



**Joint Stakeholder Submission to the Working Group of the  
Universal Periodic Review on the Right to Adequate Standard of  
Living in South Africa (March 2022)**

*SUBMITTED BY:*

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<sup>1</sup> This UPR report was prepared with support from Elim Shanko and Hussienatou Manjang



## 1. Introduction

The Social Policy Initiative (SPI) is a not for profit research institute based in Johannesburg, South Africa. SPI is a feminist institute by formal resolution. Incorporated in 2006 as the Studies in Poverty and Inequality Institute (SPII), in 2020 it reincorporated as the Social Policy Initiative (SPI). The new SPI will continue to work on the Decent Standard of Living (DSL) measure with Department of Social Development (DSD) and United Nations Children's Fund (UNICEF) and as well as continue working on social security policy and advocacy on the universal basic income (UBIG).

SPI works at globally, regionally, and nationally on human rights research and training. Nationally, SPI is a leading participant at the National Economic Development and Labour Council (NEDLAC) where all socio-economic policy is negotiated as part of South Africa's commitment to social dialogue. At the international level, SPI has submitted a report before the United Nations Committee on Economic, Social and Cultural Rights (UN CESCR). Since 2010, SPI has used its Socio-Economic Rights Monitoring Tool (SERMT) to measure the progressive realisation of socio-economic rights in South Africa.

The Centre for Human Rights (CHR), University of Pretoria (The Centre) is an internationally recognised university-based institution combining academic excellence and effective activism to advance human rights, particularly in Africa. The Centre aims to contribute to advancing human rights, particularly in Africa, through education, research and advocacy. Focus areas include freedom of expression and access to information, business and human rights, children's rights, disability rights, women's rights, litigation and implementation, Sexual Orientation, Gender Identity and Expression, and Sex Characteristics and Freedom from Violence. At the international level, the Centre has observer status with the Economic and Social Council and has made presentations during different sessions of the Human Rights Council. The Centre has also made representations before the Human Rights Committee. At the regional level, the Centre has observer's status with the African Commission on Human and Peoples' Rights (ACHPR) and has made presentations before the African Commission, the



African Committee on the Rights and Welfare of the Child (ACRWC) and the African Court on Human and Peoples' Rights (The Court).

This joint submission is the first report to be submitted by SPI and CHR to the Universal Periodic Review (UPR).

### **1.1 Methodology**

This submission is based on the report submitted by SPI to the United Nation's Committee on Economic, Social and Cultural Rights (UN CESCR) on the implementation of UN CESCR's recommendation to South Africa on the necessity of adopting a composite index on the cost of living. This submission reflects the agreed position of SPI and CHR on the development of a composite index on the cost of an adequate standard of living by South Africa.

### **2. National context of UPR-Right to an adequate standard of living**

During its 3<sup>rd</sup> cycle of review in May 2017, South Africa received 267 recommendations from the UPR Working Group. Three of the recommendations addressed the right to an adequate standard of living:

***139.130 Continue to promote sustainable economic and social development, eradicate poverty and improve people's living standards (China);***

***139.138 Strengthen its policy and programmatic measures aimed at addressing the big challenges of inequality, poverty and unemployment (Zimbabwe);***

***139.159 Continue taking measures aimed at eliminating historical injustices and inequalities in all sectors, especially in the health and education sectors, in order to improve the living standards of all its people (Namibia);***

The above recommendations on adequate standard of living were supported by South Africa.

In responding to South Africa's initial report on its implementation of the International Covenant on Economic Social and Cultural Rights (ICESCR), the UN CESCR adopted the



following concluding observation - with specific focus on South Africa's need to design and regularly update a composite index on the cost of living: ***“There is no composite index on the cost of living that provides the State party with a benchmark to adequately set the levels of social benefits consistent with the requirement to ensure an adequate standard of living for all.”***<sup>2</sup> The UN CESCR thereafter recommended that South Africa should: ***“Design and regularly update a composite index on the cost of living”***<sup>3</sup>

### 3. Analysis of implementation of recommendations

#### 3.1 Scope of international obligation

South Africa ratified the ICESCR in January 2015. By being a state party to the ICESCR, South Africa has committed to enforcing the provisions of the ICESCR. In relation to the standard of living, it is imperative for South Africa to adhere to Article 2 of ICESCR which stipulates the requirement of states to use the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the ICESCR. Article 11 of the ICESCR outlines the right to an adequate standard of living. Currently, South Africa does not have measures in place which fulfil the requirements of Article 2 and Article 11.

#### 3.2 Constitutional and legislative framework

The 1996 South African Constitution ensures the protection of fundamental rights and freedom, including the right to dignity as stipulated under section 10. Dignity is understood through having access to a decent life and can be interpreted as a factor in attaining an adequate standard of living. However, the Constitution does not make mention of a right to an adequate standard of living as stipulated in the ICESCR. Furthermore, the preamble of the Constitution also mandates South Africa to establish a society based on human dignity and substantive equality. In its initial report to the UN CESCR, South Africa outlines that the consumer price index (CPI) is used as a benchmark to measure a minimum standard of living.

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<sup>2</sup> UN CESCR, Concluding observations on the initial report of South Africa (12 October 2018) UN Doc No. E/C.12/2018/SR.42, 43 and 44), (E/C.12/ZAF/1) para. 47 (a), available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=162](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=162)

<sup>3</sup> UN CESCR, Concluding observations on the initial report of South Africa (12 October 2018) UN Doc No. E/C.12/2018/SR.42, 43 and 44), (E/C.12/ZAF/1) para. 48 (a), available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=162](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=En&CountryID=162)



### 3.3 Implementation of recommendation

In the follow-up to the concluding observations of the UN CESCR, South Africa outlined that the CPI serves as the composite index on the cost of living and functions as a benchmark to adequately set the levels of social benefits and salaries consistent with the requirement to ensure an adequate standard of living for all.<sup>4</sup> In the examination of South Africa's follow-up report (E/C.12/ZAF/FCO/1) received in May 2021 under its follow-up procedure, the UN CESCR in its assessment of the report stated that insufficient progress had been made on the preparation of a composite index on the cost of living.<sup>5</sup> The UN CESCR requested "the State party to provide, in its next periodic report, detailed information on further measures taken to implement this recommendation."<sup>6</sup>

The CPI as defined by South Africa is a current social and economic indicator that measures the general changes of prices over time of consumer goods and services that households acquire, use, or pay for. The CPI's purpose is to measure the change in consumer prices over time and how that impacts on the cost of living.<sup>7</sup> This is done by calculating the cost of acquiring a fixed basket of consumer goods and services of constant quality and similar characteristics. The products in the basket are selected as being representative of households' expenditure during a year or other identified periods. Two criteria are used to decide what goes into the CPI basket – the number of households purchasing the item and

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<sup>4</sup> Statistics South Africa (STATS SA): Consumer Price Index, The South African CPI Sources and Methods Manual. Para Available at:[http://www.statssa.gov.za/cpi/documents/The\\_South\\_African\\_CPI\\_sources\\_and\\_methods\\_26Feb13.pdf](http://www.statssa.gov.za/cpi/documents/The_South_African_CPI_sources_and_methods_26Feb13.pdf)

In the previous years, Stats SA has run two versions of a Household Expenditure Survey, the Income and Expenditure Survey (IES) and Living Conditions Survey (LCS). The primary objective of both the IES and LCS is to provide information on households' consumption expenditure patterns. However, the LCS also provides estimates for monitoring poverty levels. Successive IES gauge changes in household consumption patterns, levels of income and income distribution.

<sup>5</sup> UN CESCR, Assessment by CESCR in respect of South Africa (10 November 2021) UN Doc No. 2021-104/CESCR/FU, available at:[https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT\\_CESCR\\_FUL\\_ZAF\\_47179\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT_CESCR_FUL_ZAF_47179_E.pdf)

<sup>6</sup> UN CESCR, Assessment by CESCR in respect of South Africa (10 November 2021) UN Doc No. 2021-104/CESCR/FU, available at:[https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT\\_CESCR\\_FUL\\_ZAF\\_47179\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZAF/INT_CESCR_FUL_ZAF_47179_E.pdf)

<sup>7</sup> Ibid p.8



total expenditure on the item. The weighted sum of changes in the price of specific products and services in the CPI provides the rate of inflation. As a result, the inflation rate is based on the estimated total expenditure of all South African households.

South Africa stated that the CPI serves as an instrument to inform economists and public policy makers' decisions in matters such as adjusting social grants, child care, and various monetary policy.<sup>8</sup> However, the CPI cannot be used as an instrument to measure adequate standard of living as it is a measure of change, not substance. Thus, it falls short of measuring what a decent standard of living means. To meet its obligations as set out in the ICESCR, it is imperative that South Africa designs and restructures the way in which it measures the cost of living. The use of the CPI cannot possibly adequately and accurately measure what an adequate or decent standard of living in South Africa is, as it stands.

There is no evidence that South Africa has taken the UNCESCR recommendations on board with regards to *“designing and updating a composite index on the cost of living that provides the state with a benchmark to adequately set the levels of social benefits consistent with the requirement to ensure an adequate standard of living.”* As the CPI merely functions as a reference to increases in prices of goods and services, not what the goods and services are themselves, that is the very reason why the CPI cannot be the standard demanded by the UN CESCR.

In a bid to create a people-centred measure of cost of living that corresponded with the constitutional right to dignity, SPI, The Labour Research Service (LRS), and the Southern African Social Policy Research Institute (SASPRI) through a collaborative research project created a measure for a Decent Standard of Living (DSL) as well as a Decent Standard of Living Index (DSLII).<sup>9</sup> The development of the DSL methodology was supported by a grant from South Africa's Department of Social Development (DSD). The DSL provides a people driven

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<sup>8</sup> Boskin, Michael & Dulberger, Ellen & Gordon, Robert & Griliches, Zvi & Jorgenson, Dale. (1998). Consumer Prices, the Consumer Price Index, and the Cost of Living. *Journal of Economic Perspectives*. 12. 3-26. 10.1257/jep.12.1.3.

<sup>9</sup> I. Frye, G. Wright et al (2018) Towards a Decent Life for All: Decent Standard of Living Index- Final Report. Available at <http://spii.org.za/wp-content/uploads/2018/11/DSL-Report-SD-v3.doc.pdf>





approach based on proxy indicators identified by ordinary people as being important to them to live a life of decency in South Africa. The methodology used outlines a set of indicators known as Socially Perceived Necessities (SPNs). An item is only considered to be an SPN once it has passed majority consensus in two additional rounds of verification. The SPNs are used to identify a threshold of adequacy, rather than a long list of necessities. Such an approach moves away from establishing the quality and quantity of a finite basket of goods and services. It combines a subjective study of people's perceptions of necessities (SPNs) with a quantitative analysis of levels of access to the SPNs using survey data, which also allows for the monetarisation of the median income of people who have access to all of the SPNs.

The DSL was developed to provide an alternative to the survivalist poverty measures used by Statistics South Africa's (StatsSA) namely the Food Poverty Line (FPL) and the Lower and Upper Bound Poverty Lines (LBPL/UBPL). Examples would be: does one have mains electricity in the house, a flush toilet and a fridge? Do you have tarred roads close to the house and street lighting? Do you live in a neighbourhood without rubbish in the streets? etc.

There is a high level of agreement around a set of indicators - SPNs across various population groups, gender, income brackets, and area type. So much so that the SPNs have been incorporated into Stats SA's Living Conditions Survey (LCS) 2008/09 and LCS 2014/15<sup>10</sup> to measure enjoyment of the SPNs across South Africa.<sup>11</sup>

The DSL also provides an ability for policy makers to understand different ways people acquire SPNs. The SPNs are grouped into three broad categories of acquisition namely, social networks, social wage, and through commodities.<sup>12</sup>

The DSL goes beyond existing survivalist poverty indicators by comprehensively addressing living conditions and the means for citizens to actively participate in society. It should be

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<sup>10</sup>Men, Women and Children: Findings of the Living Conditions Survey, 2015 (March 2018) (see explanatory notes p.52), available at: <http://www.statssa.gov.za/publications/Report-03-10-02%20/Report-03-10-02%202015.pdf>

<sup>11</sup> I. Frye, G. Wright et al (2018) Towards a Decent Life for All: Decent Standard of Living Index- Final Report. p.6

<sup>12</sup> I. Frye, G. Wright et al (2018) Towards a Decent Life for All: Decent Standard of Living Index- Final Report. P.12



adopted by the South Africa government.<sup>13</sup> The requirements of the ICESCR would be comprehensively met in the use of this standard and the DSLI that has been created to provide the annual increase using the weighted budgets.

The DSL is already referenced by the DSD in its annual setting of social grant increases and is also referenced in the recently published Green Paper on Comprehensive Social Security and Retirement Reform in the setting of a possible Basic Income Grant. It is also currently being considered by the National Minimum Wage Commission (NMWC) as constituting an aspirational standard for future wage increases.

#### **4. Recommendations**

- South Africa should commit to adopting a new composite index consistent with the recommendation of the UN CESCR that allows it to measure progress in moving all people to an adequate or decent standard of living as contained in the ICESCR.
- To do so, South Africa should adopt the Decent Standard of Living already developed with support by the Department of Social Development and with discussions with Statistics South Africa. Annual uptakes should be calculated for cost of living through the Decent Standard of Living Index (DSL).
- In addition to annual inflation refresh, this standard should be updated through primary field work every five years.
- Each year South Africa should publish the progress made in moving people towards meeting the DSL.

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<sup>13</sup> Rao, N.D., Min, J. Decent Living Standards: Material Prerequisites for Human Wellbeing. Soc Indic Res 138, 227 (2018). <https://doi.org/10.1007/s11205-017-1650-0>