

South African inputs to the Human Rights Council Advisory Committee's

Questionnaire on patterns, policies, and processes leading to incidents of racial discrimination and on advancing racial justice and equality ('systemic', 'structural' and 'institutional' racism)

Dear stakeholders,

Please answer the questions that are most relevant to your field of expertise or operation. There is no need to answer all questions if some are irrelevant to your work. Please respond as succinctly as possible, listing factors and giving relevant examples. Please, as far as possible, provide clear examples of best practises.

Please note the following: The Advisory Committee understands its mandate under resolution 48/18 as aiming to draw attention to 'systemic', 'structural' and 'institutional' racism. All these terms refer to understandings of racism that go beyond individual conduct (such as hate crimes or racial slurs), and extend to characteristics of societies more generally (such as residential segregation that disadvantages members of a particular race, or barriers that disproportionately constrains members of a particular race in becoming homeowners). **'Systemic' racism** refers to a system in which 'patterns, policies and processes' (and cultural representations) work to perpetuate inequalities and patterns of discrimination against one or more racial or ethnic group. **'Structural' racism** may be defined as 'the set of norms, rules, routines, patterns, attitudes, and standards of behaviour, both de jure and de facto, that give rise to a situation of inferiority and exclusion against a group of persons in a generalized sense, with these traits perpetuated over time and even generations' (A/HRC/48/72, para 18). **'Institutional racism'** is a related concept and refers to the policies and practices in institutions that have the effect of producing outcomes that continuously disadvantage or favour a particular a racial group. The term may also relate to pervasive beliefs and accepted ways of doing things within an institution (referred to as 'institutional culture').

Stakeholders who respond to this questionnaire should please keep this focus in mind.

Respondents should also keep in mind that the Human Rights Council in 2022 set up the Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, which is mandated to report to the Council on ‘the root causes of *systemic racism in law enforcement and the criminal justice system*, the excessive use of force, racial profiling and other human rights violations by law enforcement officials against Africans and people of African descent’ (emphasis added).

Below are two sets of questions. As the title of the first set of questions indicates (‘Questions to ALL stakeholders’), these questions should – to the extent that they are relevant -- be answered by all stakeholders. Private actors (such as companies, corporate entities and businesses) should, in addition, also answer relevant questions from the second set of questions.

QUESTIONS TO ALL STAKEHOLDERS:

1. Is there a working definition or understanding of systemic, structural or institutional racism in your country/by your government/your organisation?

Answer:

According to South Africa's National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) adopted by Cabinet in February 2019, which was subsequently deposited with the UN during July 2019, the following understandings and definitions have been adopted. Racism: Means prejudice, discrimination, or antagonism directed against someone of a different race based on the belief that one's own race is superior (NAP, page 9). In accordance with the approach adopted by the NAP, systemic racism or inequalities refer to those forms of unfair discrimination "manifested in the institutions of society and the practices and attitudes of South Africans insofar as these undermine the aspirations of our constitutional democracy" (NAP, para 38, page 19).

Institutional racism, also sometimes referred to and known as systemic racism, is a form of racism that is embedded in the laws and regulations of a society or an organization. It manifests as discrimination in areas such as criminal justice, employment, housing, health care, education, and political representation.

2. Is systemic, structural or institutional racism a prominent issue in your country? Is there any official acknowledgement that systemic/structural/institutional racism exists; and that it is a problem? In what sectors does systemic/structural/institutional racism occur – for example, access to justice, access to services, enjoyment of socio-economic cultural rights? (Refer to decided cases by national courts where relevant.)

Answer:

Despite more than 25 years of Constitutionalism, and the enactment of several laws and policies that give effect to the rights and values enshrined in the Constitution, the effects of systemic, structural or institutional racism can still be

felt and are experienced daily in the lived realities of the majority of South Africans.

The NAP explicitly recognises that “intersectionality” plays a significant role in addressing past patterns of discrimination, meaning that traditional notions of oppression such as racism, sexism and homophobia are linked and inter-related, resulting in a system of oppression that generates the “intersection” of multiple forms of discrimination (NAP, para 35, page 19).

In addition, since the dawn of democracy in 1994, South Africa has to date reviewed more than 1200 pieces of legislation passed down from the Apartheid government; these laws were discriminatory against the majority of the population, and has enacted more democratic laws that do not discriminate. South Africa has an important piece of legislation that gives effect to the equality clause (section 9) in the Constitution, namely the Promotion of Equality and Prevention of unfair Discrimination Act 4 of 2000 (called “PEPUDA”) which deals with the promotion of equality and issues of unfair discrimination.

3. What do you consider to be the root causes for systemic patterns of racial inequality?

Answer:

South Africa comes from a long history of colonialism followed by Apartheid both of which had the fundamental ideology of racial discrimination. These discriminatory principles were entrenched in all areas of life and enforced by laws passed by the Apartheid government. Even with the advent of constitutional democracy and removal of discriminatory laws on paper, a lot of attitudinal transformation and behavioural change still needs to happen.

Current challenges faced by South African include but are not limited to poverty, inequality and unemployment mostly among Black persons, Africans, in particular. This emanates from the previous Apartheid government which used “separate development” as a strategy to discriminate against, and exclude Africans from participating in the economy.

4. What legal measures, if any, has your country put in place to address systemic, structural or institutional racism? (These could be constitutional

provisions, anti-discrimination legislation, policies/strategies/national action plans, administrative measures, or the establishment of institutions such as equality bodies).

Answer:

Laws and Policies

The following laws and policies, passed by Parliament and administered by the DoJ&CD, have a bearing on racism, racial discrimination and xenophobia and related intolerances. The post-apartheid South African government has committed itself to the goals of equality and non-discrimination as well as protection against racism, racial discrimination, xenophobia and related intolerance, including its gender-based manifestations.

4.1 The Constitution of the Republic of South Africa, 1996:

Section 1 of the Constitution provides that the *“Republic of South Africa is one, sovereign, democratic state founded on the following values:*

- (a) *Human dignity, the achievement of equality and the advancement of human rights and freedoms.*
- (b) *Non-racialism and non-sexism.*
- (c) *Supremacy of the constitution and the rule of law.*
- (d) *Universal adult suffrage, a national common voter’s roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.”*

Chapter 2 of the Constitution contains a Bill of Rights. In this Chapter, the following sections are particularly relevant: Section 7 which deals with rights, Section 8 which deals with the application of the Bill of Rights, Section 9 which deals with the right to equality, and Section 10 which deals with the right to human dignity. These sections are set out hereunder:

(a) “Rights”

- (1) *This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.*

- (2) *The state must respect, protect, promote and fulfil the rights in the Bill of Rights.*
- (3) *The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.*

(b) **Application**

- (1) *The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.*
- (2) *A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.*
- (3) *When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court-*
 - (a) *in order to give effect to a right in the Bill, must apply, or if necessary, develop, the common law to the extent that legislation does not give effect to that right; and*
 - (b) *may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).*
- (4) *A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.*

(b) **Equality**

9. (1) *Everyone is equal before the law and has the right to equal protection and benefit of the law.*
- (2) *Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.*

- (3) *The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*
- (4) *No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.*
- (5) *Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.*

In addition, Section 34: Access to courts

In terms of this section, everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

**4.2 The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
“Equality Act”**

Pursuant to section 9(4) of the Constitution, the Equality Act was promulgated in 2000. The purpose of the Equality Act is to help ordinary people to challenge unfair discrimination, hate speech and harassment and to empower the state to promote the values of equality, fairness, equity, social progress, justice, human dignity and freedom. In addition to eliminate discrimination it places a duty and responsibility on the state and individuals to promote equality.”

1. The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) (“PEPUDA”), remains, in addition to the Constitution of the Republic of South Africa, 1996 (“the Constitution”), one of the most central pieces of legislation that endeavours to facilitate the transition to a democratic society guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom.

2. This Act emanates from section 9 of the Constitution, which deals with the right to equality and is intended to give full effect to the right to equality as contemplated in the Constitution. The Act consequently deals with prevention and prohibition of unfair discrimination as well as the promotion of equality. The objects of the legislation are, among others, to -
 - give effect to the letter and spirit of the Constitution.
 - prevent and prohibit unfair discrimination and to provide redress in cases of unfair discrimination.
 - facilitate South Africa's compliance with international human rights treaty obligations, with specific reference to the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women;
 - provide for the eradication of current systemic discrimination which is a legacy of previously legalised discrimination;
 - provide for the promotion of equality, prioritising the adoption of measures to advance persons disadvantaged by unfair discrimination;
 - provide for measures aimed at ensuring the eradication of unfair discrimination, hate speech and harassment with special focus on race, gender and disability.
3. The objective of the Equality Act is to provide victims of unfair discrimination, hate speech and harassment with a forum for access to justice and an effective remedy.
4. Chapter 2 of the Act deals with the prevention, prohibition and elimination of unfair discrimination, hate speech and harassment. Besides the general prohibition of unfair discrimination on any of the prohibited grounds, as set out in the definition of "prohibited grounds (which is not a closed list, but all the 17 prohibited grounds contained in the Constitution), special attention is given in this Chapter to the prohibition of unfair discrimination on the grounds of race, gender and disability, three areas which require focus in light of our history. Sections 7 to 10 consequently highlight various common forms of unfair discrimination in these areas which are specifically prohibited, but not to the exclusion of any other forms of unfair discrimination which might be alleged.

5. This Chapter also prohibits hate speech by prohibiting the publication, propagation or communication of words that are clearly intended to be hurtful, harmful or to promote or propagate hatred on any of the prohibited grounds. Likewise, this Chapter prohibits the dissemination or publication of information that unfairly discriminates on any of the prohibited grounds, unless it is done in the course of *bona fide* artistic creativity, academic or scientific inquiry or fair and accurate reporting in the public interest.
6. Lastly this Chapter prohibits any form of harassment. ("Harassment" is defined in section 1 as serious, persistent unwanted conduct, which demeans, humiliates or creates a hostile environment or is calculated to induce submission and which is related to sex, gender, sexual orientation or a person's membership of a group identified by one or more of the prohibited grounds). There is no defence to hate speech or harassment.
7. Chapter 4 of the Act deals with the enforcement mechanism. Disputes arising out of the provisions of this legislation will be adjudicated in Equality courts. All Magistrates' Courts and High Courts are Equality courts and are presided over by trained presiding officers designated by the Minister of Justice and Correctional Services after consultation with the Judges-President or cluster heads concerned. The process in the Equality courts is simplified and members of the public can lodge a complaint themselves without a legal representation. The South African Human Rights Commission and the Commission for Gender Equality can also institute proceedings on behalf of litigants. These courts have the power to make a very wide range of orders, ranging from orders of a deterrent nature to orders of a restorative or corrective nature.

4.3 The Role of Chapter Nine Institutions

In terms of the Act, Chapter 9 Institutions can assist complainants in lodging complaints in the equality courts. These includes, among others, the South African Human Rights Commission and the Commission for Gender Equality, Public Protector, and Commission for the Protection of Cultural, Religious and Linguistic communities.

4.4 The South African Human Rights Commission Act, 2013

The Act provides for the composition, powers, functions and functioning of the South African Human Rights Commission. The aim of the Commission is to promote respect for human rights and a culture of human rights, promote the protection, development and attainment of human rights and to monitor and assess the observance of human rights in the Republic. The Commission maintain its focus on equality matters, including immigration issues and the rights of foreign nationals. The Commission protects the rights of all people living in South Africa, including non-nationals. It does this by using its powers as contained in the *South African Human Rights Commission Act* and by also working in partnership with a wide range of stakeholders to promote equality for all.

5. More specifically, has your government/country taken any special/positive ('affirmative action') measures to ensure that past hindrances and obstacles to racial equality are overcome? (If so, please provide details.)

Answer:

In addition to the above listed measures South Africa has passed a number of laws to give effect to its constitutional goal of achieving equality, human dignity and the advancement of human rights and freedom. During the past 25 years of democracy more than 1200 laws and amendments aimed at dismantling apartheid and eradicating all forms of discrimination were approved by Parliament. These include:

5.1 Employment Equity Act, 1998

5.2 Promotion of Access to Information Act (PAIA), 2000

5.3 Promotion of Administrative Justice Act (PAJA), 2000

5.4 Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), 2000

6. What extra-legal measures, if any, has your country put in place to address systemic, structural or institutional racism? (These could be educational, awareness-raising, measures related to racial equality in sport, access to and quality of healthcare, etc.)

Answer:

The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerances (NAP) was approved by Cabinet in February 2019. It provides the basis for the development of a comprehensive public policy against racial discrimination in South Africa and assists the state in giving effect to its international human rights obligations related to the elimination of racism, racial discrimination, xenophobia and related intolerance. It provides for specific outcomes and is also a process of bringing stakeholders together to discuss challenges of, and proposals for, combating racism, racial discrimination, xenophobia and related intolerance.

How effective is the practical/actual implementation and enforcement of these measures? Have they been successful in addressing systemic, structural or institutional racism in your country? The Equality Courts for example faces a number of challenges which effectively reduce the accessibility of the courts. These relate to training of court personnel and judicial officers and in order to ensure access to justice the complainant does not require legal representation.

Answer:

These challenges are interconnected, and the Department is addressing them through collaboration with stakeholders such as: South African Human Rights Commission (SAHRC), Commission for Gender Equality (CGE), Legal Aid South Africa (LASA), Justice College and South African Judicial Education Institute (SAJEI).

7. How has the ongoing COVID-19 pandemic brought to the surface and exacerbated systemic, structural or institutional racism in your country?

Answer:

This aspect has not been fully tested but has been noted by the Department. The devastating impact of the pandemic on the most vulnerable groups in society was observed and reported on in various international UN and other official reports, national surveys and in the media.

8. To what extent is disaggregated data gathered by state and non-state actors in your country to identify systemic, structural or institutional racism, and to track progress in the measures adopted to address systemic/structural or institutional racism? Is any other data gathering tool used specifically to capture data related to systemic/structural or institutional racism? (Please provide details; refer to quantitative and qualitative data-gathering methodologies, where relevant).

Answer:

The Department is in the process of developing a Framework towards the development of a Virtual Depository on disaggregated statistical data for the measurements of racism, racial discrimination, xenophobia and related intolerance to be completed by 31 March 2023. In this regard it is working in consultation with various other relevant role-players such as Stats SA, the SAHRC, various civil society, research and academic institutions.

9. To what extent has national anti-racism policy research with a bearing on systemic racism been undertaken by national institutions/researchers, and what research is being undertaken, if any? (Please provide references if any.)

Answer:

There are various research reports and ongoing research initiatives by various national institutions/research organisations that have a bearing on the subject matter, e.g. the South African Human Rights Commission; the Human Sciences Research Council (South African Social Attitudes Survey), Institute for Justice and Reconciliation, Afrobarometer, etc. This is not an exhaustive list.

The Department itself has commissioned a Baseline Research Report to determine current levels of discrimination in support of the NAP. The report contains several findings and recommendations to ensure effective implementation of the NAP.

10. In your country, what are the main human rights challenges arising from systemic, structural or institutional racism? List and explain them succinctly.

Answer:

The triple challenges of poverty, inequality and unemployment remain a significant challenge in South Africa. The NAP (para 40, page 21) recognizes the various fault lines which still exist in the country. Chapter 4 of the NAP acknowledges that there a number of remaining fault lines that remain to be grappled with and addressed, and that the NAP exists in a specific contextual framework, in which it focuses on racism within a bigger government programme of action that includes other relevant laws and policies.

Some of these fault lines include the issues listed in the NAP Chapter and the following amongst others:

- Land dispossession is another root of economic inequality, in particular dispossession of the Black African majority in South Africa.
- Poverty – poverty plays an important role in the sustenance of racism, high unemployment, inequality and violent crime significantly restricts South Africans' enjoyment of their human rights.
- Education was used by colonialism and apartheid as a tool to enforce racism in South Africa. To this day, structural obstacles to the achievement of the right to education still exist. These are coupled with poverty, race and historical disadvantage.

11. Are specific resources allocated to address structural or institutional racism in your country?

Answer:

The Department of Justice and Constitutional Development as the focal agency responsible for the coordination and implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) has budget allocated for this function. All other relevant government departments responsible for implementing the NAP deliverables are required to use their existing Baseline allocations, aligned to their Strategic and Annual Performance Plans that are in turn also reflective of Government's Medium Term Strategic Framework (MTSF) that contribute towards the achievement of the National Development Plan: 2030.

12. In your country, which government agency has the mandate of combating and preventing racial discrimination? To what extent does the agency take issues into account related to systemic, structural or institutional racism in its mandate? (Please provide the most recent annual reports of this agency.)

Answer:

The Department of Justice and Constitutional Development as the focal agency responsible for the coordination and implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP) has the responsibility for this function in accordance with its overall mandate as the custodian of constitutionalism in the country. The annual reports of the DoJ&CD, SAHRC and CGE are also relevant in this regard, and may be obtained from the relevant organisations' websites.

13. Do you think reparations for the root causes of systemic, structural or institutional racism (such as Transatlantic Slavery, colonialism and apartheid) have a current role to play in redressing systemic, structural or institutional racism, and in eradicating it?

Answer:

Reparations for the root causes of systemic, structural or institutional racism does have a role to play. Strategies for the creation of legislative and administrative measures that contribute to the maintenance of a stable society and the prevention of the recurrence of human rights violations forms part of the reparation and rehabilitation components envisaged by the South African Truth and Reconciliation Commission. The South African government has to this end promulgated laws such as the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000, the Employment Equity Act of 1998 and the Promotion of Administrative Justice Act of 2000 towards the redress and eradication of racism.

14. How are systemic patterns of racial discrimination addressed within the framework of the Sustainable Development Goals (SDGs) 2030 agenda? In your view, do the SDGs contribute to advance racial justice and equality? (Refer to eg SDGs 1, 3, 4, 5, 6, 7, 8, 10, 11 and 16.)

15. Is the existing international framework, for example as it relates to the governance of international organisations, sufficient to deal with systemic, structural or institutional racism?? If not, what more can be done?

Answer:

Yes, to the extent that the ICERD and related international conventions address the issues of racism and non-discrimination extensively.

16. Is the existing national legal and human rights framework, if any, sufficient to deal with systemic, structural or institutional racism? If not, what more can be done?

Answer:

Yes, we have a plethora of laws and a strong human rights institutional framework in South Africa however what is needed is to improve on implementation of the existing laws and policies.

17. What are the responsibilities of key stakeholders (UN agencies, states, NHRIs, civil society organisations, technical community and academia, private sector) in addressing systemic, structural or institutional racism and racial discrimination? (Elaborate on what they can do to address systemic patterns of racial inequality.)

Answer:

The South African government has reaffirmed its relationship with the above institutions as key role-players and stakeholders in the fight against racial discrimination, and works in collaboration with all the above agencies to implement the NAP. The complex and multi-faced nature of racism, racial discrimination, xenophobia and related intolerances requires a diversity of expertise which non-government agencies are able to provide.

18. Civil society actors can contribute to research and policy analysis by collecting relevant data and identifying trends on racism, racial discrimination, xenophobia and related intolerance.

Answer:

Agreed. Civil society actors can in addition also provide training for law enforcement officials, legal aid and capacity building to groups or individual victims of racism, racial discrimination, xenophobia and related intolerance, and undertake awareness-raising activities. Civil society actors are key in preventing and combating racism and should partner with government in executing this function.

19. To what extent are private actors responsible for systemic patterns of racial discrimination in your country?

Answer:

The NAP has both horizontal and vertical application thus targeting the private sector as well. Business opportunities continue to be defined by race, gender, geographic location, class and linguistic background. The private sector should reflect a commitment to observe basic human rights and demonstrate a non-racist approach to employment issues. This should demonstrate responsible transformation and raise issues that may be genuinely inhibiting them from creating a workforce that is more representative of our country given that the private sector has made too little progress in this regard. The sector must identify how different industries can play a role in addressing underlying issues that give rise to problems like poverty and a lack of education. Very often business is the one sector that is overlooked when dialogues around human rights take place.

20. What role do you consider new emerging technologies, such as artificial intelligence based on algorithms, play in eradicating or sustaining systemic patterns of racial inequality?

Answer:

The DoJ&CD has not yet addressed this aspect, as the focus during the current initial 5-year implementation cycle of the NAP is on promoting awareness of, and strengthening support for the NAP, as well as achieving the commitments set out in the NAP for this period, that included setting up relevant governance

structures to effectively coordinate implementation. The DOJ&CD anticipates that the issue of the role of emerging technologies in eradicating systemic patterns of racial inequality will be included in plans for future reporting periods.

21. Are there any other 'good practices' by your State or other stakeholders (such as business or civil society organisations) that advance racial justice and equality, and address systemic, structural or institutional racism? If yes, could you please share these practices?

Answer:

As per comparative international experience and best practices, critical success factors for the effective implementation of the Cabinet approved NAP include political will, an effective governance structure, adequate funding and stakeholder support to ensure success. The DOJ&CD has ensured that it works closely with key stakeholders and partners in developing and finalising the NAP for Cabinet approval. The DOJ&CD as focal agency for the NAP has continued to follow this approach during the implementation phase. In implementing its various deliverables in terms of the indicators that is directly responsible for as per the NAP five-year Programme of Action, as well as in coordinating the implementation of the NAP, this continues to be done collaboratively with various stakeholders and key partners from government, academia, civil society, and various UN agencies.

In addition, and as an example, on the 22-23 May 2022, the DOJ&CD hosted a National Conference to commemorate the 20th Anniversary of the World Conference Against Racism, under the Theme: *"Progress made towards the implementation of the Durban Declaration and Programme of Action (DDPA) on the elimination of all forms of racism, racial discrimination, xenophobia and related intolerance in South Africa – reflecting on the WCAR+20, in the context of the 25th anniversary of the Constitution"*.

The hybrid conference was attended by approximately 300 delegates, and from deliberations facilitated through Panel sessions assigned specific topics. The conference signified a further efforts by the DOJ&CD to strengthen commitment for the implementation of the NAP, working with various sectors and

stakeholders. Some key observations and recommendations were made including:

- South Africa is rated amongst the most unequal societies in the world, where the face of poverty is often black and female
- Disturbing use of social media to propagate intolerances
- The need to transform deep-rooted beliefs about racism through education and awareness before they are passed onto the next generation.
- Magistrates Courts are designated Equality Courts to ensure accessibility to the people. There is a need to promote Equality Courts so that people can access them for protection against unfair discrimination.
- There seems to be a lack of coordination in government programmes that seek to promote tolerance. Furthermore, programmes are focused on the short term and are often cosmetic.
- There is a greater need to promote the NAP at community level; where these scourges of discrimination are taking place.

Furthermore, the DoJ&CD in 2021 commissioned the Human Sciences Research Council (HSRC) to develop the Baseline Study Report to Determine Levels of Racism, Anti-Foreigner Sentiment, Homophobia, Racial Incidents, Inter-Racial Relations and Perceptions of National Identity. A special request was made to prioritise racism, homophobia, xenophobia and perceptions of national identity. The Baseline Study Report found that the most prominent form of discrimination reported by the general population is, perhaps unsurprisingly, racism and racial intolerance. According to the dataset of the Socio-Economic Justice for All (SEJA) Programme, which was implemented by the DOJ&CD in partnership with the Foundation for Human Rights, and funded by the European Union through Sector Budget Support, 5% of the adult population reported experiencing racial discrimination in the year prior to the survey interview. About two-fifths (43%) of racial discrimination victims said that they experienced intolerance at the workplace, while 37% told fieldworkers that it happened in a public place. By not making a particular form of discrimination salient in the wording of the question, the SEJA data may however be underestimating racial discrimination in the country. Respondents in the South African Social Attitudes

Survey (SASAS) series were asked how often they felt personally racially discriminated against. In 2018 almost a third (30%) of the adult public said that they felt racially discriminated against sometimes and 15% said that they were discriminated against often or always. It is clear from this dataset that racism and racial intolerance remain a central problem in South Africa, affecting millions of people.

The NAP Baseline Study Report makes a number of important findings and recommendations that will inform future planning and strategies in relation to ensuring the efficacy of the NAP implementation. (See link: <https://www.justice.gov.za/nap/docs/20220523-WCAR-Booklet.pdf>)