

We are concerned by the threats, intimidation and attacks against HRDs, in particular women HRDs (WHRDs) and those defending land and environmental rights, housing rights and whistleblowers. The continued use of excessive force by security forces in response to protests is another cause for concern. Additionally, there are restrictions in the legislative framework which undermine freedom of expression.

KEY CONCERNS



FREEDOM OF PEACEFUL ASSEMBLY

Although freedom of peaceful assembly is guaranteed in SA's Constitution, this right is in practice undermined by legal restrictions, misinterpretation and misapplication of the law and the use of excessive force by police officers.

The Regulation of Gatherings Act (205 of 1993) is at times misinterpreted and misapplied by municipal authorities and police officers, leading to arbitrary prohibitions and violations of the constitutional right to protest.

There have been instances of arbitrary arrests of peaceful protesters. For example, on 4 September 2019, eleven protesters against gender-based violence were arrested, held in police custody for 11 hours and charged with obstruction and hindering of police officers.

There are numerous examples of the use of excessive force during protests by members of the police, including the use of rubber bullets and teargas. For example, bystander Mthokozisi Ntumba was killed on 10 March 2021 during a student protest.



FREEDOM OF EXPRESSION

Freedom of expression in South Africa is undermined by restrictions in the legal framework, cases of physical attacks, harassment, intimidation and threats against journalists, by state and non-state actors.

The Protection of State Information Bill, known as the 'Secrecy Bill' proposes to criminalise the leaking, possession and 'receiving of classified state information with prison sentences up to 25 years.

There are also concerns from civil society on the prevention and combating of Hate Crimes and Hate Speech Bill as it lacks a definition of racism and criminalises speech as opposed to racially driven acts.

The Regulation of Interception of Communications and Provision of Communication - Related Communication Act (RICA) has in the past been misused by authorities to spy on journalists. The High Court declared RICA in 2021 as unconstitutional.



FREEDOM OF ASSOCIATION

Key obstacles faced by CSOs in their legal establishment include bureaucratic inefficiencies, the centralisation of the registration process in the capital, Pretoria, and delays in the arrival of the registration certificate.

Although the 2021 Non-Profit Organisation Amendment Bill contains several progressive changes, concerns exist around the compulsory registration of foreign CSOs, as this might be used to control international funding of CSOs critical of authorities.

In May 2019, the offices of housing and land rights grassroots organisation Abahlali baseMjondolo were broken into. Unknown perpetrators stole an external drive and the internal drive of two computers, drawing suspicion that the break-in was a targeted attack.

THE PATTERN OF VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS INCLUDE



Intimidation and attacks on HRDs' lives, integrity and personal security, which resulted in the killing of several HRDs, including Mama Fikile Ntshangase in October 2022



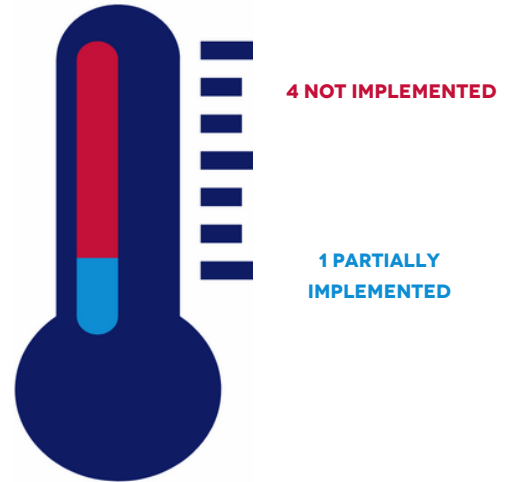
The use of Strategic Lawsuits against Public Participation by companies to silence environmental rights defenders.



HRDs, in particular women HRDs, working on environmental, land and housing rights, LGBTQI+ and anti-corruption activists, including whistleblowers, have been targeted.

PREVIOUS UNIVERSAL PERIODIC REVIEW PROCESS

Recommendations related to the space for civil society in 2017:



RECOMMENDATIONS

- 1 Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- 2 Implement UN General Assembly resolution A/RES/74/146 by ensuring a safe and enabling environment for HRDs and by strengthening the protection of WHRDs.
- 3 Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect HRDs, including by adopting a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.
- 4 Bring all national legislation into line with international standards, including by reviewing the Film and Publications Act and the Prevention and Combating of Hate Crimes and Hate Speech Bill and amend the State Information Bill to remove unwarranted restrictions on the freedom of expression, including unwarranted persecution of whistleblowers.
- 5 Unconditionally and immediately release all protesters and HRDs arbitrarily detained for exercising their right to the freedom of peaceful assembly and review their cases to prevent further harassment.
- 6 Review and update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.