



Human Rights Council

Universal Periodic Review (UPR) of South Africa

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Joint Stakeholders' Submission on:

The Situation on the Rights of the Child in South Africa

Submitted by:

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Development
(NGOs in Consultative Status with ECOSOC)**

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I. INTRODUCTION

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to the **Rights of the Child** in South Africa in the following areas: **birth registration, right to non-discrimination, education, work and health. Additional areas of concern are the economic and sexual exploitation of children and violence against them.** Each section conveys recommendations to the South African Government.

2. The data and information obtained for this submission came from various sources and includes information from teachers, educators, civil society members and health staff living and working in South Africa. All information concerned the period from April 2008 to October 2011.

3. **IIMA** is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 95 countries where it provides education to children and adolescents, particularly the most disadvantaged and vulnerable.

4. **VIDES International** is an international NGO in special consultative status with Economic and Social Council, which is present in 38 countries worldwide. It was founded in 1987 to promote volunteer service at the local and international levels and protects children and women's rights.

II. CONTEXT: VULNERABLE GROUPS

5. In 2011, South Africa has a total population of approximately 50.6 million people, including 18.7 million children¹. Children comprise about 40% of the total population. In rural areas, very often children are a higher percentage of the total population, especially in the following regions: Eastern Cape Province (78%), Limpopo Province (88%), Mpumalanga and Kwa Zulu Natal Provinces (62%), and Northwest Province (65 %).

6. IIMA and VIDES have discovered that in South Africa 36% of children do not have access to drinking water and 39% lack adequate sanitation at home. In addition, 18% suffer from hunger, 30% live in overcrowded households which are shared with numerous family members. Approximately, 2.3 million children live in informal dwellings. Moreover, South Africa counts 3.7 millions orphans, among whom 614.000 are maternal orphans, 2.364.000 are paternal orphans and 701,000 are double orphans.

7. Children belonging to black and colored² communities are the poorest and the most vulnerable in South Africa. They often have only one parent (single mothers) who work all day and, therefore, are alone most of the time. The poor conditions in which they live deprives them of basic services and hampers their exercise of fundamental rights. In particular, IIMA and VIDES express deep concern for the lack of health care, proper housing, and quality

¹ According to national statistics population aged younger than 15 years is considered as children.

² "Colored" derives from the racial classification of the past Apartheid Regime. Still, it is very much in use. Basically, colored people are those who are not pure white or pure black.

education in public schools. Moreover, these children live in dangerous areas where gangsters thrive, that increases exposure to violence and exploitation. Another area of concern is the number of HIV affected children (South Africa is the country with the largest number of people living with HIV in the world) and children of refugees,, due to discrimination and xenophobia against them.

8. We urge the South African government to:

- a. ratify the International Covenant on Economic, Social and Cultural Rights in order to comply with international standards and improve the enforcement of these rights, especially for the most vulnerable groups.**

III. BIRTH REGISTRATION

9. While recognizing the remarkable results achieved by the government in ensuring birth registration through concrete measures, cases of unregistered children still exist especially in the rural areas and in informal settlements. Moreover, children of refugees ³ are particularly affected by lack of registration at birth. As a result, these children are usually not accepted at school, which clearly hinders their right to education.

10. We urge the South African government to:

- a. ensure registration at birth for all, including refugee children;**
- b. improve the system of birth registration, including strengthening its efforts to sensitize and mobilize public opinion with regard to the benefits of birth registrations and by training registry personnel.**

IV. RIGHT TO EDUCATION

11. This NGO coalition welcomes the improvements reached by the South African government in guaranteeing access to education. Nevertheless, IIMA and VIDES highlight that education is neither free nor equal in South Africa. In fact, although access to education in South Africa has become more equitable over the past 17 years, there is a persistent gap in learning levels and graduation rates between rich and poor, blacks and whites.

12. **Equality in education.** Due to the “apartheid” background of the country, public education is not equal yet in South Africa. The former “Model C” schools (which were only for white children during the previous regime) still enjoy special privileges in terms of academic standards and infrastructures. Their very high fees exclude the attendance of children belonging to poorer families. On the contrary, schools from the colored and black areas are very poor and with much poorer infrastructures: they lack educational aids, sport

³ Most part of these refugees come from Zimbabwe, Democratic Republic of Congo, and Somalia.

facilities, etc. Also, these schools present problems of poor attendance, poor motivation of teaching and learning and a higher repetition rate.

13. **Free Primary education.** As a result of the movement to create “no school fee schools”, which took place during these few past years, a certain number of schools in the poorest areas of the Country now provide free education. However, the number of schools is still insufficient compared to demand of users. Moreover, the academic standard is low due to the fact that, without the help of school fees, the schools lack sufficient resources to employ extra teachers for the high number of children. For this reason, most public schools are still asking the families for school fees which differs from school to school.

14. **Secondary education.** This education level includes adolescents from 13 to 18 years of age. Due to the lack of professional education in the country, secondary education plays an important role in providing students with the needed skills to accede labor market. However, we note that an extremely high number of students abandon school after Grade 9 or 10 and never reaches Matric (i.e. leaving Certificate). As a consequence, these children struggle to find a permanent job and, unless manage to study for Matric at a later stage, have little chances to a dignified life. Differing conditions that explain this data includes: social issues (e.g. early pregnancy and gang affiliation); family instability (e.g. many children are head of the house, orphaned, taking care of their siblings); extreme poverty and/or racial discrimination; and the high rate of HIV/AIDS even among children.

15. In general, South Africa, is still quite far from complying with international standards in terms of learning levels, secondary education completion rates, and student flow efficiency. Concerning secondary education the government has several issues to face such as upgrading the infrastructure, instructional hours, curricula, qualifications framework and labor market linkages.

Discrimination in education

16. The apartheid regime was ended in 1994. Nevertheless, South Africa is still living very much with the “apartheid mentality” and the “race” is a significant aspect of people’s life in society. While recognizing the passage to a democratic system and the consequent remarkable progress regarding the national legal framework, discrimination against black and colored people still persists in South Africa, in particular with regard to education. The discrimination occurs naturally among children and teachers through daily attitudes, words, fears and lack of mutual trust. There is still a strong superiority complex on the side of white population and a strong inferiority complex on the black and colored population.

17. As a consequence, a large disparity in academic success persists between black and white students. The data suggest that the drop out and repetition ratios for black and colored students are higher than among whites and reflects the strong impact of racial discrimination on the success of the South African school system. Moreover, children who must repeat a course multiple times do not receive coaching or assistance by alternative programs, which can lead to dropping out altogether.

18. While acknowledging successful stories of integration, there are certainly cases of discrimination in certain schools. For example, black children joining a former Model C school (which was only for white children) have at times felt discriminated and, as a result,

have left the institution. In the former “white schools” there is the general belief that all the trouble is caused by black children.

19. Children with disabilities are discriminated against due to the lack of facilities and sufficient social awareness on issues relating to disability. In particular, most part of educational infrastructures are not equipped to attend these children, which impedes them to enjoy their right to education.

20. While recognizing that the phenomenon of street children in South Africa is not as outstanding as in other African countries, this NGO coalition remain concerned about the number of children who still live in the streets , especially in the city centers of Cape Town, Johannesburg, and Durban. These children not only remain excluded from schooling system, but are also exposed to abuse, including sexual abuse, and to other forms of exploitation.

Quality education

21. While in principle all children have access to quality education in South Africa, in practice, this requirement is still not achieved. Such trend can be seen in many schools based in the most disadvantaged sectors of rural and urban areas, including townships and informal settlements. In particular, the poorest provinces, such as Eastern Cape, Norwest Province and some areas of Kwazulu Natal, receive the lowest quality of education: on average less than 10% of children acquire a level of education corresponding with their age. Among the causes, are: overcrowded classes; poor preparation and absenteeism of teachers which negatively effects the general level of teaching; lack of resources; students’ lack of motivation and disinterest of parents in their children’s schooling. The combination of these factors makes a good quality of education a goal that has not been achieved for a large number of South African schools.

22. While recognizing the efforts of the government in the development of a legal framework consistent with the international quality standards of education, the implementation of national legislation still presents serious challenges in South Africa. In particular, IIMA and VIDES stress the lack of proper supervision and investigation as well as existing malfunctions in the administration of schools. Moreover, concern still persists for information reporting the implication of high government officials in corruption scandals.

Human Rights Education

23. We recognize that human rights education is part of the Life Orientation syllabus in primary school (starting from Grade 4). Additionally, we welcome the initiatives undertaken by Ministry of Education to train teaching staff on these subjects. Nevertheless, it should be highlighted that not all teachers receive adequate human rights education.

24. In order to protect and promote the right to quality education, we urge the government of South Africa to:

- a. adopt all necessary measures to eliminate disparities in education in terms of academic standards and infrastructures;***

- b. ensure free primary education for all, by guaranteeing a sufficient number of educational facilities and by providing adequate financial support to public schools;*
- c. increase the secondary education completion rate by addressing the core causes of dropping out;*
- d. undertake effective measures to combat discrimination in education, especially with regard to black and colored children, children with disabilities and street children;*
- e. ensure a quality education especially in the most disadvantaged sectors of rural and urban areas, including townships and informal settlements;*
- f. strengthen efforts to ensure that the teaching staff is adequately trained on human rights.*

V. VIOLENCE AGAINST CHILDREN

25. IIMA and VIDES express their deepest concern for widespread episodes of violence against children and child abuse occurring in South Africa, both at home and at school. The domestic violence is very common in the poor families, especially among the colored communities, where drug and alcohol addiction of parents is a serious problem affecting family life, especially children. Among the victims, young girls are particularly affected. With regard to violence in school environment, in spite of teachers knowing that corporal punishment is illegal, corporal punishment is still practiced in the schools.

26. Furthermore, it has been reported of several cases wherein police officers were involved in episodes of violence and ill-treatments against children. While recognizing the efforts made by the government to realize specific training for police officers, we remain highly concerned for inadequacy of such measures.

27. Additionally, the inefficiency and widespread corruption of police forces hamper the punishment of perpetrators: lack of trust in public authorities and fear of retaliation discourage victims to report violations.

28. We urge the South African government to:

- a) prohibit corporal punishment in the family, school and penal institutions, and undertake education campaigns that educate parents on alternative forms of discipline;*
- b) ensure adequate human rights training for police forces and combat corruption among public officers.*

VI. RIGHT TO WORK

29. While recognizing the significant progress made by the government to reduce disparities in access to labor market, youth do not have the same opportunity to access to work in South

Africa. Different reasons can explain these disparities, such as: racial discrimination and educational level.

30. In fact, although the “affirmative action” carried out by the government to reduce apartheid inequalities by providing black people with social and economic guarantees, the racial discrimination has turned towards another direction. As mentioned before, colored people live a very difficult situation in South African society. A key concern is exclusion from the formal labor market.

31. Furthermore, even among black people themselves, government initiatives as the “Black Economic Empowerment”, whose purpose is to encourage black people to develop their own business, have favored only those who already achieved certain economic-social standard. On the contrary, the poorest sections of black population are still deprived of any possibility to lift themselves out of poverty.

32. Therefore, we urge the South African government to:

- a. strengthen legal and institutional mechanisms aimed at combating discrimination in the field of employment and facilitating equal access to employment opportunities for colored people and the poorest black citizens;***
- b. adopt all necessary measures to combat any kind of discrimination, including racial discrimination resulting from the previous regime, as well as new forms of discrimination affecting mainly colored people and the poorest sections of black population.***

VII. SEXUAL EXPLOITATION AND TRAFFICKING IN HUMAN BEINGS

33. We are concerned that South Africa lacks a widespread consciousness concerning the phenomenon of sexual exploitation, which is not sufficiently addressed by the media. The victims are especially poor young girls and boys, often coming from the rural areas or from other neighboring countries. These children come to South Africa in the hopes of “a better life”. Sex traders attract them with the promise of a good job and reduce them to slavery. We note that measure undertaken by the government to stop sexual exploitation and punish the responsible remain inadequate.

34. South Africa is considered a source, transit, and destination country for trafficking of persons, including women and children. Accordingly, South Africa has been placed on the Tier 2 Watch List⁴ for a few years. In this regard, we highlight how the corruption of officials of the Home Affairs Department at border posts facilitates the trafficking of young girls, especially from Mozambique and Angola.

⁴ The List has been elaborated by the US Department of State. In particular, Tier 2 includes countries whose governments do not fully comply with the trafficking Victims Protection Act’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

35. Although South Africa had ratified the Palermo Protocol⁵, there is still no national legislation translating international obligations concerning human trafficking in the domestic legal framework. In the meantime, a movement of NGOs and other members of Civil Society undertook initiatives to speed up the adoption of a national legislation against human trafficking. Nevertheless, we regret that the government did not yet make any concrete step towards it.

36. In this regard, we urge the South African government to:

- a. take appropriate measures to eradicate sexual exploitation and prosecute and impose appropriate sanctions on any perpetrator of the alleged violations;**
- b. adopt a national legislation to translate international obligations concerning human trafficking in the domestic legal framework.**

VIII. RIGHT TO HEALTH

37. **Access to health care.** We note that disparities still persist in access to health services. In fact, only people with medical aid⁶ can afford proper medical care, which allows access to private health institutions with a percentage of discount. This system requires the person to have a stable employment and a sufficient income to afford the payment of the medical aid. The payable fee is generally very high and not affordable for the low and middle class.

38. On the other hand, public health care lacks professional quality, proper equipment, infrastructure, medicines, etc. The majority of the South African population cannot afford medical aid. As a result, hospital waiting rooms are overcrowded. Patients are forced to go to the hospital as early as 5 a.m., in order to have more chances to be served.

39. **Alcohol and drug addictions.** Children and adolescents in South Africa are deeply involved in cigarettes, alcohol and drug consumption. The average age at which children acquire addictive habits is 10-11 years of age.

40. **Early pregnancy.** Despite the governmental efforts and public campaigns aimed at reducing early pregnancies in the country, this NGO coalition is concerned by the high rates of early pregnancy that mainly affect the socially underprivileged segments of the society. Very often these girls have dropped out school and lack any qualification to access labor market. They are deprived of any possibility for a better future. Moreover, sometimes the social grants ensured to the single mothers living in extreme poverty represent an alternative to have a minimum income.

⁵ The Protocol to Prevent, Suppress and Punish Trafficking in persons, especially women and children was adopted by General Assembly resolution A/RES/55/25 of 15 November 2000. South Africa ratified it on February 20, 2004.

⁶ Through payment of a fee, a person is associated to a “medical aid”. The benefit offered consists in having access to private health institutions with a % of discount on the cost of the treatment or medicines, the difference being covered by the medical aid.

41. ***Suicide.*** Unfortunately we registered a high number of suicides in South Africa. While recognizing government initiatives to offer counseling in schools, clinics, and rehabilitation centers, we note that often the medical staff lacks specific preparation to face this delicate problem.

42. We urge the South African government to:

- a. reduce the disparities in access to health care by providing most poor citizens with adequate financial aid;***
- b. adopt all necessary measures to improve the quality of public health services, including the provision of adequate infrastructures and qualified medical staff;***
- c. undertake measures to reduce suicide rate among youth, including the guarantee of adequate psychological support;***
- d. provide informal education as an alternative to drugs and violence, recruit and train social assistants to monitor young people at risk;***
- e. plan and develop awareness campaigns addressed to youth, teachers, health care workers, educators in order to sensitize young girls on health and social risk linked to early pregnancy.***