



# SPII'S CONTRIBUTION

**SUBMISSION TO UN CESCR ON SOUTH AFRICA'S  
IMPLEMENTATION OF UN CESCR RECOMMENDATIONS –  
COMPOSITE INDEX ON THE COST OF LIVING**

## Context:

1. The Republic of South Africa signed the United Nations International Covenant on Economic, Social, and Cultural Rights (ICESCR) in October 1994. However, South Africa only ratified the ICESCR in January 2015. In line with its obligations under articles 16 and 17 of the ICESCR the South African government submitted its initial report to the United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR) in April 2017.
2. The UN CESCR Committee published its recommendations in November 2018 on South Africa's initial report on its implementation of provisions outlined in the ICESCR and made various recommendations. This section of the report focuses on recommendation 47(a), in which the UN CESCR stated that “*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>1</sup> The right to an adequate standard of living – which includes food, clothing and housing, and “continuous improvement of living conditions” is enshrined in ICESCR in Article 11.
3. The South African Constitution (1996) is one of the few Constitutions in the world that contains a wide range of justiciable socio- economic rights. However, it does not contain a provision which outlines the right to an adequate standard of living. The right to dignity (section 10) of the constitution requires that everyone has access to a decent life, and in reading the spirit of the Bill of Rights in the Constitution, it is understood that all socio-economic rights impact a person's overall standard of living,<sup>2</sup> and through the progressive realisation of these rights, the state will discharge its obligation to “respect, protect, promote and fulfil<sup>3</sup>” the socio- economic rights within its available resources.
4. Moreover, the Preamble of the Constitution imposes an obligation on the state to heal the injustices of the past as well as establish a society based on human dignity and substantive equality “*Ubuntu*”.<sup>4</sup> Notably the Constitutional Court stressed that the

---

<sup>1</sup> UN CESCR, Concluding observations on the initial report of South Africa (November 2018), UN Doc No. E/C.12/ZAF/CO/1, para. 47, available at; <https://undocs.org/en/E/C.12/ZAF/CO/1>

<sup>2</sup> The Constitution of the Republic of South Africa, Act No. 108 of 1996, (SA Constitution), chapter 2, available at: <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>.

<sup>3</sup> Section 7(2) of the Constitution of the Republic of South Africa.

<sup>4</sup> See for example the Con Court's decision in *Mahlangu v Minister of Labour*: <http://www.saflii.org/cgi-bin/sinosrch-adw.cgi?query=Mahlangu+v+Minister+of+Labour&submit=Search>. Also see *In Tshwane City v Afriforum* [2016] ZACC 19; 2016 (6) SA 279 (CC); 2016 (9) BCLR 1133 (CC) at para 8 this Court remarked on this obligation as follows: “As a people who were not only acutely divided but were also at war with themselves primarily on the basis of race, one of several self-imposed obligations is healing the divisions of the past. The effects of the system of racial, ethnic and tribal stratification of the past must thus be destroyed and buried permanently. But the healing process will not even begin until we all make an effort to connect with the profound benefits of change. We also need to take steps to breathe life into the underlying philosophy and constitutional vision we have crafted for our collective good and for the good of posterity.”

principles in the Preamble impose a constitutional obligation to eradicate all systems of subordination and oppression inherited from South Africa's colonial and apartheid past. Taken together the Constitution envisages a society in which the racialised and gendered poverty inherited from the past will be done away with and an adequate share of wealth and resources is accorded to all South Africans.<sup>5</sup>

5. Article 2 of the ICESCR states that a state should use “the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” This provides a higher standard on the South African state in terms of resourcing the realisation of economic and social rights, and in its concluding observations the Committee also found that the government was failing to meet this obligation in full.
6. In the States Report,<sup>6</sup> South Africa stated that in the National Development Plan (NDP) 2030, income through employment or social security, is critical to defining living standards:<sup>7</sup> “The NDP makes a firm commitment to achieving a minimum standard of living which can be progressively realised through a multi-pronged strategy.”<sup>8</sup>
7. However, the NDP does not clearly define a minimum standard of living. The NDP outlines an action point to “develop proposals for an acceptable minimum standard of living and proposals on how to achieve this over time.”<sup>9</sup> Yet, nothing has been done to develop a composite index on what constitutes an acceptable minimum standard of living. The SA Government has instead continued to rely on the consumer price index (CPI).

### **Key issues raised by the UN ICESCR regarding right to an adequate standard of living:**

---

<sup>5</sup> and See also Victor AJ's elaboration on substantive equality and ubuntu in her concurring judgment in King N.O. v De Jager: <http://www.saflii.org/cgi-bin/displ.pl?file=za/cases/ZACC/2021/4.html&query=King>.

<sup>6</sup> Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, Initial reports of States parties due in 2017: South Africa (April 2017), UN Doc E/C.12/ZAF/1. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2f1&Lang=en).

<sup>7</sup> UN CESCR, *Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: Initial reports of States parties due in 2017: South Africa* (7 June 2017), UN Doc No. E/C.12/ZAF/1, para. 96, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fZAF%2f1&Lang=en).

<sup>8</sup> National Development Plan 2030: Our future make it work (19 February 2013), pg 38, available at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/ndp-2030-our-future-make-it-workr.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf)

<sup>9</sup> National Development Plan 2030: Our future make it work (19 February 2013), pg 64, available at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/ndp-2030-our-future-make-it-workr.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf)

1. In responding to South Africa's initial report on its implementation of the ICESCR the UN CESCR adopted the following concluding observation on social security- with specific focus on the state's need to design and regularly update a composite index on the cost of living.
2. The Committee noted in para 47 (a):

*“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>10</sup>*

3. The Committee thereafter recommended in para 48 (a) that the State Party:

*“Design and regularly update a composite index on the cost of living”*

### **South Africa government follow-up to the concluding observations**

4. In response, the SA Government outlined that the consumer price index (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>11</sup>
5. The CPI as defined by the SA Government 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>12</sup>
6. 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 total expenditure on the item. The weighted sum of changes in the price of specific products and services in the CPI

---

<sup>10</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>11</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>12</sup> Ibid p.8

provides the rate of inflation. As a result, the inflation rate is based on the estimated total expenditure of all South African households.

7. The SA Government 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>13</sup>
8. 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.
9. To meet its obligations set out in the ICESCR, it is imperative that the government 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.

#### **General framework for adequate standard of living in South Africa:**

10. Moreover, there is no evidence that the South African government has taken the UN CESCR 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.
11. In a bid to create a people centred measure of cost of living. Studies in Inequality and Poverty Institute (SPII), 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>14</sup> This work was begun in 2012.
12. The development of the DSL methodology and the first population of the standard was funded by the National Department of Social Development (DSD). The DSL provides a people driven 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 (SPN). The SPNs are used to identify a **threshold of adequacy**, rather than a long list of necessities.

---

<sup>13</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>14</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>

Such an approach moves away from establishing the quality and quantity of a finite basket of goods and services.

13. The DSL aims to move away from survivalist poverty measures used by Statistics South Africa's (StatsSA): the Food Poverty Line and the Lower and Upper Bound Poverty Lines. The DSL presents human centred values by looking at different ways people acquire SPNs. The SPNs are grouped into three broad categories of acquisition namely, social networks, social wage, and through commodities.<sup>15</sup> 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.
14. 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>16</sup> to measure enjoyment of the SPNs across South Africa.<sup>17</sup>
15. 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 adopted by the South Africa government.<sup>18</sup> The requirements of the CESCRR would be comprehensively met in the use of this standard and the Index that has been created to provide the annual increase using the weighted budgets.

### **Recommendations:**

- CPI fails to provide any kind of budget reference for an adequate standard of living. It is merely a measure of price movement in any given time period. Whereas the DSL is already referenced by the Department of Social Development (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<sup>19</sup>. It is also currently being considered by the National Minimum Wage Commission as constituting an aspirational standard for future wage increases.

---

<sup>15</sup> I. Frye, G. Wright et al (2018) Towards a Decent Life for All: Decent Standard of Living Index- Final Report. P.12

<sup>16</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%20Report-03-10-02%202015.pdf>

<sup>17</sup> I. Frye, G. Wright et al (2018) Towards a Decent Life for All: Decent Standard of Living Index- Final Report. p.6

<sup>18</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>

<sup>19</sup> Green Paper on Comprehensive Social Security and retirement Reform, page 54.

We recommend that South Africa formally adopt the Decent Standard of Living, and the use of the DSL Index to provide an annual increase to the Standard of living for all its citizens.

- We would also recommend that South Africa undertake a sufficiently participatory process via community-based groups and direct engagement with those who have the least access to social services in having a say in the design of a new composite index. Such participation will allow the index to reflect the lived experiences of marginalised groups such as LGBTQ+ individuals, woman, people with disabilities etc.