



Republic of South Africa

Joint Submission to the UN Universal Periodic Review – Consolidated Version

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CIVICUS: World Alliance for Citizen Participation

CIVICUS UPR Lead, Teldah Mawarire

Email: teldah.mawarire@civicus.org

Ms Renate Bloem, Email:
renate.bloem@civicus.org

Human Rights Institute of South Africa

HURISA UPR Lead, Email:

info@hurisa.org.za

Ms. Corlett Letlojane
corlett@hurisa.com

1. (A) Introduction

- 1.1** In this consolidated document,¹ CIVICUS and HURISA examine the Government of South Africa's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse South Africa's fulfillment of the rights to freedom of association, peaceful assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2012. To this end, we assess South Africa's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.2** During the 2nd UPR cycle, the Government of South Africa received 151 recommendations of which 13 related to the above-mentioned freedoms/ civic space. Of these recommendations, 1 was accepted and 12 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent

¹ TO READ THE FULL SUBMISSION PLEASE SEE HERE:

<http://www.civicus.org/images/CIVICUS%20HURISA%20UPR%20Submission%20South%20Africa.pdf>

sections of this submission demonstrate that the Government of South Africa has only partially implemented these recommendations. However, acute implementation gaps were found with regard to the right to freedom of the media, protection of human rights defenders and freedom of peaceful assembly.

- 1.3** CIVICUS and HURISA are particularly concerned by the harassment of peaceful protestors and demonstrators by state security agents which impedes the right to freedom of peaceful assembly and the failure to sufficiently amend or repeal restrictive legislation limiting freedom of information.

2. (B) Freedom of association

- 2.1** During its examination under the 2nd UPR cycle, the Government of South Africa received 2 recommendations on the right to freedom of association and creating an enabling environment for civil society organisations (CSOs) including ratification of the International Covenant on Economic, Social and Cultural Rights and International Labour Organisation (ILO) Convention 189. While both of these recommendations have been accepted and implemented, as evidenced below, the government has failed to take adequate measures to fully realise the right to freedom of association.

2.2 Recommendations

- Take measures to foster a safe and enabling environment for civil society, including through removing legal measures, which unwarrantedly limit the right to association specifically the NPO Act by setting up offices to assist rural CSOs to register, enabling application forms to be found in all local languages and improving understanding of the registration process.
- Involve civil society in the discussions on amending the NPO Act.

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists

- 3.1** During South Africa's previous UPR examination, the government did not receive any recommendations specifically addressing restrictions on human rights defenders. However as examined in this section, the government has continued to intimidate and persecute human rights defenders and civil society activists for exercising their legitimate rights. Despite constitutional and international protections, human rights defenders, especially those working on sensitive land and housing rights issues, continue to face severe intimidation and harassment, including assassination.

3.2 Recommendations

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work.
- Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.
- The government should end reprisals of human rights defenders and whistleblowing officials for exposing impunity, gross human rights violations and stop summary dismissals, arbitrary suspensions, transfers.

4. (D) Freedom of expression, independence of the media and access to information

4.1 Under the 2nd UPR cycle, the government received 11 recommendations relating to freedom of expression and access to information. Of the recommendations received, all 11 were noted. As discussed below, the government partially implemented two of these recommendations and not did implement 9 others, which specifically address shortcomings found in the Protection of State Information Bill.

4.2 Recommendations

- Ensure freedom of expression and media freedom by bringing all national legislation into line with international standards, including application of the Model Law on Access to Information for Africa adopted by the African Commission.
- Ensure that journalists and writers, especially at the state broadcaster the South African Broadcasting Corporation, can work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Amend the State Information Bill to remove unwarranted restrictions on freedom of expression, including unwarranted persecution of whistle-blowers.

5. (E) Freedom of peaceful assembly

5.1 Article 21 of the ICCPR guarantees the right to freedom of peaceful assembly. In addition, Article 17 of the South African Constitution also guarantees the right to freedom of assembly. During South Africa's previous UPR examination, the government did not receive any recommendations specifically addressing

restrictions on the right to peaceful assembly. However, as examined below, in both policy and practice, including through the maintenance of restrictive legislation and the excessive use of force by security personnel, this right remains severely undermined.

5.2 Recommendations

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which call for simple notification rather than explicit permission to assemble.
- In order to fully guarantee the right to freedom of assembly, the Gatherings Act should be understood by local authorities as a notification requirement and not an authorisation process.
- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated with a view to bring perpetrators to book.