



List of issues prior to reporting

Human Rights Committee

Submission on 19 August 2024

1. Authors of the report

This report was prepared by groundWork - South Africa (<https://groundwork.org.za>), Human Rights Institute of South Africa (<https://www.hurisa.org.za>) and the International Service for Human Rights (www.ishr.ch). This report focuses on the situation of human rights defenders in South Africa.

groundWork is a South African non-profit environmental justice organisation that seeks to improve the quality of life of vulnerable people. Contact: Robby Mogkalaka, Coal Campaigner, robs@groundwork.org.za.

The Human Rights Institute of South Africa is a non-profit, non-governmental organisation based in Johannesburg, South Africa. It was founded in 1993 and aims to promote and protect human rights in South Africa and beyond through providing human rights education programs. Contact: Corlett Letlojane, Executive Director, corlett@hurisa.org.za.

The International Service for Human Rights is an independent, non-profit organisation promoting and protecting human rights. ISHR aims to support human rights defenders, strengthen human rights systems, as well as lead and participate in coalitions for human rights change. Founded in 1984, ISHR has offices in Geneva (Switzerland) and New York (United States), as well as a permanent presence in Abidjan (Côte d'Ivoire). Contact: Adélaïde ETONG KAME, Senior Programme Manager (Africa), a.etong@ishr.ch

2. Situation of human rights defenders in South Africa

- The South African Constitution protects the rights to freedom of expression and association in chapter 2 under section 16 and 18¹.
- However, human rights defenders and activists are still facing numerous threats. In May 2023, the cabinet approved the General Intelligence Laws Amendment Bill, which

¹ <https://www.gov.za/documents/constitution/chapter-2-bill-rights#:~:text=Everyone%20has%20the%20right%2C%20peacefully,picket%20and%20to%20present%20petitions.>

authorises security intelligence services to investigate any person who falls within the prescription of persons and/or institutions that must have a security clearance if the person or institution is of national security interests.² This law is vague and opens the door to scrutiny of people or institutions such as CSOs, the press, human rights defenders and other parties that are not a threat to national security. It therefore limits the enjoyment of freedoms of expression and association.

- Women journalists face harassment online, especially when their work involves challenging state corruption or popular leaders. This not only shrinks the civic space but further discriminates on gender lines.³
- Threats to the rights of women and girls are on the rise. In 2023, South Africa was among the top six countries⁴ in the world with a high rate of femicide. This is a continued and widespread endemic demonstrating the need to protect the rights of women and girls. The Domestic Violence Amendment Act 14 of 2022, needs to be implemented as part of the National Strategic Plan on Gender Based violence and Femicide.⁵
- Since the pandemic in early 2020, “we have witnessed a surge in violations against migrants and refugees in South Africa. They face xenophobic attacks and in some cases are denied basic health care⁶.
- Despite the existence of legislations that decriminalise same-sex relations,⁷ LGBTQ+ persons still face threats including murder,⁸ bullying and denial of access to education. Lucky Matlebjane, a transgender teenager faced discrimination at school from both peers and teachers and this led him to leave school in need of psychosocial support because he had experienced suicidal thoughts⁹.
- Environmental rights defenders are equally facing threats as they defend their lands and livelihoods. In Kwa-Zulu Natal province, Tendele, a coal mining company demolished houses and removed residents from their homes in a bid to expand the coal plant.¹⁰ Protestors were attacked in the presence of the police. Additionally, Abahlali baseMjondolo, a social movement also based in Kwa-Zulu Natal province has experienced killings of some of its members. In March 2022, land rights defender, Ayanda Ngila, was shot and killed by four men.¹¹ In May 2022, Nokuthula Mabaso, a womens’

² <https://freeexpression.org.za/wp-content/uploads/2024/02/GILAB-submission-from-CFE-Feb-2024.pdf>

³ <https://ijnet.org/en/story/south-africa-women-journalists-are-targeted-online-routinely-and-impunity-new-research-finds>

⁴ <https://worldpopulationreview.com/country-rankings/femicide-rates-by-country>

⁵ <https://www.gov.za/blog/protecting-victims-gbv#:~:text=The%20Criminal%20Law%20Sexual%20Offences,Gender%20Based%20Violence%20and%20Femicide.>

⁶ <https://groundup.org.za/article/operation-dudula-chases-immigrants-away-from-joburg-clinic/>

⁷ <https://www.concourt.org.za/index.php/gay-and-lesbian-rights>

⁸ <https://www.mambaonline.com/2024/03/19/south-africa-lgbtq-rights-watch-february-2024/>

⁹ <https://www.mambaonline.com/2024/02/20/limpopo-lgbtq-learner-bullied-and-denied-education-over-gender-identity/>

¹⁰ <https://groundwork.org.za/protesters-over-tendele-coal-mine-land-grab-threatened-with-violence-kwazulu-natal/>

¹¹ <https://www.frontlinedefenders.org/en/case/killing-land-rights-defender-ayanda-ngila-and-targeting-abahlali-basemjondolo>

rights defender was killed outside her home.¹² In August 2022, Lindokuhle Mnguni, who was the chairperson of Abahlali baseMjondolo's eKhenana commune was also murdered.¹³

- In October 2020, Fikile Ntshangase, an environmental defender was murdered. Fikile was a vice chair of Mfolozi Community Environmental Justice organisation (MCEJO) and she played a key role in resisting the expansion of the Tendele Coal mine.¹⁴ These expansions of coal plants continue despite the commitment of the state to cleaner energy sources as outlined in the Just Energy Transition Implementation Plan that was approved by the Cabinet in 2023.¹⁵
- Whistle-blowers are facing threats that include death. For instance, in August 2021, Babita Deokaran, former Chief Director: Gauteng Department of Health, was killed in front of her home for exposing corruption within her department.¹⁶

3. Questions to South Africa

- The continued attacks on defenders, especially those working on environmental rights, has been on the rise. This has been with the increased use of force while corporations expand their operations. To what extent does the Just Energy Implementation Plan incorporate the protection of environmental defenders?
- The rights of women and girls are being violated across sectors with the more vulnerable women such as migrants and refugees experiencing multiple crises. Despite the existence of strong regulations that seek to protect the rights of women, what actionable steps has the state taken to defend their rights?

¹² <https://www.frontlinedefenders.org/en/case/killing-woman-human-rights-defender-nokuthula-mabaso>

¹³ <https://peoplesdispatch.org/2023/08/24/a-year-after-the-assassination-of-its-leaders-south-africas-abahlali-basemjondolo-continues-to-advance/>

¹⁴ <https://groundwork.org.za/fikile-ntshangase-another-environmental-activist-violently-silenced/>

¹⁵ <https://www.herbertsmithfreehills.com/notes/esg/2023-11/south-africas-cabinet-has-approved-the-just-energy-transition-implementation-plan#:~:text=The%20JET%20IP%20is%20set,carbon%20and%20climate%20resilient%20economy>

¹⁶ <https://assassination.globalinitiative.net/face/babita-deokaran/#:~:text=Deokaran%20was%20a%20dedicated%20civil,chief%20director%20of%20financial%20Accounting>