

UN CRC	Ratification Date	Care-Related Concluding Observations
	16 June 1995	<p>27 Oct 2016                      CRC/C/ZAF/CO/2  <a href="http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2fCO%2f2&amp;Lang=en">http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fZAF%2fCO%2f2&amp;Lang=en</a></p> <p>Committee on the Rights of the Child Concluding observations on the second periodic report of South Africa</p> <p><b>III. Main areas of concern and recommendations C.General principles (arts. 2, 3, 6 and 12)</b></p> <p><b>Non-discrimination</b></p> <p>23. The Committee is concerned at the discrimination faced by girls, children living with HIV/AIDS, children with disabilities, indigenous children, stateless children, migrant, asylum-seeking and refugee children, children in street situations, lesbian, gay, bisexual, transgender and intersex children and children with albinism in accessing basic services and child protection services, and at their heightened exposure to violence, abuse and harassment. The Committee is also concerned at the serious divide in access to basic services and an adequate standard of living in the country on the basis of race, geography and economic status, with a disproportionate disadvantage for children living in rural areas and in urban informal settlements.</p> <p>24. The Committee recommends that the State party:                      (a) Place strong focus on the eradication of structural inequality and discrimination in all legislative, policy and programmatic measures to advance the rights of the child, paying particular attention to children living with HIV/AIDS, children with disabilities, indigenous children, stateless children, migrant, asylum-seeking and refugee children, children in street situations, lesbian, gay,</p>

		<p>bisexual, transgender and intersex children and children with albinism, and to the accumulative impact of multiple discrimination;</p> <p><b>E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)</b></p> <p><b>Freedom of the child from all forms of violence</b></p> <p>(d) Pay due attention to groups of children at heightened risk of exposure to violence, including children living in rural areas and urban informal settlements, refugee, asylum-seeking, migrant and stateless children, children in street situations, children belonging to sexual minorities, children with disabilities, indigenous children and children with albinism.</p> <p><b>F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4))</b></p> <p><b>Children deprived of a family environment</b></p> <p>41. The Committee welcomes the development of a legal and policy framework on children deprived of a family environment, which prioritizes preventing the separation of a child from the family, and placement in family-like alternative care if the separation is unavoidable, and also welcomes the significant progress made with regard to ensuring the enforcement of child maintenance orders. The Committee notes that the State party has been taking measures aimed at addressing the systemic challenges in foster care. However, it is concerned at:</p> <ul style="list-style-type: none"><li>(a) The large number of children who are deprived of a family environment, including orphans who have lost their parents to AIDS and children who have been abandoned due to their HIV/AIDS status, as well as unaccompanied or abandoned migrant children;</li><li>(b) Systemic constraints faced by the alternative care system due to the increase in foster care, including a substantial backlog and lapses of foster care orders;</li><li>(c) The increase in the number of children placed in residential care, mainly as a result of abuse, neglect or abandonment, and also because of children's HIV infection, and the prolonged stays in residential care institutions such as child and youth care centres;</li></ul>
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		<p>(d) The low quality of care in child and youth care centres, the uneven funding for child and youth care centres across regions and the existence of unregistered child and youth care centres.</p> <p><b>42. The Committee recommends that the State party, while keeping its focus on family-like alternative care:</b></p> <p><b>(a) Expedite actions to resolve systemic challenges in the foster care system and come up with sustainable arrangements for alternative care and for monitoring the arrangements, based on wide consultation with children, parents and extended families as well as with civil society organizations and professionals working on alternative care;</b></p> <p><b>(b) Expedite the revision of the Social Assistance Act with the aim of introducing an extended support grant for families caring for orphans while ensuring an adequate and feasible monitoring mechanism;</b></p> <p><b>(c) Shorten the time of children’s placement in residential care as much as possible, through timely family reintegration and shorter periods for the placement review;</b></p> <p><b>(d) Strengthen monitoring of the quality of care in residential institutions, including with regard to their adherence to minimum norms and standards, protection from violence and abuse, and their provision of care and of individual development plans, and provide accessible channels for reporting, monitoring and remedying maltreatment of children;</b></p> <p><b>(e) Reduce regional disparities in the funding of child and youth care centres and ensure that all child and youth care centres are registered;</b></p> <p><b>(f) Allocate sufficient resources and build the capacity of the relevant professionals in order to improve the responses of alternative care mechanisms to meet the needs of children deprived of a family environment;</b></p> <p><b>(g) Consider ratifying the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.</b></p> <p><b>i. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)</b></p> <p><b>Migrant, asylum-seeking and refugee children</b></p>
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		<p>61. The Committee welcomes the development of a legal and policy framework to protect asylum-seeking and refugee children in the State party. However, it is concerned at:</p> <ul style="list-style-type: none"><li>(a) the heightened risk of destitution, exploitation, violence and abuse faced by unaccompanied children;</li><li>(b) The lack of accurate and disaggregated data on migrant, asylum-seeking and refugee children, including those who are unaccompanied and/or undocumented, as well as on child victims of trafficking;</li><li>(c) The ineffective implementation of relevant laws and policies;</li><li>(d) The definition of “dependents” and “family” under the Refugees Amendment Bill (notice No. 806 of 2015), which may not fully protect the right to family unification that is provided in the Convention;</li><li>(e) The risk of deportation that is faced by migrant, asylum-seeking and refugee children due to the lack of legislation to allow permanent settlement in the State party as a durable solution;</li><li>(f) The arrests and detention of children on account of their immigration status.</li></ul> <p><b>62. With reference to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin and to the conclusion of the day of general discussion held in 2012 on the rights of all children in the context of international migration, the Committee recommends that the State party:</b></p> <ul style="list-style-type: none"><li><b>(a) Strengthen systematic and disaggregated data collection on migrant, asylumseeking and refugee children, in particular unaccompanied and/or undocumented children, as well as on child victims of human trafficking, and conduct a study on their situation as a basis for effective responses;</b></li><li><b>(b) Expedite the development and implementation of a protocol to streamline the delivery of timely child-protection services to migrant, asylum-seeking and refugee children, including services for</b><ul style="list-style-type: none"><li><b>(i) registration and issuance of identity documents;</b></li><li><b>(ii) protection from violence and abuse;</b></li><li><b>(iii) family unification or the provision of alternative care; and</b></li><li><b>(iv) access to basic services; and apply the protocol consistently throughout the State party;</b></li></ul></li><li><b>(c) Ensure that the Refugees Amendment Bill (notice No. 806 of 2015) is fully consistent with the Convention;</b></li><li><b>(d) Consider providing migrant, asylum-seeking and refugee children with an option of permanent settlement in the State party, in order to avoid the deportation of children;</b></li></ul>
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		<p><b>(e) Expeditiously and completely cease the detention of children in irregular migration situations.</b></p> <p><b>Children in street situations</b>                  69. The Committee notes as positive the development of the National Strategy for Children Living and Working on the Streets. However, it is concerned about the large number of children living and working in the streets in the State party and being highly vulnerable to violence, abuse and exploitation, and about their physical and mental ill-health and their alcohol and substance abuse. The Committee also notes with concern that many children who have entered the State party unaccompanied end up in street situations.</p> <p><b>70. The Committee recommends that the State party:</b></p> <ul style="list-style-type: none"> <li><b>(a) Assess the number of children living and/or working in the streets, and update studies on the root causes of their situations;</b></li> <li><b>(b) Implement, monitor and evaluate the National Strategy for Children Living and Working on the Streets with the active involvement of children in street situations, while respecting their autonomy and diversity;</b></li> <li><b>(c) Ensure that supports under the Strategy, particularly reintegration with family or placement in alternative care, are provided with full respect for the child’s best interests and giving due weight to their autonomous views in accordance with their age and maturity.</b></li> </ul>
<b>Country Report</b>		
<b>OPSC to CRC</b>	<b>Accession Date</b>	<b>Care-Related Concluding Observations</b>
	30 June 2003	
<b>OPAC to CRC</b>	<b>Ratification Date</b>	<b>Care-Related Concluding Observations</b>

	24 Sep 2009	
<b>ICCPR</b>	<b>Ratification Date</b>	<b>Care-Related Concluding Observations</b>
	10 Dec 1998	
<b>ICESCR</b>	<b>Ratification Date</b>	<b>Care-Related Concluding Observations</b>
	12 Jan 2015	
<b>CEDAW</b>	<b>Ratification Date</b>	<b>Care-Related Concluding Observations</b>
	15 Dec 1995	
<b>CRPD</b>	<b>Ratification Date</b>	<b>Care-Related Concluding Observations</b>
CRPD/C/ZAF/CO/1	30 Nov 2007	<p>23 October 2018</p> <p><a href="https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fZAF%2fCO%2f1&amp;Lang=en">https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fZAF%2fCO%2f1&amp;Lang=en</a></p> <p><b>III. Principal areas of concern and recommendations</b></p> <p><b>A. General principles and obligations (arts. 1–4)</b></p> <p>4. The Committee notes with concern that the concept and assessment procedures of disability in some national laws still reflect the medical model of disability, particularly in the education system and, specifically, in the guidelines on the licensing of residential and/or day-care facilities for persons with mental illness and/or severe and profound intellectual disabilities.</p>

		<p><b>5. The Committee recommends that the State party harmonize and align the concept of disability in all laws and policies to bring them into line with the human rights model of disability in the Convention. In particular, it is recommended that persons with disabilities, through their representative organizations, are involved in the design of disability assessments and that multiple assessments are eliminated, which should reduce the burden on applicants, and promote consistency and transparency in such assessments.</b></p> <p><b>B. Specific rights (arts. 5–30)</b></p> <p><b>Children with disabilities (art. 7)</b></p> <p>12. The Committee is concerned about:</p> <ul style="list-style-type: none"><li>(a) The lack of legislation to give full effect to the right to inclusive education for all children with disabilities, in line with general comment No. 4 (2016) on the right to inclusive education, and as outlined in the recommendations of the Committee on the Rights of the Child (CRC/C/ZAF/CO/2, paras. 43–45);</li><li>(b) The high number of reported cases of corporal punishment, violence, abuse, neglect and inequality involving children with disabilities, especially children with autism and children with psychosocial or intellectual disabilities, by teachers and peers. The Committee is further concerned about the reported cases of abuse of children with disabilities at schools and school hostels, with teachers allegedly being the perpetrators in most cases;</li><li>(c) The large number of children with disabilities, nearly 600,000, who are out of school or studying in specialized schools or classes, in particular children with psychosocial disabilities, and children with disabilities placed in centres for children or less regulated special service centres, all of which are based on long-term institutionalization, often located far from their families and communities, isolated and lacking properly trained staff.</li></ul> <p>13. The Committee recommends that the State party:</p> <ul style="list-style-type: none"><li>(a) <b>In line with target 16.2 of the Sustainable Development Goals, develop, adopt and implement legislation and concrete measures to ensure that children with disabilities, including children with autism, albinism or psychosocial or intellectual disabilities, are adequately protected from violence</b></li></ul>
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		<p>and abuse, including corporal punishment, and that sanctions are imposed against perpetrators; and that the Children’s Act is amended without delay to explicitly prohibit all forms of corporal punishment in all settings;</p> <p>(b) Enact legislation giving full effect to the right to inclusive education for all children with disabilities, as outlined in the recommendations of the Committee on the Rights of the Child (CRC/C/ZAF/CO/2, paras. 43–45), review the Education White Paper 6 — Special Needs Education: Building an Inclusive Education and Training System (2001) with a view to further developing a legal and policy framework for inclusive education, and the inclusion of children with disabilities into mainstream schools;</p> <p>(c) Adopt a time-bound plan of action to address the high levels of physical, sexual, verbal and emotional abuse in special education schools, including special education school hostels. This plan must include a monitoring framework and process with a comprehensive vetting procedure, including for criminal records, for all teachers and officials working with children before recruitment, and ensure that the National Register for Sex Offenders and National Child Protection Register be adequately maintained;</p> <p>(d) Develop and adopt effective implementation plans for prevention and early intervention programmes in communities to enable early identification of and support for children and adults with disabilities in family and community settings with adequate budget allocations, including training and continuous professional development of care workers and parents of children with disabilities, increased public awareness-raising programmes to understand the importance of family and community-based provisions instead of institutionalization.</p> <p><b>Liberty and security of the person (art. 14)</b></p> <p>26. The Committee notes with concern:</p> <p>(a) The intention of the Government to revise the Older Persons Act (2006) following the amendment of the Mental Health Care Act (2002) with no indication regarding time frames for these amendments.</p> <p>(b) The alarming increase in the number of admissions of persons with disabilities in mental health-care institutions, which almost doubled between 2015 and 2017;</p>
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		<p>(c) The absence of adequate measures to monitor the situation of persons with disabilities in institutions and other places of detention and the lack of training of staff regarding the right of persons with disabilities to reasonable accommodation.</p> <p><b>27. The Committee recommends that the State party:</b></p> <ul style="list-style-type: none"><li><b>(a) Guided by the Committee’s guidelines on the right to liberty and security of persons with disabilities, repeal all legislation that authorizes forced institutionalization and repeal all laws that allow for deprivation of liberty on the basis of impairment;</b></li><li><b>(b) Take effective measures for the deinstitutionalization of persons with disabilities and adopt adequate measures to ensure the rights of persons with disabilities, particularly persons with psychosocial or intellectual disabilities, deprived of their liberty in all mental health facilities;</b></li><li><b>(c) Adopt measures to revise the Older Persons Act and the Mental Health Care Act to strengthen their conformity with the Convention, including providing clear time frames for these amendments;</b></li><li><b>(d) Meaningfully involve persons with disabilities, through their representative organizations, in monitoring all places in which persons with disabilities are deprived of their liberty and provide training to mental health professionals and law enforcement and prison officials on respecting the rights of persons with disabilities in mental health facilities, prisons and detention centres.</b></li></ul> <p><b>Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)</b></p> <p>28. The Committee notes with concern:</p> <ul style="list-style-type: none"><li>(a) The high number of unregulated and unsupervised institutions housing persons with disabilities leading to disasters, such as the Esidimeni tragedy, which resulted in the death of more than 140 persons with psychosocial disabilities;</li><li>(b) The lack of concrete measures, including complaint mechanisms, to prevent abuse and cruel, inhuman or degrading treatment or punishment of persons with disabilities, including persons with psychosocial or intellectual disabilities and children with disabilities in home, school and community settings; the lack of accessible community-based services for persons with disabilities, especially women and girls with disabilities who have experienced gender-based violence;</li><li>(c) The increasing incidence of corporal punishment of children with disabilities in the State party with insufficient awareness about complaint mechanisms and support services for children with</li></ul>
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		<p>disabilities exposed to these crimes, and lack of disaggregated data on investigations, prosecutions and disciplinary sanctions against the perpetrators of torture and ill-treatment.</p> <p><b>29. The Committee recommends that the State party:</b></p> <ul style="list-style-type: none"><li><b>(a) Adopt legal provisions and concrete administrative measures to protect persons with disabilities, in particular women and girls with disabilities and persons with psychosocial or intellectual disabilities, from torture and other cruel, inhuman or degrading treatment or punishment, and adopt measures aimed at supporting victims, by providing legal advice, information in accessible formats, counselling and redress, including compensation and rehabilitation;</b></li><li><b>(b) Ensure that perpetrators of these crimes are brought to justice and punished with sanctions commensurate with their gravity, and collect data on investigations, prosecutions and disciplinary sanctions against the perpetrators of abuse and cruel, inhuman or degrading treatment or punishment of persons with disabilities, including children in home, education and community settings;</b></li><li><b>(c) Empower the South African Human Rights Commission as the national independent monitoring mechanism to monitor all institutions and settings in which persons with disabilities are deprived of their liberty, in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;</b></li><li><b>(d) Ratify the Optional Protocol to the Convention against Torture and establish a national preventive mechanism with a mandate to monitor institutions and other places of detention.</b></li></ul> <p><b>Living independently and being included in the community (art. 19)</b></p> <p>34. The Committee is concerned about the lack of a well-defined national strategic and legislative framework on deinstitutionalization and the absence of independent living community support services that provide for the inclusion of persons with disabilities, particularly for persons with psychosocial or intellectual disabilities. Furthermore, the Committee is deeply concerned that the Gauteng tragedy may discourage the continuation of the deinstitutionalization process in the State party.</p> <p><b>35. The Committee, in line with its general comment No. 5 (2017) on living independently and being included in the community, recommends that the State party:</b></p>
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		<p>(a) Develop and adopt a national strategic and legislative framework on deinstitutionalization of persons with disabilities, including all the necessary independent living community support services, and ensure that persons with disabilities are effectively included, through their representative organizations, at all stages of the deinstitutionalization process;</p> <p>(b) Step up the efforts aimed at deinstitutionalization;</p> <p>(c) Adopt an action plan at the national, regional and local levels to develop community support services in urban and rural areas, including providing personal assistance, grants and support to families of children with disabilities and parents with disabilities, covering support for assistive devices, guides and sign language interpreters.</p>
<b>UPR</b>	<b>Date of Consideration</b>	<b>Link to Page</b>
<b>Hague Intercountry Adoption</b>	<b>Ratification Date</b>	<b>Link to Country Profile</b>

**Acronyms and Abbreviations:**

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child/Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
OPAC to CRC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OPSC to CRC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

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Country Care Review:  
South Africa

UN United Nations  
UPR Universal Periodic Review