

**Universal Periodic Review
(13th session, 21 May - 1 June 2012)**

Contribution of UNESCO

SOUTH AFRICA

I. Background and framework

1. Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

A. Table

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	09/03/2000	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education. 1989	Not ratified			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	10/07/1997	Not to be bound by the provisions of Article 16 (1)		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 Diversity of Cultural Expressions 2005	21/12/2006			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

1. Right to education¹

A. Normative Framework

i. Constitutional framework

1. The right to education is provided for in article 29 of the Constitution of 1996.

ii. Legislative framework

2. The main Acts related to Education are:

- a. The *South of Africa School Act*, which was amended by the Education Laws Amendment Act 2005, related to financing universal free primary education.
- b. The *National Education Policy Act* (NEPA- RSA, 1996)
- c. The *Promotion of Equality and Prevention of Unfair and Discrimination Act, No. 4 of 2000* which aims to prevent and prohibit unfair discrimination and harassment as well as to prevent and prohibit hate speech. The Act represents one of the most drastic measures adopted by the government to root out discrimination in South African society.

3. Other important Acts are:

- a. The *South African Immigration Act* (RSA 2002) makes provision for facilitating the movement of students and academics staff within the Southern African Development Community (SADC) for study, teaching and research.
- b. The *Higher Education Act of 1997* has been amended in 2010 and provides for a single, nationally coordinated system of higher education, overseen and quality assured by the statutory Council on Higher Education (CHE). It provides for the redress of past Discrimination and representivity and equal access to higher education. In terms of section 8(2)(d) of HEA ordinary members of the Council on Higher Education (CHE) must consist of equal numbers of women and men. Section 31(1)(ii) provides that the Institutional Forum must advise the Council on race and gender equity policies.
- c. *Further Education and Training College Act, 2006*. The Government has not made schooling compulsory beyond Grade 9 but it has committed itself to the development of senior secondary schooling (academic) and skills-based FET

¹ Sources:

- 1996 Constitution of South Africa : <http://www.info.gov.za/documents/constitution/1996/index.htm>
- National Report on the 7th consultation of Member States on the measures taken for the implementation of UNESCO's Convention against Discrimination in Education (covering period 2000-2005), July 2007.
- National Report on the fourth Consultation on the measures taken for the implementation of the 1974 UNESCO's Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008).

Colleges through this Act. This Act provides an alternative to formal academic training with a variety of vocational opportunities.

- d. *The Adult Education and Training Act (Act 52 of 2000)*
- e. *General and Further Education and Training Quality Assurance Act*, amended in 2008, It aims to provide for the establishment, composition and functioning of the General and Further Education and Training Quality Assurance Council; to provide for quality assurance in general and further education and training; to provide for control over norms and standards of curriculum and assessment; to provide for the issue of certificates at the exit points; to provide for the conduct of assessment.

B. Policy measures

4. *Action Plan to 2014: Towards the Realization of Schooling 2025*. The plan explains the 27 national goals that lie at the heart of the vision for education.

5. The first 13 goals include output goals dealing with better school results and enrolment of learners in schools, while the remaining 14 goals deal with things needed in order to realize the output goals. The 13 goals aim to increase the number of learners in Grades 3, 6 and 9, and ensure that by the end of the schooling year, they have mastered the minimum language and numeracy competencies for those grades. They also aim to increase the number of Grade 12 learners who pass mathematics and physical science and become eligible for a bachelor's programme at university.

i. Languages/Mother tongue education

6. The *Language in Education Policy (LIEP)* of 1997 and *Language Policy for Higher Education (LPHE)* and *National Language Policy Framework of 2002* (Department of Arts and Culture, 2002), promote the use of African languages to ensure redress in the light of historical discrimination and the recognition of and respect for language diversity, language variety and language choice

ii. Human rights Education

7. 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. 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.

8. The *Whole School Development (WSD) programme* aims to encourage schools to implement the educational strategies outlined above as part of a holistic approach to establishing a culture of human rights and values. Any attempt of promoting human rights, values or integration in schools must focus on all aspects of the schooling experience and involve all stakeholders. Human rights and values education therefore implies a whole school development approach.

9. The *Manifesto on Values, Education and Democracy* describes the 10 fundamental constitutional values which should inform all programmes of learning and teaching,

and which should guide the policy development governance and administrative procedures of the Department. Those ten values are: Democracy, Social Justice, Equality, Non-racism and Non-sexism, Ubuntu (Human Dignity), An Open Society, Accountability (Responsibility), The Rule of Law, Respect, and Reconciliation.² The Race and Values Directorate is at the forefront of the promotion of school integration, constitutional values and a culture of human rights in the school system and his main task is to ensure that these values are embedded throughout the education system in policies and practices at all levels. It has also established and strengthened links with Non-Governmental Organisations (NGOs) linked to human rights education.

C. Cooperation

10. South Africa submitted a report, in 2007, on the measures taken for the implementation of the Convention against Discrimination in Education within the framework of the Seventh Consultation (covering period 2000-2005).

11. South Africa reported to UNESCO in 2009 within the framework of the fourth Consultation of Member States on the measures taken for the implementation of the 1974 *UNESCO's Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms* (covering the period 2005-2008).

2. Right to take part in cultural life

A. Normative Framework

i. Legislative framework

12. Numerous legislative acts have been adopted to regulate the cultural life in South Africa, covering all the cultural domains, including those relevant to the two UNESCO Conventions ratified, namely the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. This constitutes a very solid legislative corpus that enables an effective protection and promotion of culture.

B. Institutional framework

13. The cultural sector in South Africa is under the Department of Arts and Culture (DAC) entrusted with the coordination responsibility. The Department of Arts and Culture is tasked with creating an environment conducive to the growth, development and flowering of South Africa's arts, culture and heritage landscape. Several specialized institutions were established to steer and execute actions in the field of culture: the National Heritage Council (NHC), the South African Heritage Resources Agency (SAHRA), the National Arts Council (NAC), Performing Arts Councils (PACs), and a wide range of museum institutions and organisations.

C. Policy measures

² <http://www.info.gov.za/view/DownloadFileAction?id=70295> (accessed 10/03/2011)

14. Among the most important governmental strategic policy and bills documents and established structures are the following:

- a. Jul 2000 South African Languages Bill
- b. Jul 2000 SA Language Practitioners' Council Bill
- c. Feb 2003 National Language Policy Framework
- d. Apr 2003 Implementation Plan: National Language Policy Framework
- e. Mar 2009 Draft National Policy on South African Living Heritage
- f. Sep 2010 South African Languages Bill

D. Cooperation

15. South Africa actively participates in the activities of international and regional bodies such as the African Union (AU), the Southern African Development Community (SADC), the New Partnership for Africa's Development (NEPAD), the Common Market for Eastern and Southern Africa (COMESA), the UN system organizations including UNESCO, professional bodies such as the United States African Command (AFRICOM), the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), the International Music Council (IMC), the SADC Heritage Association and the Oral Tradition Association of Southern Africa as well as at the SADC Heritage Association. UNESCO works very well with all the various stakeholders and with the major public institutions.

E. Work with civil society

16. There are many active and engaged civil society organisations that are undertaking activities in all facets of culture for the promotion of the two major cultural Conventions of UNESCO: the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The civil society is very dynamic in adopting the provisions and implementing the principles set forth in the international standard setting instruments spearheaded by UNESCO.

F. Achievements, best practices, challenges and constraints

17. South Africa's national policy on living heritage of 2009 is an extraordinary example of successful consultation achieved with the communities as actual bearers of intangible heritage before the actual ratification of the 2003 Convention. South Africa is also taking a very active part in the implementation of the 1972 World Heritage Convention.

18. However, attention should be drawn to the following issues

- a. Existing legislation requires updating to better represent the provisions of the international standard setting instruments ratified (namely the the 1972 Convention concerning the Protection of the World Cultural and Natural

Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions);

- b. Accession to the Convention for the Safeguarding of the Intangible Cultural Heritage 2003 is essential and urgent;
- c. Institutional structure in the heritage and arts domain is sometimes complex and lacking clear communication and mandate definitions;
- d. Reinforcing the National Commission in the field of culture is of utmost importance for strengthening the institutional cooperation at the national level as well as better contribution of South Africa's expertise to the Region;
- e. In terms of activities and community engagement, there is a proliferation of civil society organizations which are far ahead of legislation and working effectively in areas covering the major UNESCO cultural Conventions.
- f. In order for South Africans to participate in their cultural life fully, there is therefore a need to harmonize the institutional framework and coordinate legislation.

G. Capacity-building and technical assistance provided and/or recommended by UNESCO

19. UNESCO supports many awareness raising and capacity building activities in the country.

3. Freedom of opinion and expression

A. Achievements, best practices, challenges and constraints

i. Legislative framework

20. South Africa is governed by a constitution, adopted in 1996, which is widely respected as one of the most progressive in the world. It guarantees and protects the right to freedom of expression including media freedom (Section 16). In section 32, the Constitution protects the right to access to information. In Section 192, the Constitution requires an independent body to regulate broadcasting. The laws required by the Constitution have been put in place, namely the Protection of Access to Information Act No 2 of 2000 and the Independent Communications Authority Act (No 13 of 2000). The Protection of Information Bill is currently before the South African Parliament. The law is also called the Secrecy Bill by opponents and journalists (who plead for a self-regulatory system). It has the potential to undermine the right to access information and the freedom of expression enshrined in the Constitution, under the pretext of national security or national interest. Security issues have already been addressed by the Johannesburg Principles on National Security, Freedom of Expression and Access to information. The South African media enjoy considerable freedom of expression in relation to the frequency with which the media criticize the government, the ruling political party, the police and many other public institutions and services. Investigative reporting is prominent and widely respected. The broadcasting sector in South Africa is expanding rapidly and the public

Broadcaster needs to constantly redefine its role, especially in view of improved protection and enhancement of its independence as public broadcaster.

ii. Media Self-regulatory System

21. In August 2011, the Press Council of South Africa launched a review of the functioning of the council and the press ombudsman as a response to the African National Congress's proposal to make leaking classified government information an offence punishable by up to 25 years in jail.

B. Capacity-building and technical assistance provided and/or recommended by UNESCO

22. UNESCO's activities in South Africa focused on the reinforcement of Potential Centers of Excellence in Journalism Education with specific reference to Ethical Reporting of Health Issues, Indigenous Language Media and Democracy and Gender. These activities try to encourage more specialized in-depth reporting.

III. Recommendations

1. Right to education

23. South Africa should be encouraged to report to UNESCO within the framework of the eighth consultation of Member States on the measures taken for the implementation of the Convention against Discrimination in Education (covering the period 2006-2011).

2. Right to take part in cultural life

24. South Africa should be encouraged to ensure that its domestic laws and practices are consistent with the provisions of UNESCO's three major Culture Conventions. Efforts should be deployed to ensure that the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage is ratified in the near future.

3. Freedom of opinion and expression

25. UNESCO recommends:

- a. The implementation of constitutional rights, including freedom of expression and access to public domain information, should be strengthened, particularly on the community level and within some government departments
- b. Broadcasting policy should be reviewed with immediate focus on the public broadcaster SABC