2f2&Lang=en.

➤ **Financing education**

46. Education once more received the biggest slice of the country's R1.06 trillion 2013 National Budget – R232.5 billion. Among the expenditure priorities were improving numeracy and literacy, expanding enrolment in Grade R and reducing the school infrastructure backlog. South Africa spent more than R23 billion on upgrading school infrastructure and increasing the number of no-fee schools. R1 billion was allocated to the country's nine provinces to increase the number of teachers, while about R700 million was channelled to the technical secondary schools recapitalisation grant. This grant is used to finance the construction and refurbishment of workshops and to train technology teachers.³⁷

47. The education infrastructure grant is critical to government's efforts to eradicate unsafe and poor quality school structures, as it supplements the infrastructure programme in provinces to accelerate the construction, maintenance and upgrading of new and existing schools. Up to R8 billion has been allocated to the school infrastructure backlog grant, which was established in 2011. The grant aims to ensure that schools have basic services such as water, sanitation and electricity.

48. The allocation to higher education institutions will increase from R20.4 billion in 2012/13 to R24.6 billion in 2015/16.³⁸

49. In recent years, government has increased funding to help students from poor backgrounds to obtain tertiary education and vocational training. The National Student Financial Aid Scheme (NSFAS) provided loans and bursaries to students from poor backgrounds. Access to basic education continued to increase, with the expansion of no-fee schools in South Africa to 20 688 by the end of 2012.³⁹ Catchment areas were ranked according to income, unemployment and education level, and grouped into quintiles. Schools in the bottom quintile were designated as no fee schools. The policy had been extended to the bottom three quintiles by 2011. Schools in the three lowest quintiles are eligible for an allocation to cover non-salary expenditure to offset the loss of fee income. In 2009, schools in the poorest quintile received a per student allocation that was six times higher than the allocation to schools in the richest quintile.⁴⁰

50. As teacher salaries make up the majority of government spending, they need to be accounted for in funding formula to promote equity, yet many do not. In South Africa, 86% of the primary budget is for salaries (Development Finance International, 2014) but its National Norms and Standards for School Funding, which aims to redistribute public resources to the poorest schools, only does this with the non-salary component of the recurrent budget. Redistribution is therefore limited. Meanwhile, pupil/teacher ratios remain high in poor schools, and inadequate access to financial resources, lack of textbooks and large class sizes

³⁷ Education for All 2015 National Review Report: South Africa, p. 10, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

³⁸ Education for All 2015 National Review Report: South Africa, p. 10, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

³⁹ Education for All 2015 National Review Report: South Africa, p. 10, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴⁰ EFA GMR 2013-14, p 125, available at: <http://unesdoc.unesco.org/images/0022/002256/225660e.pdf>.

continue to account for the poor performance of schools that traditionally have a large proportion of black, Indian or mixed-race children.⁴¹

➤ **Teachers**

51. The National Curriculum Statement Grades R to 12, a policy statement for learning and teaching in schools, was replaced by the Curriculum and Assessment Policy Statements (CAPS). CAPS is a single, comprehensive and concise policy document that replaced subject and learning area statements, learning programme guidelines and subject assessment guidelines for all subjects listed in the National Curriculum Statement Grades R to 12.

52. CAPS was implemented in a phased approach over a three-year period. Following the 2012 implementation in Grades 1 to 3 and 10, it was implemented in Grades 4 to 6 and 11 in 2013. Implementation was completed in 2014, with Grades 7 to 9 and 12.⁴²

53. Closing of teaching colleges unintentionally created a shortage of foundation phase school teachers, and a decision has since been taken to reopen some of them. Nevertheless, due to the Funza Lushaka bursary scheme, there has been progress in increasing the number of graduate teachers. The number of teachers graduating per year increased from 6315 in 2009 to 13 000 in 2012. However some of the provinces struggle to place these graduate teachers in schools that really need them because they have not dealt with the challenge posed by excess teachers (The Presidency, 2014).⁴³

54. In 2006, the Department of Education developed a National Policy Framework for Teacher Education and Development in South Africa. The policy provides an overall strategy for the successful recruitment, retention and professional development of teachers to meet the social and economic needs of South Africa.⁴⁴

➤ **Private education**

55. The provision of basic education being a constitutional obligation, for-profit education is deemed illegal. The Constitutional Court found⁴⁵ that the primary positive obligation with respect to the right to education rests on the State and that private actors providing basic education have an obligation not to infringe on the students' right to education.⁴⁶

V. Inclusive education

⁴¹ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 258.

⁴² Education for All 2015 National Review Report: South Africa, p. 8, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴³ Education for All 2015 National Review Report: South Africa, p. 21, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴⁴ Education for All 2015 National Review Report: South Africa, p. 37, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴⁵ See *Governing Body of the Juma Masjid Primary School and Others v Essay N.O. and Others*, case CCT 29/10 (2011), especially para. 57.

⁴⁶ Human Rights Council, Report of the Special Rapporteur on the right to education, *Protecting the right to education against commercialization*, A/HRC/29/30, 10 June 2015, p. 15-16.

➤ **Gender equality**

56. South Africa made a great deal of progress in ensuring that both girls and boys had equal opportunities for schooling at all levels of education.

57. According to South Africa’s national report, in 2013, the Gender Parity Index (GPI) for 7 to 13-year-old children was 1. This means that 7 to 13-year-old children of both genders had equal opportunity to attend primary education in South Africa and therefore, South Africa has reached gender parity at primary level.⁴⁷

58. Gender parity has been achieved in the participation of children in secondary education. Between 2002 and 2013, all children aged 16 to 18 had an equal opportunity to attend school. Parity was achieved in 2013, contributing to the constitutional requirement of the country to ensure that citizens have equal rights regardless of gender.⁴⁸

59. Specific measures aimed at facilitating the education of girls and women have been introduced. The Girls’ Education Movement (GEM) is a programme aimed at enhancing the school environment for girls and ensuring sustained access and retention. GEM is implemented through school-based clubs which include boys as ‘strategic partners’ in gender transformation.⁴⁹

60. In South Africa, legislation forbids schools from excluding pregnant girls, but only about one in three return after childbirth. Those who do return often face negative attitudes and practices from teachers and peers.⁵⁰

61. In South Africa, strategies to address gender based violence are supported by a strong legal and policy framework, and by guidelines for schools on preventing sexual harassment and abuse.⁵¹

62. However, policy enactment has been limited; a recent national survey found that 7.6% of girls had experienced severe assault or rape at secondary school.⁵²

➤ **Students from lower income families**

63. In South Africa, a no-fee policy targeted to the poorest schools was expanded to cover 60% of schools in 2008 and 2009. But significant implementation lags left many poor households still paying fees and the frequency of nonattendance attributable to school fees increased (Nordstrum, 2012).⁵³

⁴⁷ Education for All 2015 National Review Report: South Africa, p. 15, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴⁸ Education for All 2015 National Review Report: South Africa, p. 19, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁴⁹ Education for All 2015 National Review Report: South Africa, p. 32, available at: <http://unesdoc.unesco.org/images/0023/002316/231680e.pdf>.

⁵⁰ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 170.

⁵¹ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 180.

⁵² Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 181.

⁵³ Global Monitoring Report, *Education for All 2000-2015: Achievements and Challenges*, 2015, p. 88.

64. Specific measures undertaken include pro-poor funding policies that ensure preferential funding for schools in the poorest income quintiles, the introduction of no-fee schools in the poorest quintiles, school-fee waivers for poor learners attending fee-paying schools, measures to address the cost of transport and uniforms, and a school-feeding programme for poor learners.⁵⁴

➤ **Students with special needs**

65. On 19 December 2014 Minister Motshekga approved the Policy on Screening, Identification, Assessment and Support (SIAS). The Policy has been developed over a period of ten years through a rigorous process of field testing and consultation. It aims at ensuring that all children of school-going age who experience barriers to learning, including those who are disabled, will be able to access inclusive, quality, free, primary and secondary education on an equal basis with other young people in the communities in which they live.

66. The policy aims at standardising the procedures to identify, assess and provide programmes for all learners who require additional support to enhance their participation and inclusion in school, making teachers and parents central to the support processes.

67. The successful implementation of the SIAS Policy will be an important step towards meeting the obligations of government in respect of the United Nations Convention on the Rights of Persons with Disabilities as ratified by Cabinet in November 2007, in terms of ensuring an inclusive education system at all levels (Article 24).⁵⁵

2. COOPERATION

68. South Africa is **party** to the 1960 UNESCO Convention against Discrimination in Education since 09/03/2000.

69. On the measures taken for the implementation of the 1960 UNESCO Recommendation against Discrimination in Education:

- South Africa **did not report** to UNESCO within the framework of the **Sixth Consultation** of Member States (covering the period 1994-1999) and the **Eighth Consultation** of Member States (covering the period 2006-2011);
- However, it **reported** within the framework of the **Seventh Consultation** of Member States (covering the period 2000-2005).

70. On the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms:

- South Africa **reported** to UNESCO within the framework of the **Fourth Consultation** of Member States (covering the period 2005-2008);

⁵⁴ South Africa's report on measures taken between 1998 and 2013 in furtherance of its obligations under the Convention on the Rights of the Child, CRC/C/ZAF/2, 17 March 2015, p. 53-54. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2f2&Lang=en.

⁵⁵ Basic Education Department, available at: <http://www.education.gov.za/Programmes/InclusiveEducation.aspx>.

- However, it **did not report** within the framework of the **Fifth Consultation** of Member States (covering the period 2009-2012).

71. On the measures taken for the implementation of the 1976 UNESCO Recommendation on the Development of Adult Education:

- South Africa **did not report** to UNESCO within the framework of the **First Consultation** of Member States (1993);
- However, it **reported** within the framework of the **Second Consultation** of Member States (2011).

72. South Africa is **not party** to the 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

1. Constitutional and Legislative Framework:

73. Media Freedom is guaranteed under the Constitution in Article 16⁵⁶.

74. Media pluralism is guaranteed further by the Media Development and Diversity Agency Act (MDDA Act). Section 3 (b) (i) of the MDDA Act provides that the MDDA encourages ownership and control and access to media by historically disadvantaged communities as well as by the historically diminished indigenous language and cultural groups. Section 3 (b) (iv) of the MDDA Act provides that MDDA raise public awareness with regard to media development and diversity. Section 3 (b) (vi) of the MDDA Act provides that MDDA encourage research regarding media development and diversity.

75. Access to Information is guaranteed under The Promotion of Access to Information Act⁵⁷. The South African Human Rights Commission (SAHRC) has created a guideline that outlines how and where to access information, request information and key resources⁵⁸.

76. Partial protection for journalists' sources is offered through a Memorandum of Understanding between the Attorney General and the media.

77. The Protection of State Information Bill⁵⁹, which aims to regulate the classification, protection and dissemination of state information, was passed by both chambers of the Parliament of South Africa, but refused by the President of South Africa to be signed into law in 2013. Consequently, it was sent back to the Parliament for reconsideration. The legal status of the bill has not changed since then.

⁵⁶ https://www.constituteproject.org/constitution/South_Africa_2012?lang=en

⁵⁷ <http://www.gov.za/services/information-government/access-information>

⁵⁸ <http://www.dfa.gov.za/department/paia.pdf>

⁵⁹ <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/bills/110905b6b-2010.pdf>

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78. The Independent Communications Authority of South Africa (ICASA) is the regulator for the South African communications, broadcasting and postal services sector. ICASA's mandate is spelled out in the Electronic Communications Act for the licensing and regulation of electronic communications and broadcasting services and by the Postal Services Act for the regulation of the postal sector. Enabling legislation also empowers ICASA to monitor licensee compliance with license terms and conditions, develop regulations for the three sectors of broadcasting (public, private and community), plan and manage the radio frequency spectrum as well as protect consumers of these services.

79. Broadcasting is regulated through the Complaints and Compliance Committee (CCC) ⁶⁰, which is placed within the Independent Communications Authority of South Africa, Defamation is not a criminal offense.

2. Media Self-Regulation:

80. The Press Council, which includes the Press Ombudsman, and an Appeals Panel⁶¹ is an independent co-regulatory mechanism set up by the print and online media to provide impartial, expeditious and cost-effective adjudication to settle disputes between newspapers, magazines and online publications, on the one hand, and members of the public, on the other, over the editorial content of publications⁶².

81. The Press Council also implements the Code of Ethics and Conduct for South African Print and online Media⁶³.

82. Broadcasting has an industry self-regulatory body that is recognised by ICASA, titled the Broadcasting Complaints Commission of South Africa.

83. There are journalists' unions including the Media Workers Association of South Africa, and the South African National Editors Forum.

3. Safety of journalists:

84. UNESCO has recorded one killings of journalists since 2008.

III. RECOMMENDATIONS

85. Recommendations made within the framework of the second cycle of the Working Group on the Universal Periodic Review, considered in July 2012⁶⁴:

124. The following recommendations will be examined by South Africa:

124.21. Continue its efforts to attain the five major national priorities in the areas of public health, education, job creation, the fight against corruption and crime, and ensuring food security;

⁶⁰ <http://bccsa.co.za/>

⁶¹ <http://www.presscouncil.org.za/>

⁶² <http://www.presscouncil.org.za/>

⁶³ <http://www.presscouncil.org.za/ContentPage?code=PRESSCODE>

⁶⁴ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ZASession13.aspx>

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124.23. Pursue the dynamics of the law on juvenile justice, the draft law to prevent and fight against human trafficking, and primary education for all;

124.86. Increase advocacy for freedom from discrimination based on sexual orientation and gender identity through public education and awareness building and address violence targeting LGBT persons through training for police, first responders and justice system officials;

124.88. Prohibit and punish corporal punishment both in the home, as well as in public institutions such as schools and prisons;

124.109. Continue consolidating its social policies towards the achievement of decent employment, quality basic education and a healthy life with food security for all its people;

124.118. Seek necessary technical assistance from OHCHR, other relevant UN agencies and funds with a view to effectively implement its key national priorities for 2009–2014 related to health, education, land reform and food security;

124.139. Seek to enhance overall quality of education and health services offered, in addition to greater enrolment in and access to schools and hospitals;

124.140. Promote rights to education and health in disadvantaged and underprivileged areas;

124.141. Continue implementing programs that guarantee the success of strategies aimed at achieving quality basic education and a reduction of child and maternal mortality;

124.142. Strengthen its educational strategies to ensure that all children enrol in school and receive basic education;

124.143. Continue its current efforts in the fields of social cohesion and quality of basic education;

124.144. Continue its efforts to improve its education system and provide skills development programmes especially for youths;

124.145. Maintain its commitment to improve the quality of education to ensure the full enjoyment of the right to education.

86. Analysis:

South Africa has, to the extent of our knowledge, taken measures to improve the quality of education such as the Teacher Education and Development in South Africa plan, the National Strategy for Learner Attainment Framework or the Literacy and Numeracy Strategy. Progress was also made to ensure gender equality in education through measures such as the “Girls’ Education Movement”. Nevertheless, according to available information, South Africa has encountered difficulties to provide equitable and accessible education for all due to educational infrastructure backlogs rooted in apartheid fiscal and development policies.

87. Specific Recommendations:

1. South Africa should be strongly encouraged to submit reports to the periodic consultations of UNESCO’s education related standard-setting instruments;

2. South Africa should pursue efforts towards inclusive education regarding specifically gender issues and take further measures towards providing and ensuring equitable and accessible education for all
3. South Africa should take measures towards improving educational facilities and making them accessible to all, regardless of its location;

Cultural Rights

88. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)⁶⁵, and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)⁶⁶, South Africa is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, South Africa is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

89. South Africa is encouraged to ratify the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) so as to complete its policy and legislative frameworks to enhance support to the implementation of the right to take part in cultural life.

Freedom of Opinion and Expression

90. South Africa is recommended to revise in line with international standards The Protection of State Information Act that is again before the Parliament.

Freedom of scientific research and the right to benefit from scientific progress and its applications

91. South Africa, in the framework of the 2015-2017 consultations related to the revision of the Recommendation on the Status of Scientific Researchers, as well as to its 2013-2016 monitoring exercise (November 2016 - April 2017) is encouraged to report to UNESCO on any legislative or other steps undertaken by it with the aim to implement this international standard-setting instrument, adopted by UNESCO in 1974. South Africa is kindly invited to pay a particular attention to the legal provisions and regulatory frameworks which ensure that scientific researchers have the responsibility and the right to work in the spirit of the principles enshrined in the 1974 Recommendation. South Africa is invited to complete the online questionnaire which has been prepared by UNESCO to guide and assist Member States with their reporting. It aims to collect, in a simplified manner, information on the extent to which Member States have mainstreamed the principles of the 1974 Recommendation in their STI and other relevant systems, focusing on issues of the promotion of respect for autonomy and independence of scientific researchers and respect for their human rights and fundamental

⁶⁵ Periodic Report available at: <http://whc.unesco.org/document/106683>

⁶⁶ Periodic Report not available

freedoms. Responses to this questionnaire will be considered as the official national report for each Member State. The questionnaire can be completed and submitted online through the link which will be indicated in due course on the web page: <http://en.unesco.org/themes/ethics-science-and-technology>.