

SOUTH AFRICA'S RESPONSIBILITIES IN RELATION TO UN TREATY REPORTING

**Presentation by Ms N Malefane
Director: Vulnerable Groups**



**international relations
& cooperation**

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

South African obligations within the UN Human Rights Treaty System

- The advent of Constitutional democracy in South Africa in 1994 led to the country's readmission into the community of nations.
- The implications of such readmission entailed, amongst others, the signing and ratification of UN Human Rights Treaties/Instruments.
- Concomitant with ratification are duties and responsibilities to comply with Treaty Obligations



CONSTITUTIONAL MANDATE

- The Constitution of the Republic of South Africa (1996) entrusts the President with ultimate responsibility to conduct South Africa's Foreign Policy. The Presidency is the locus of the South African Foreign Policy Priorities.
- The Minister of International Relations and Cooperation (DIRCO), assumes overall responsibility for all aspects of South Africa's foreign policy (coordination of its formulation and effective implementation) in consultation with the President.
- **This includes international agreements concluded in terms of sections 231(2) and 231(3) of the Constitution.**



ROLE OF PARLIAMENT

- International agreements falling within the ambit of Section 231(2) require parliamentary approval before they can bind the Republic. These are those that have financial and/or legislative implications; require ratification or accession and those that have political significance.
- International agreement binds the Republic after it has been approved by resolution in both the National Assembly and the National Council of Provinces unless it is an international agreement referred to in subsection(3).
- International agreement becomes law in the Republic when it is enacted into law by national legislation.



Process of ratification for international treaties

- Agreements that require ratification or accession falls within the ambit of section 231(2) of the Constitution of the Republic of South Africa of 1996.
 - The approval of the National Executive (President and Cabinet Ministers) is always required.
 - Parliament must approve that South Africa ratify or accede to the agreements.
- International agreements within the ambit of section 231(3) do not require parliamentary approval but they require tabling in Parliament after signature.



Tabling the Agreement in Parliament

- The letter requesting tabling should be addressed to the Speaker of the NA and Chairperson of the NCOP, must be signed and dated by the responsible Minister & must clearly indicate that the tabling is done in terms of section 231(2) of the Constitution
- An explanatory Memo (set out history, objectives and implications of agreement) and a draft resolution must accompany the tabling of an international agreement that has to be approved by Parliament;
- The agreement is considered by the relevant portfolio committees of both houses of parliament whose reports on their decisions and the reports will be printed in the Announcements, Tablings and Committee Reports;
- The reports of the committees are considered by the NA and NCOP sitting separately and both the NA and the NCOP must adopt the reports. This approval is printed in the Minutes of Proceedings.



South African Treaty obligations

- Compilation of quality National Reports to the relevant UN Treaty Monitoring Bodies. Implementation of the Concluding Observations following presentation of the Reports to the relevant Treaty Committees
- Compilation process to cover the width and breadth of the country in an inclusive and consultative manner.
- Contents of the Reports must focus on actual implementation of the provisions of the relevant Treaties.
- Contents of the Report must also address the existing protection gaps and a vision for the filling of such gaps.
- Support to the work of the Treaty Committees by responding positively to requests for information and visits by Treaty Committees.



international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

TREATY OBLIGATIONS FOR CHILD RIGHTS

South Africa has an obligation to submit progress reports on the realization of children's rights and wellbeing to both the United Nations Committee on the Rights of the Child, and the African Committee of Experts on the Rights and Welfare of the Child.

UN Convention on the Rights of the Child: ratified on 16 June 1995.

The initial report was due on 15 July 1997, and submitted on 4 Dec 1997. South Africa submitted its second periodic report on the UNCRC in September 2016. The Concluding Observations were received in November 2016. The next 3rd - 6th periodic report was due on 15 January 2022 but has been extended by the Committee to June 2022.



international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

TREATY OBLIGATIONS FOR CHILD RIGHTS contd.

The Optional Protocol on the Sale of Children Child Prostitution and Child Pornography: ratified on 30 June 2003.

The initial report was due on 30 July 2005, but was only submitted on 26 November 2014. The concluding observations were received on 26 October 2016. The next report is due on 15 January 2022.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: ratified on 24 September 2009. The initial report was due on 25 October 2011. South Africa has not submitted a report in this regard as we do not have any armed conflict in the country.

The Third Optional Protocol to the CRC on a Communications Procedure: South Africa has not yet ratified this protocol, however, following legal opinions received from DOJ&CD and DIRCO, government should accede to this protocol. DSD to lead this process.



international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

CHALLENGES IN RELATION TO SOUTH AFRICA'S COUNTRY REPORTS AND TREATY REPORTING

- Reports not addressing the protection and implementation gaps.
- Lack of available data that specifically demonstrates the status of child rights in the country.
- Line function departments reverting all child rights issues to the Department of Social Development instead of realising that the issues are cross-cutting.
- Limited resources in the Office of the Rights of the Child to effectively coordinate a government-wide response.





international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA