

## Southern Africa Consultation on Human Rights 75

“Eradicating Inequality as an Accelerator to Promoting Human Rights in Southern Africa”

1-2 November 2023, Pretoria

### OUTCOME STATEMENT

1. On 1<sup>st</sup> and 2<sup>nd</sup> November, the Office of the High Commissioner for Human Rights (OHCHR) in partnership with the South African Department of Justice and Constitutional Development held a Southern Africa regional consultation in commemoration of the 75<sup>th</sup> Anniversary of the Universal Declaration of Human Rights (UDHR) (Human Rights 75). Member states from the region (Angola, Comoros, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, and Zimbabwe) gathered in Pretoria to: (i) take stock of the subregion’s contribution to strengthening the international and regional human rights architecture; (ii) reflect on the current relevance of the UDHR for bolstering the human rights system at national and at the subregional level, including the identification of gaps and opportunities; identify avenues for addressing inequality through the lens of human rights; and (iii) discuss pledges from countries ahead of the Human Rights 75 high-level event on 11-12 December 2023 and identify areas of common priorities.
2. The theme of the consultation was “Eradicating Inequality as an Accelerator to Promoting Human Rights in Southern Africa” in view of the high levels of inequality coupled with poverty and unemployment in the region. This negatively impacts the enjoyment of human rights including economic and social rights such as the right to food, the right to work, the right to social security and the right to an adequate standard of living.
3. The opening remarks by Advocate Doc Mashabane (Director General, Department of Justice and Constitutional Development); Volker Türk (UN High Commissioner for Human Rights); and Abigail Noko (OHCHR Regional Representative for Southern Africa) highlighted a number of critical issues. This includes the fact that 75 years ago the region did not have constitutions with bills of rights, but the post-colonial era ushered in progressive Constitutions and legal frameworks that were inspired by the UDHR, resulting in some notable achievements in the sub-region in respect of the enjoyment of human rights including the advancement of the rights of women, children and persons with disabilities. Nonetheless, the region is characterised by some of the highest levels of inequality in the world, which coupled with poverty unemployment and other socio-economic challenges, negatively impact the enjoyment of human rights. This calls for a reorientation towards sustainable development and ensuring prosperity for all. Human Rights 75 is an opportunity for the subregion and the African continent to deepen and consolidate the culture of human rights for the next 75 years and, most importantly, work together to ensure that human rights institutions on the continent get the support they need.
4. The Honourable John Jeffery, Deputy Minister for Justice and Constitutional Development noted that the UDHR rejects everything that seeks to divide society such as racism, sexism, homophobia, xenophobia. It boldly states that all human beings born free and equal in dignity and rights. However, today we live in a polarized world and human rights values are slowly being eroded, with a rise in conservatism, the extreme right, nationalistic politics and anti-migrant sentiment. The three biggest challenges to human rights today are inequality, poverty and unemployment. These crises have highlighted the interlinkages and dependencies of economies around the world and shown the crucial need to come up with national, regional, and international answers for these global challenges – and to develop a collaborative plan of

action for our region and the continent. We must foster the political will to implement judgments, and to adhere to and respect international human rights treaties whether the ICCPR, ICESCR, CAT, CERD or any other treaty. National reporting processes in respect of international human rights commitments are important. We must therefore encourage pledges by countries.

5. In the keynote address on the “Legacy of human rights and constitutionalism in Southern Africa”, Advocate Pansy Tlakula reminded participants that at the time of the adoption of the UDHR, only four African countries (Egypt, Ethiopia, Liberia and South Africa) were United Nations member States. However, South Africa did not sign the Declaration because the apartheid system was inherently at odds with the Declaration’s principles of equality and dignity for all people. However, the Declaration bolstered decolonisation and inspired the development of more than 80 international human rights treaties, regional human rights conventions, constitutions and domestic human rights bills. The subregion made a positive contribution to the global human rights jurisprudence by demonstrating that economic, social, and cultural rights are justiciable. The subregion however is still bedevilled with the challenge of persistent inequality and the legacy of colonialism and enslavement. Data shows that the Gini coefficient is over 40 percent higher in southern Africa than in other sub-Saharan African countries.
6. Participants at the consultation discussed the root causes of inequality including the current data and trends in the sub-region and how this affects the enjoyment of all human rights (including economic, social, cultural, civil and political rights). They underlined that inequality is both a cause and a consequence of human rights violations and often results in the concentration of power among a few. Furthermore, inequalities manifest differently and are exacerbated by issues such as climate change, gender discrimination, and corruption, with the most vulnerable being impacted disproportionately more than others.
7. The main drivers of inequality for the subregion are strong underperformance in the areas of jobs and skills, with other common drivers being lack of sufficient investment in human capital development, access to quality education and basic services, unemployment coupled with the polarization of income; inefficient cities, weak property rights in respect of land ownership, pro-rich growth, and vulnerability to shocks. Circumstances at birth, gaps in access to capital, social network, intergenerational mobility, access to services, taxation, and public investments all affected inequality. The lack of a debt workout mechanism to address debt cancellation or consolidation was identified as a challenge. As such, the international human rights framework which imposes both obligations of conduct and obligations of result must be utilised to tackle the root causes of inequalities and approaches to addressing them should be rooted in on-the-ground realities. Participants underlined that tackling inequalities is essential for growth, equity and poverty reduction.
8. Presentations on experiences and lessons learned highlighted that whilst there was some progress in the region in addressing inequality, it remained persistent and that this was essentially the result of policy choices. These policy choices need to effectively address the informal sector, education, employment and skills development, accountability and governance, the social contract, progressive taxation, social protection, spatial inequality, climate change, and harmful cultural practices that affect the enjoyment of women’s and girls’ rights.
9. Participants also discussed emerging human rights challenges that risk exacerbating inequality. This included climate and environment; digital technologies; rising debt vulnerabilities and exclusionary economic and development processes; and key populations at risk of being left behind (girls and young

women who face barriers in accessing health facilities; boys and young men in unjustified, excessive and prolonged pre-trial detention; stateless populations; indigenous communities who are denied the right to health; persons with albinism; people on the move; persons with disabilities; youth and older persons).

10. A number of risk factors were identified including:
  - a. Climate and environment: deforestation, rising water and sea levels, mining, water and air pollution, toxic waste, dumping of plastic waste, human induced fires, flooding and cyclones, and lack of accountability for the effects of climate change, pollution, and loss of biodiversity.
  - b. Digital technologies: scamming, online hate speech and discrimination increased bias, online violence moving to physical spaces, targeting of civic movements, the widening digital divide including between rural and urban and between the poor and wealthy, lack of legal and regulatory frameworks, privacy and lack of informed consent, lack of awareness, and inadequate digital literacy skills.
  - c. Human rights, economy, development: debt distress and vulnerabilities, inflationary shocks, quick resort to austerity measures, unfair financial architecture, vested interest of the elite, corruption, illicit financial flows, irregular expenditure, depreciating currencies, and reduced fiscal space for social spending.
  - d. Key populations at risk of being left behind: including women and girls (education, Gender Based Violence, harmful cultural practices, access to services and lack of adequate safety nets); young men and boys (indoctrinated patriarchy, lack of dedicated programming, poverty, pastoral activities lead to lack of access to education, criminality leading to access to basic goods and a sense of belonging); older persons and persons with disabilities (lack of access to facilities and services, limited social protection, discrimination and social norms including myths); indigenous communities (lack of quality health care and education, limited participation and representation, support for self identification); people on the move, stateless people, and refugees and asylum seekers
11. The human rights framework was discussed as a valuable tool and entry point at the national, regional and international level. This includes implementing relevant domestic legislation and policies, establishing effective national human rights institutions in line with the Paris Principles, and leveraging relevant portfolio committees in parliament; civil society organizations; regional and international human rights mechanisms; national mechanisms for reporting and follow-up; and the judiciary. The human rights framework can also be used to address inequality by engaging with and implementing the recommendations from the treaty bodies, the special procedures, and the Universal Periodic Review. Political will should be enhanced while strengthening access to justice including through national litigation that incorporates international human rights mechanisms. Human rights should be implemented throughout the budget cycle, including by adopting a human rights-based approach to budgeting, sufficiently resourcing national human rights action plans and national human rights institutions, advocating for corporate social responsibility and the domestication of the guiding principles on business and human rights, and working in collaboration with national mechanisms for reporting and follow-up and national human rights institutions.
12. An overview of the High Commissioner's Human Rights 75 initiative was provided including the request for member States to submit pledges at the High Level Meeting from 11-12 December. This outcome statement is a reflection of some of the areas that Member states could consider when developing pledges.



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13. During the discussion participants highlighted that the following issues were important for the region to consider in developing pledges and commitments which would advance the promotion and protection of human rights in Southern Africa, which is in line with the theme of the Human Rights 75 Initiative “Freedom, Equality and Justice for All”:
- a. Work towards the goal of universal ratification in the subregion of international and regional human rights instruments, noting that all countries in southern Africa have ratified the International Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Discrimination against Women; and that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture are close to universal ratification.
  - b. Review existing legal frameworks to ensure compliance with international human rights obligations and make full use of national mechanisms for reporting and follow-up, the national tracking database as a tool to address implementation gaps, the establishment and strengthening of national human rights institutions, and the strengthening of human rights architecture at regional and international level.
  - c. Address the persistent forms of inequality in the region including by adopting a human rights lens in the conceptualisation and implementation of policies (including development and economic policies), leverage disaggregated data to make informed decisions, maximize the normative weight of human rights obligations to tackle inequality, invest in economic and social rights using maximum available resources; invest in the creation of decent jobs especially for the youth and persons with disabilities, invest in quality education for skills, and invest in gender equality at all levels and in all sectors.
  - d. Adopt a human rights-based approach to the economy in order to address high levels of inequality and exclusion in the subregion. This includes international financial architecture reform, broadening fiscal space for social spending, progressive rights-based taxation at national and international levels, placing people at the centre of economic policy making (women, youth and persons with disabilities), and “humanising” economics to ensure meaningful participation at all levels.
  - e. Address emerging technological issues including online hate speech and discrimination, and the digital divide, by establishing and strengthening rights-based regulatory and accountability frameworks, and place increased focus on the youth to enhance their access to digital markets and improve their digital literacy skills.
  - f. Address the triple planetary crises of climate change, biodiversity loss, and pollution through investment in resilience including by ensuring meaningful participation by affected communities; removing barriers to accessing climate financing; adopting and implementing effective legislative and regulatory frameworks; advocating for the fair global distribution of the costs of climate change including by providing just reparations for disproportionately affected developing countries and communities, enhance international cooperation and assistance in respect of climate and the environment; and investment in early warning systems.



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- g. Adopt a human rights-based approach, including special measures, to all programmes and in all sectors that ensures meaningful participation, inclusion and consultation of marginalised groups in situations of vulnerability on issues that affect their lives; adopt and implement sufficiently financially resourced national human rights action plans, rights-based national development plans and strategic plans; enhance political will to implement international human rights obligations and commitments; domesticate and implement international human rights treaties; and leverage national human rights institutions and civil society to access justice.