GLOBAL
PLURALISM
MONITOR

SOUTH AFRICA

Global Pluralism Monitor: South Africa
by Global Centre for Pluralism

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ABOUT THE SERIES

This report was developed using the Global Pluralism Monitor Assessment Framework. The Global Pluralism Monitor's country assessments are conducted by a team of experts on diversity issues who are either country nationals or have significant experience in the country.

The scores presented in this report should not be interpreted as part of a universal scale or ranking system that applies to all countries in the same way. Instead, scores should be understood as a context-specific indication of the country's progress toward (or away from) a pluralistic ideal. For example, a post-conflict society that still experiences violence – but comparatively less than at the height of conflict – might have a similar score to a society that has been peaceful but has recently experienced a surge in hate crimes. The Global Pluralism Monitor aims to assess countries on their own terms to reflect the highly contextual nature of pluralism: there is no single route to success that all societies must follow.

For more information on the Monitor and its methodology, visit our website at pluralism.ca/monitor.

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ABOUT THE GLOBAL PLURALISM MONITOR

What is pluralism?

Diversity in society is a universal fact; how societies respond to diversity is a choice. Pluralism is a positive response to diversity. Pluralism involves taking decisions and actions, as individuals and societies, which are grounded in respect for diversity.

MEASURING INCLUSION AND EXCLUSION IN DIVERSE SOCIETIES

Living and engaging with differences in society is a challenge all societies face. As inequality, marginalization and divisions rise, building peaceful and inclusive societies is ever more urgent.

Vulnerable groups, including religious and ethno-cultural minorities, Indigenous groups, and women and girls, face ongoing political, economic and social exclusion. To foster more just, peaceful and prosperous societies, these exclusions must be addressed. To take meaningful action, policy makers and practitioners need a holistic understanding of these issues.

Launched by the Global Centre for Pluralism, the Global Pluralism Monitor is a measurement tool that assesses the state of pluralism in countries around the world. Across political, economic, social and cultural domains, the Monitor informs decision-making to address root causes of exclusion and improve the prospects for pluralism.

Enhances existing efforts by governments, civil society and the private sector

The Monitor enables:

- Gap analysis: to assess the state of pluralism in societies and identify areas in which intervention is needed to address exclusion;
- Trends analysis: to track a country's trajectory over time, either towards greater inclusion or exclusion;
- Intersectional analysis: to assess the treatment of women in societies, accounting for intra-group dynamics of inclusion and exclusion;
- Conflict prevention: to identify signs of exclusion and marginalization before crisis becomes imminent;
- Good practices: to identify initiatives that are having a positive impact that could be further developed, or serve as lessons for other contexts.

Approach rooted in both institutional and cultural responses to diversity

The Centre's approach to pluralism focuses on institutions (hardware), cultural processes (software) and the complex interactions between the two. Institutional arrangements – such as constitutions, legislatures, courts, and systems of government – outline the legal and political spaces within which members of societies act. Cultural habits or mindsets shape our perceptions of *who belongs* and *who contributes*, and influence how we interact with one another every day.

The Monitor Assessment Framework is rooted in the interplay between institutional and cultural responses, and measures inclusions and exclusions across political, economic and social dimensions. Its 20 indicators cover the following:

1. Legal commitments in support of pluralism;
2. Practices by state institutions to realize commitments;
3. Leadership towards pluralism from societal actors;
4. State of group-based inequalities;
5. Intergroup relations and belonging.

Informed by expertise and data

A team of national experts on diversity and inclusion in the country uses the Monitor Assessment Framework to produce a country report, drawing on a range of qualitative and quantitative data. The reports offer recommendations for policymakers and practitioners on how to advance pluralism, and offer a basis for dialogue with stakeholders across the society.

Each team of experts is encouraged to define the story *they* want to tell about pluralism. In this way, the reports are grounded in the local realities and designed to have the most potential impact on policy and practice.

The Monitor is guided by an international Technical Advisory Group of leading experts on indices and diversity issues.

GLOBAL PLURALISM MONITOR ASSESSMENT FRAMEWORK

COUNTRY PROFILE

COMMITMENTS	PRACTICES	LEADERSHIP	GROUP BASED INEQUALITIES	INTERGROUP RELATIONS + BELONGING
International Commitments	Policy implementation	Political Parties	Political	Intergroup Violence
National Commitments	Data Collection	News Media	Economic	Intergroup Trust
Inclusive Citizenship	Claims-Making and Contestation	Civil Society	Social	Trust in Institutions
		Private Sector	Cultural	Inclusion and Acceptance
			Access to Justice	Shared Ownership of Society

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EXECUTIVE SUMMARY

OVERALL SCORE: 5.5

South Africa has a complex history of race relations due to its long-standing apartheid system, which institutionalized racial segregation and discrimination. Since apartheid's dismantling in 1994, the country has made significant strides toward reconciling and addressing its past injustices. South Africa has made robust legal commitments and created a Constitution internationally praised for its inclusive and advanced nature. Moreover, South Africa has worked to embody its name as the 'Rainbow Nation' by celebrating diversity rather than using it as a marker of difference. Despite this, racial tensions and inequality persist while new struggles, such as increasing xenophobic sentiments, are coming to light. In analyzing the country's state of pluralism through the lenses of race, ethnicity, indigeneity, nationality and gender, the *Global Pluralism Monitor: South Africa* report highlights apartheid's lingering effects, as well as the many opportunities for social transformation that put a more pluralistic South Africa within reach.

Poor policy implementation affects South Africa's education, healthcare and basic services, particularly in poor and rural areas. Wealth inequality is high, with the top 10 percent owning over 85 percent of household wealth, and poverty affects the majority of poor and rural people, who are mostly Black. South Africa's high rates of violent crimes exacerbate ethnic tensions and lead to political and intra-ethnic violence. Although many South Africans feel a strong sense of belonging to the country, intergroup trust is extremely low which demonstrates apartheid's lingering effects. Overall, the Monitor report highlights the country's duality of promising commitments toward equality alongside deep divisions that persist across the population as evidenced by gender-based violence (GBV), racism, neglect of indigenous groups and a lagging economy.

LEGAL COMMITMENTS

South Africa's Constitution aims to move forward from its colonial and apartheid past by offering protections toward freedom, human dignity and equality for all individuals. By openly condemning discrimination across all diversity types, the Constitution has taken large steps toward remedying apartheid's intergenerational effects of segregation. However, some of its national commitments have failed to create a decisive break from the past. For instance, the 2020 Traditional and Khoi-Sans Leadership Act recognizes traditional leadership and acknowledges indigenous rights but simultaneously infringes on individual's property and citizenship rights. Despite the country's many positive national commitments, the South African government is not meeting the reporting requirements of the international agreements it has ratified, possibly due to a lack of capacity. Inclusive citizenship practices are also jeopardized by amendments to the Refugee Act in 2017, which constrain refugees' access to essential documentation, potentially violating the Constitution and international obligations. Increasing residency requirements for citizenship rights exclude foreign nationals, which has implications for access to health care and education while demonstrating South Africa's lapse in legal commitments toward pluralism.

Still, a disjoint exists between policy and practice that negatively affects healthcare, education and basic services primarily in rural and poorer areas.

PRACTICES AND LEADERSHIP

South Africa has made some positive progress by transforming state institutions and enacting policies aimed to hold governments more accountable and address inequalities caused by colonialism and apartheid. Still, a disjoint exists between policy and practice that negatively affects healthcare, education and basic services primarily in rural and poorer areas. Corruption is a significant challenge to policy implementation and undermines public service delivery, economic growth, development and trust in democratic institutions and laws. Moreover, budget cuts affect the country's data collection capacities and inhibit an understanding of broader systemic trends that affect the population.

South Africa is a protest-intensive country. Protests are attributed to being the public's response to poor service delivery, corruption and governance failures. The Constitution protects citizens' claims-making through a Bill of Rights and several institutions enable citizens to advance social claims. However, while claims-making is protected, individuals from marginalized groups, such as African non-nationals who experience anti-foreigner sentiment, may be deterred from raising their voice to claim rights for fear of facing political repercussions from societal actors and authorities.

Since democracy was introduced in 1994, political parties, polarization and populism have continued to rise. The media is geared towards business and English-speaking middle-class groups, leaving poor, young and vernacular-speaking South Africans underrepresented. The private sector falls short of correcting inequalities, with management positions largely held by white and Indian men. Laws address the need for a fair and equal labour market, but progress to reflect national demographics in the ownership of publicly traded enterprises is inadequate. Despite this, civil society continues its legacy from South Africa's apartheid era by challenging discrimination, corruption and abuses of power.

GROUP-BASED INEQUALITIES, INTERGROUP RELATIONS AND BELONGING

The South African Bill of Rights protects freedom of association, political party formation and free and fair elections. However, political mobilization still occurs on racial, ethnic and indigenous grounds, and women continue to face discrimination and GBV. Wealth inequality and poverty are both high and often disproportionately affect marginalized and rural communities. South African society also struggles with inclusivity. Although the country has 11 official languages, English dominates in public discourse, limiting full participation for non-English speakers.

South Africa has high rates of violent crimes, particularly murder and rape, and ethnic tensions often lead to violence. Xenophobic violence against African migrants is prevalent and GBV is a major concern, with male homicide rates eight times the global rate. Additionally, public trust in institutions is declining due to corruption, poor public services and unequal treatment, with political leaders the least trusted. Intergroup trust is extremely low with over 60 percent of respondents noting that they have little to no trust for people from different ethnic groups. However, the majority of South Africans feel a strong sense of belonging to the country, with Black Africans and Coloured participants reporting the highest levels of belonging.

Ethnic tensions, xenophobia and GBV are major sources of violence, while public trust in institutions is declining due to corruption, poor public services and unequal treatment.

MONITOR TAKEAWAYS

The South African government has made significant progress in addressing apartheid's legacy, but there are still deep-rooted issues of inequality and discrimination affecting the population. As the Monitor report identifies, the 'Rainbow Nation' still grapples with nuanced discourses of xenophobia and racism that both create exclusionary boundaries within its own population and outwardly toward communities who do not identify as South African. Anchored in a context of rising ethnic tensions and intergroup violence, the Monitor report identifies how South African society still operates with many systemic inequities unsolved.

Ethnic tensions, unequal economic opportunities and violence, particularly GBV, hinder progress toward pluralism. Legally, South Africa's Constitution recognizes customary law and provides for redress from the country's apartheid past but fails to meet reporting requirements for international agreements to address discrimination and exclusion. Additionally, efforts to develop stronger indigenous rights regarding traditional leadership saw the implementation of the Traditional and Khoi-San Leadership Act. However, this effort failed to create a decisive break from the past and resulted in a denial of citizenship rights, particularly for rural Black and female individuals living under traditional councils.

Beyond South Africa's legal system, struggles with policy implementation, the media and the private sector perpetuate inequities that keep society divided politically, economically and ethnically. Despite the country's positive policies that aim to enact systemic change, the country struggles with implementation that leads to the education and health care systems reflecting a 'race gap' in access to resources. South Africa's Bill of Rights guarantees freedom of association, political participation and outlines state obligations to ensure access to public goods. Through regulating access, South Africa has witnessed an increase in women's representation in the political space. Still, women, non-nationals and indigenous communities disproportionately experience violence and economic exclusions that contradict much of South Africa's efforts at promoting greater societal inclusion.

The media is geared towards English-speaking middle-class groups that leads to in many South Africans lacking access and representation in mainstream media services. The private sector is overwhelmed by similar struggles with representation that mimic South Africa's underlying power structures. For instance, management positions are male dominated and racialized, often to the exclusion of those with intersecting identities of gender, race and sexuality.

The Global Pluralism Monitor, supported by Afrobarometer, highlights the challenges of violence and safety in South Africa, with crime rates among the highest in the world. Ethnic tensions, xenophobia and GBV are major sources of violence, while public trust in institutions is declining due to corruption, poor public services and unequal treatment. Xenophobic and anti-immigrant sentiments are deeply entrenched in South African nationalism through institutional racism and policies. Anti-immigrant sentiments are often a barrier to accessing justice for non-nationals. South Africans generally do not trust people from other ethnic groups, although education levels lead to greater intergroup trust. Inclusivity levels vary based on gender, education and race. Despite a

strong sense of belonging to South Africa, marginalized indigenous communities lack ownership and African migrants face discrimination and protests.

RECOMMENDATIONS

The Monitor's recommendations reinforce what experts, activists and stakeholders have called for in South Africa and provide several pathways to pluralism for the country. The recommendations centre around how government can improve the economic and social conditions of the identified diversity groups and thus the overall state of pluralism in South Africa.

- To enhance its prospects for pluralism, the South African government can continue to support and actively expand policies that improve gender and racial equalities. This includes recognizing and implementing economic measures and policies that encourage social inclusion and alleviate the inequality and poverty of Coloured communities. This also includes improving and making transparent data collection on socio-economic inequality.

- South Africa can foster a culture of policy evaluation to promote the quality and use of these evaluations across local government.

- South Africa can implement sanctions against the lack of economic transformation in the private sector. The South African government and its relevant institutions need to rebalance the role of the private sector, so that it is not just seen as a capitalist investor and lender but also as an active participant in training and promoting Africans into management and executive levels of the private sector.

- To further South Africa's work to counteract harmful narratives and promote pluralism, the government can take action by launching public sanctions and condemning xenophobic and Afrophobic attacks and dis-/misinformation campaigns against migrant communities and by offering publicly accessible investigations into institutions that mismanage immigration.

- Public awareness campaigns could be launched to improve marginalized communities' capacity and understanding of the laws and issues surrounding access to justice. It is increasingly necessary to support organizations working on justice, democracy and human rights and to bolster their participation in the construction of peace in South Africa.

- The practical implementation of existing institutional frameworks and laws, including differentiated protection mechanisms for women, needs to be prioritized.

- To strengthen indigenous rights, South Africa can offer more resources and make an even greater effort towards better representing indigenous communities and promoting their culture and concerns. This includes redefining inclusive citizenship to actively include and promote indigenous communities. It is equally important to ensure that indigenous communities are formally incorporated into both regional and national planning, so that these groups can articulate and implement their different needs, as is their constitutional right.

COUNTRY PROFILE

South Africa transitioned from apartheid to democracy in 1994 and has since strived, through a new Constitution, policies, laws and institutions, to transform into an inclusive and pluralistic society.[1] The country is home to over 60 million inhabitants.[2] South Africa is one of the notably diverse countries on the African continent; the salient categories of social difference include race, ethnicity, indigeneity, nationality and the cross-cutting category of gender.

In terms of race designations, the breakdown in South Africa is as follows: Black African 80.9 percent, Coloured 8.8 percent, white 7.8 percent and Indian/Asian 2.6 percent.[3] These four categories are a legacy of the creation of a racial hierarchy by successive colonial and apartheid regimes before 1994. After coming to power in a whites-only election in 1948, the National Party expanded on previous discriminatory colonial laws with an encompassing legislative framework to racialize South Africans. Known as apartheid, the anchor legislation of this system was the Population Registration Act of 1950, which sought to contain the population within three, later four, racial classifications.

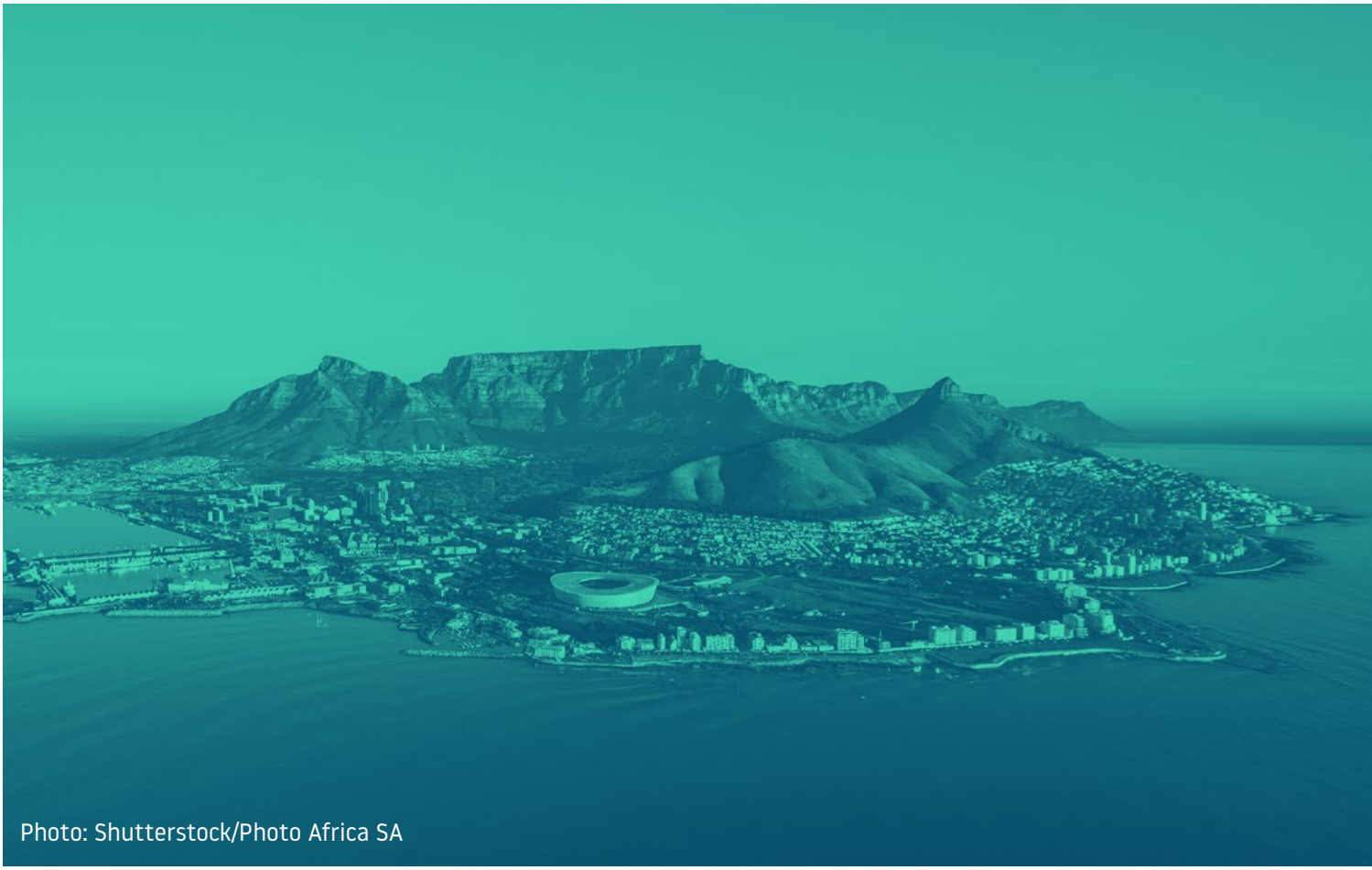


Photo: Shutterstock/Photo Africa SA

Regarding indigeneity, what is today known as South Africa was initially inhabited by the native Khoi and San people, joined by Nguni-speaking people from 1000 CE onwards.

It must be noted that the "Coloured" category has a different meaning than how it is understood in the United States, Canada and elsewhere. Coloured people have a shared heritage from the indigenous Khoi, settler groups from Dutch and other European extraction and enslaved people from colonies in Africa and South and Southeast Asia. Under apartheid, "Coloured" consisted of many subcategories, such as Cape Coloured and Cape Malay. The "Indian" group consists of South African descendants of Indian people who arrived via the circuits of migration within the British Empire during the nineteenth century. Between the years 1860 to 1911, over 150,000 immigrants from India arrived in South Africa to work as indentured labour on sugar plantations in the British colony of Natal (now the province called KwaZulu-Natal).[4] Unable to find employment in India, this group of indentured labourers entered into labour contracts guaranteeing them employment on Natal's sugar plantations. A second group of Indians consisted of free Indians or ex-indentured immigrants who could return to India or were free to settle in southern Africa. Attracted by trade and business opportunities, this group made their way to Transvaal and to Johannesburg, in particular. The third group, non-indentured migrants or "passenger" Indians (mostly Muslims from Gujarat) who paid their own way, arrived from 1870s onwards. They consisted of a mixture of "teachers and interpreters," with the majority being traders and hawkers.[5]

Ethnicity is another marker of difference. Within the white group, the National Party used ethnicity to mobilize Afrikaners as separate from the contending British settler class. British descendants are currently known as white English-speaking South Africans. Similarly, the National Party under "Grand Apartheid" used ethnicity to create separate "homelands" or Bantustans to solidify ethnic divisions among the Black African group. These ethnic groups are Ndebele, Pedi, Sotho, Swati, Tswana, Tsonga, Venda, Xhosa and Zulu.

Regarding indigeneity, what is today known as South Africa was initially inhabited by the native Khoi and San people, joined by Nguni-speaking people from 1000 CE onwards. After the Dutch started a refreshment station at the Cape of Good Hope in 1652, the encounter with European settlers decimated the San and the Khoi through colonial violence, dispossession of land and resources, and imported diseases.

The exploitation and social, political and economic exclusion of indigenous and Black people intensified in the form of racial capitalism after the discovery of massive deposits of diamonds in 1867 and gold in 1886. The mineral discoveries catapulted the region into the global economy and led to the South African War (1899–1902) between the British Empire and the Boer republics (forerunners of the Afrikaners). The end of the war was followed by a British/Afrikaner white pact in the form of the creation of the Union of South Africa in 1910.[6]

With regard to nationality, the racial capitalism that developed South Africa into a regional economic powerhouse depended on cheap labour, including Africans from neighbouring countries.[7] This started with people from adjacent colonial territories being swept into the country's burgeoning mineral-based economy, particularly men from Portuguese East Africa (today's Mozambique) working in the mines for highly exploitative wages.

Regarding the cross-cutting category of gender, women have been subjected to patriarchal domination within the above described racial and ethnic containment of the population. The ideology of compulsory motherhood applied across racial and ethnic categories to

Despite these values and processes, South Africa finds itself in a precarious situation regarding pluralism and diversity.

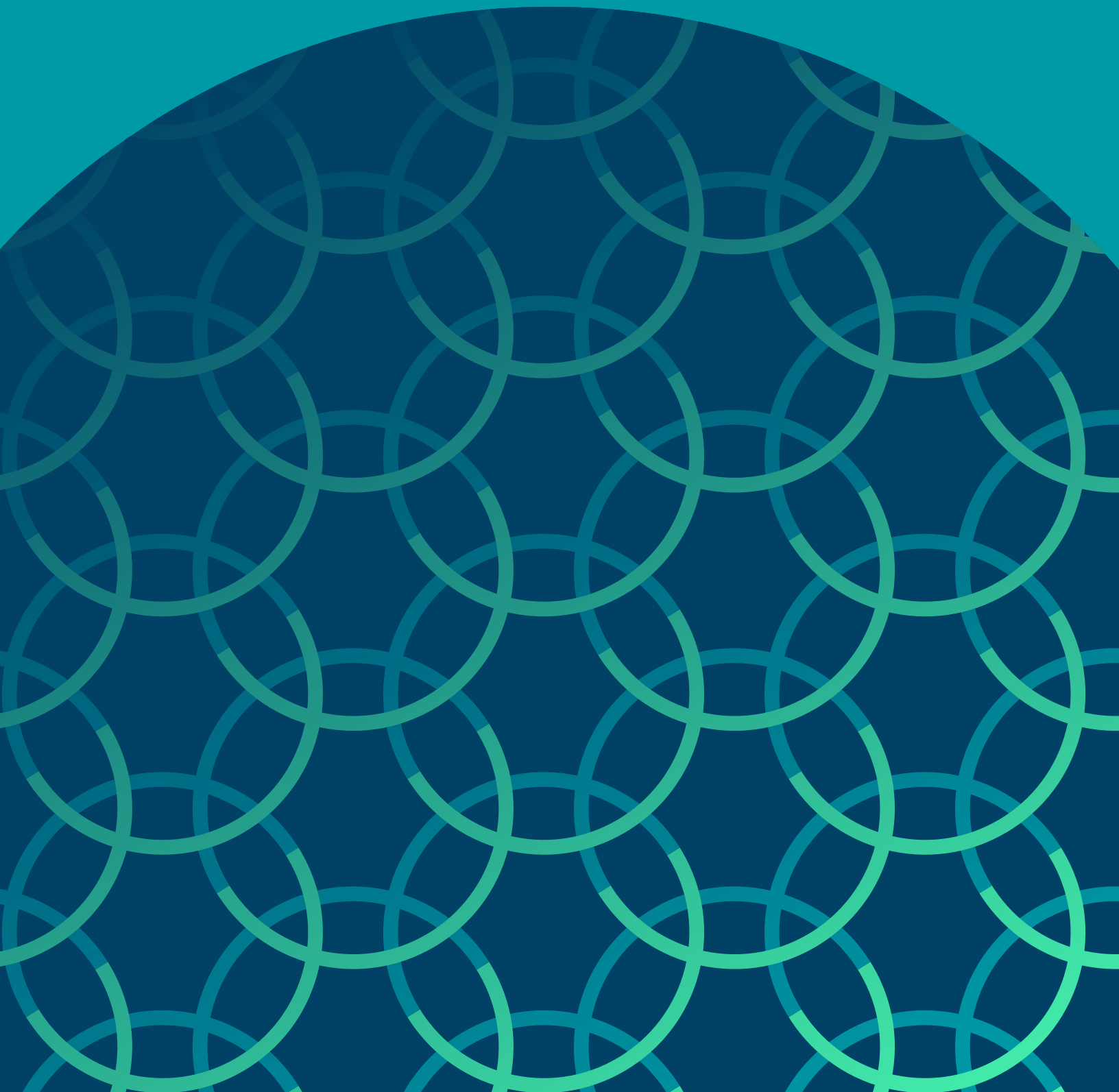
legitimize women's social and economic subordination. The starkest example is the Bantu Administration Act of 1927, which declared Black women to be perpetual minors without any legal rights, irrespective of age or marital status.

Colonial subjugation has been resisted throughout, starting with the Khoi victory over the Portuguese viceroy Francisco de Almeida in 1510 in Table Bay. The nineteenth and early twentieth centuries saw nine wars of dispossession between primarily the British and the Xhosa, several battles between the British and the Zulu, and the Boers and other indigenous groups.[8] Colonial segregation was resisted by a plethora of organizations, including the African National Congress (ANC) founded in 1912. After 1948, apartheid was confronted by a diverse anti-apartheid movement that brought people together across racial, ethnic and gender lines (e.g., the Congress of the People in 1955, the Women's Marches of 1955 and 1956, and the United Democratic Front founded in 1983).

A confluence of international and national factors, including the end of the Cold War, brought the apartheid regime and anti-apartheid movements in 1990 to multi-party negotiations, starting with the Convention for a Democratic South Africa. Despite the most severe levels of political violence between 1990 and 1994, the talks produced a Constitution globally respected for its unique combination of political and socio–economic rights, and its emphasis on human dignity alongside the rights to freedom and equality. Apartheid laws have been replaced by a plethora of new laws advancing inclusion, redress, equality and justice. The Truth and Reconciliation Commission (TRC) conducted a process from 1996 to 2003 that revealed the extent of race-based state violence during apartheid.[9]

However, despite these values and processes, South Africa finds itself in a precarious situation regarding pluralism and diversity. Pressing issues such as racism, gender-based violence (GBV), neglect of indigenous groups, xenophobia and a mostly untransformed economy expose deep divisions. Thus, the scores and narratives contained in this assessment reflect a society that has done well in establishing values of pluralism yet is struggling to realize these values in practice for each of the diversity types selected for the South African country case.

PART I.
COMMITMENTS



1. INTERNATIONAL COMMITMENTS
AVERAGE SCORE: 6

RACE | **SCORE: 6**
INDIGENEITY | **SCORE: 5**
ETHNICITY | **SCORE: 7**
NATIONALITY | **SCORE: 7**

Nevertheless, the lack of compliance with reporting is worrying, especially in areas where government commitment is required to deal with deadly discrimination.

South Africa has ratified several international instruments that are fundamental to addressing discrimination and exclusion in diverse societies. Given South Africa's history, it is encouraging to note many of these commitments were entered into during the post-apartheid democratic period.

However, a major concern arises about South Africa's adherence to endorsed instruments because government observance of reporting requirements has been lacking. In relation to an instrument that addresses pluralism across the main indicators such as the African Charter on Human and Peoples' Rights, the government submitted timely reports until 2014 but is currently behind with three reports.[10] Similarly, the country was 14 years late in submitting its International Covenant on Civil and Political Rights report to the United Nations (UN) Human Rights Committee in November 2014.[11] In relation to the cross-cutting indicator of gender, one report was submitted during the decade 1998–2008 on the country's implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This is instead of the required annual reporting.[12] Reporting has improved in recent years, and the Committee on the Elimination of Discrimination against Women lauded South Africa for its "strong political will" in advancing women's rights.[13]

Nevertheless, the lack of compliance with reporting is worrying, especially in areas where government commitment is required to deal with deadly discrimination. For example, the level of violence against women in South Africa is among the highest in the world. Due to the lack of timely reporting, insufficient information exists about the country's implementation and accomplishment of the commitments detailed in international conventions. Government departments and other entities therefore do not adhere to the accountability mechanisms that would confirm compliance with international commitments. One reason for this may be found in insufficient government reporting capacity. Most of the reporting work is carried out by civil society, non-governmental organizations (NGOs) and relevant oversight bodies in South Africa.

Another concern is that the government has taken no action to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

For reference, below is a selection of relevant instruments that South Africa has acceded to, listed according to year of ratification:

- Convention on the Elimination of all Forms of Discrimination against Women – 1995;
- Convention Relating to the Status of Refugees and Protocol Relating to the Status of Refugees – 1996;
- African Charter on Human and Peoples' Rights – 1996;
- Convention on the Prevention and Punishment of the Crime of Genocide – 1998;
- International Covenant on Civil and Political Rights – 1998;
- International Convention on the Elimination of All Forms of Racial Discrimination – 1998;
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa – 2004;
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions – 2006; and
- Charter for African Cultural Renaissance – 2014.

2. NATIONAL COMMITMENTS
AVERAGE SCORE: 8

RACE | SCORE: 8
INDIGENEITY | SCORE: 8
ETHNICITY | SCORE: 8
NATIONALITY | SCORE: 8

With the aim of providing inclusion and redress in the wake of its colonial and apartheid past, South Africa transitioned to a constitutional democracy based on a combination of liberal and socio–economic rights, enshrined in a Constitution revered internationally for its breadth and scope. Chapter two of the Constitution consists of a Bill of Rights that entrenches human dignity, equality and freedom as the central values of South African society. Section 9(3) stipulates that no one in South Africa may suffer discrimination on any of the following grounds: "race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, region, conscience, belief, culture, language and birth."[14] Apart from this clear outlawing of discrimination on the basis of race, ethnicity, indigeneity and the cross-cutting indicator of gender, other sections also aim to rid South Africa of the effects of segregation caused by apartheid. For example, Sections 9(5) and (6) provide for legislation to be introduced to safeguard

This constitutional recognition has failed to create a decisive break with the colonial and apartheid system, as a bifurcated legal system continues in which rural Black people who find themselves living under traditional leaders do not enjoy the full civil rights of other citizens.

against discrimination, with a distinction between fair and unfair discrimination.[15] Fair discrimination permits the redress of historical racial and gender inequalities. Section 11 enshrines the right to life, while Section 12(1)(c) protects everybody from violence whether from private or public sources, which provides another layer of protection for women against domestic violence. Freedom of association and political rights are guaranteed under Sections 18 and 19. Other rights related to protecting ethnic groups are contained in Section 31, which stipulates that cultural, religious and/or linguistic communities should be free to enjoy their culture, religion and/or language and may form associations and organisations. Another clause with protection for different ethnicities is Section 6, which recognizes 11 official languages and establishes a board to promote languages, including sign language and indigenous languages (the Khoi, Nama and San languages) and other commonly used languages, such as Urdu, Tamil and German. The protection of the rights of non-national migrants is not specifically listed in the Constitution. However, the values of human dignity, equality, life and security of the person apply to everyone who lives in South Africa, regardless of their nationality.

At first glance, the Constitution seems to protect diversity in respect of ethnicity and indigeneity, as Section 25 recognizes traditional leadership and traditional communities. However, this constitutional recognition has failed to create a decisive break with the colonial and apartheid system, as a bifurcated legal system continues in which rural Black people who find themselves living under traditional leaders do not enjoy the full civil rights of other citizens.[16] This unequal system affects 18 million people, comprising one third of South Africa's population.[17] The majority of the affected people are women. The entrenchment of a regime of customary law includes the Recognition of Customary Marriages Act of 1998, aimed at overturning Black women's colonially imposed minority status in relationships regulated by custom by granting them equal legal rights with their husbands. However, this law is blighted by its legalization of child marriage, disproportionately affecting girl children, which violates South Africa's constitutional and international obligations.[18]

Various laws and policies have been adopted in the democratic era to give effect to the Constitution's provisions, thereby advancing pluralism in South Africa. The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, revised by Amendment Act 52 of 2002, operationalizes Section 9. In respect of the cross-cutting question of gender, laws such as the Domestic Violence Act (1998), Maintenance Act (1998), the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 and the Prevention and Combating of Trafficking in Persons Act 7 of 2013 have been adopted. The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance was only released in 2019, after "a long and fractious," "stop-start process" that took almost two decades, having commenced after the UN World Conference against Racism Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, in 2001.[19]

In relation to non-discrimination on the basis of nationality, South Africa's Refugees Act of 1998 was amended in 2017 to withdraw status and protection from refugees by "severely restricting access to the asylum regime and by denying asylum-seekers substantive rights that were previously available to them."[20] This includes refugees' ability to seek work to sustain themselves economically, as well as curtailing their rights to political association and free expression to the extent that their refugee status could be withdrawn. Controversially, the amendments allow the government to revoke

refugee status if a person sought the consular services of their country of origin while living in South Africa, for example, to obtain a birth certificate.[21] The amendment law's provisions fly in the face of the National Action Plan to Combat Racism, Discrimination, Xenophobia and Related Intolerance, and may also violate the country's Constitution and its international obligations.[22] In November 2021, the Cabinet announced the decision not to renew the Zimbabwe Exemption Permits (ZEP), which were a progressive way of allowing Zimbabweans since 2009 to enter, live and work in South Africa without seeking asylum.[23]

3. INCLUSIVE CITIZENSHIP
AVERAGE SCORE: 5.5

RACE | SCORE: 7
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 5

The recognition of traditional leadership has been accompanied with a denial of certain citizenship rights to rural Black people living under traditional councils.

Citizenship in South Africa is governed by the South African Citizenship Act of 1995 (amended in 2004, 2007 and 2010). According to Klaaren and Hobden, the Citizenship Act provides for acquisition of citizenship by birth, descent and naturalization, and for loss by renunciation, lapse and deprivation.[24]

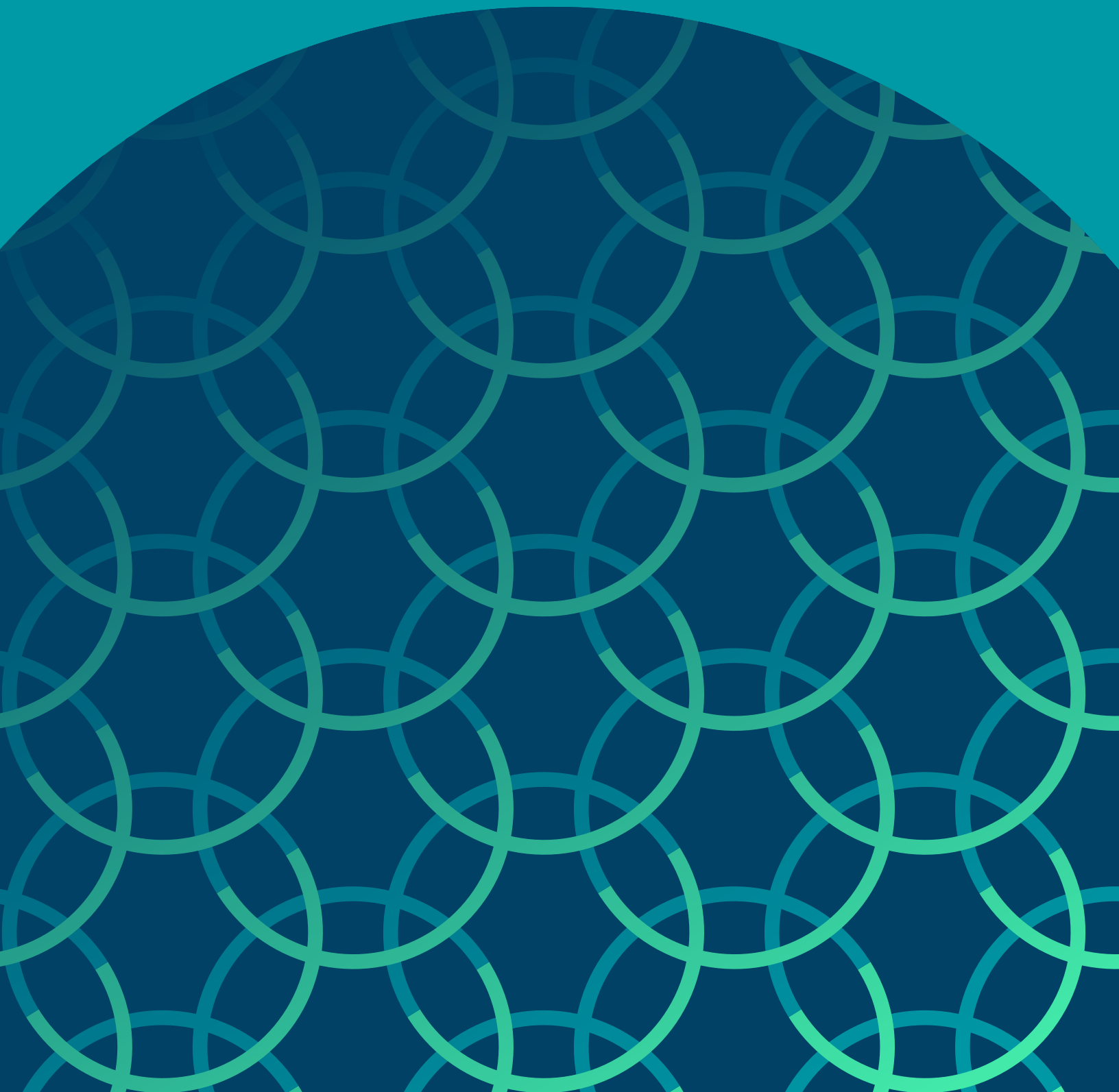
The large number of non-citizens in South Africa rely on the Constitution, which does not require citizenship to secure rights but only permanent residence. A "striking number of clauses within the Constitution [...] apply to 'everyone' or 'all persons.'"[25] These include socio–economic rights such as access to housing and to health care. South Africa places no formal restrictions based on race, ethnicity or gender on individuals seeking citizenship. However, increases in the number of years of residency required for citizenship by naturalization, or through parentage or marriage, result in increasing exclusion of foreign nationals from citizenship rights. For example, the acquisition of citizenship by children of non-citizens has been postponed to the age of majority (age 18), with the proviso that such children would have to be born in South Africa. The restrictions have implications regarding access to health care and education for children of non-citizens.[26] These restrictive shifts should be read against the amendments to the Refugees Act (described in previous section) and the rise in xenophobic rhetoric and attacks against non-nationals since the democratic transition.

Regarding the effects of ethnicity and indigeneity on citizenship, as indicated in the previous section, the recognition of traditional leadership has been accompanied with a denial of certain citizenship rights to rural Black people living under traditional councils. Jurisprudence including *Baleni and Others v. Minister of Mineral Resources and Others /Maledu* and *Others v. Itereleng Bakgatla Mineral Resources (Pty) Ltd and Another*, as well as the Traditional and Khoi-San Leadership Act of 2020, replacing the Traditional Leadership and Governance Framework Act (TLGFA) of 2003 to legally recognize indigenous Khoi-San communities and leaders, constitute important steps toward recognizing

the rights of indigenous people. However, similar to the TLGFA, the Traditional and Khoi-San Leadership Act perpetuates the authoritarian indirect rule of the apartheid era by maintaining boundaries set during apartheid and concentrating power in the hands of unelected traditional leaders.[27] Contrary to customary practices which accord traditional communities with the status of land rights holders, the law gives traditional leaders sway over natural resources, such as land and water. Traditional leaders can enter into mining or other deals with companies without consulting communities, thereby denying inhabitants of these jurisdictions their property and citizenship rights.[28]

Women are disproportionately affected, as they constitute the majority of people living under traditional councils.

PART II.
PRACTICES



4. POLICY IMPLEMENTATION
AVERAGE SCORE: 4.5

RACE | **SCORE: 5**
INDIGENEITY | **SCORE: 4**
ETHNICITY | **SCORE: 4**
NATIONALITY | **SCORE: 5**

Poor educational outcomes especially affect children in rural provinces, where the ethnically and indigenously demarcated areas under traditional councils are found.

Despite a positive policy environment, South Africa faces major challenges in implementation.[29] Democratic-era policies and laws are aimed at redress to correct the inequalities wrought by colonialism and apartheid, including in relation to this study's diversity group of race and the cross-cutting category of gender. However, education and health care provision continues to reflect apartheid and colonial inequalities. Amnesty International noted that "a child's experience of education still very much depends on where they are born, how wealthy they are, and the colour of their skin."[30] The primary reason is poor policy implementation, with the National Department of Basic Education missing its own targets for facilities and infrastructure. A "race gap" remains, with only 3 percent of Black as opposed to 18 percent of white South Africans attaining university degrees.[31] Poor educational outcomes especially affect children in rural provinces, where the ethnically and indigenously demarcated areas under traditional councils are found.[32] "Most children who attend school in rural areas leave school at age 16 with a reading age of only nine."[33]

Similarly, poor policy implementation afflicts the health care sector, ranging from preventable mistakes including stock-outs of essential medicines, lack of infection control and lack of upkeep of medical machinery to misconduct and denial of health services by medical staff, leading to higher patient morbidity and mortality.[34] Black people are worse affected, as they are generally more dependent on public health care, especially rural Black people living in ethnically and indigenously demarcated jurisdictions under traditional councils.

Delivery of basic services such as water and sanitation, refuse removal and infrastructure maintenance is a municipal mandate. But only 16 out of a total of 278 municipalities are considered "stable," with the overwhelming majority ranging from "at-risk" to "dysfunctional."[35] These municipal responsibilities are either underperformed or ignored all together.[36] Poorer areas, where the majority of Black people live, are most affected. Slightly more effective policy implementation can be seen with laws on "employment equity" and "broad-based black economic empowerment" but progress is inadequate (see the section on the Private Sector).

The most adverse challenge to policy implementation is corruption. Broadly defined as the "abuse of public office for private gain," corruption in South Africa has taken on a more expansive and destructive form called "state capture."[37] It distorts and undermines valid policy and structural reforms such as the Broad-based Black Economic Empowerment Act 53 of 2003, aimed at the transformation of the economy through the inclusion of Black South Africans. Politically connected middlemen, front and shell companies are winning government contracts but violate the expectation that local

products, labour and services will be utilized.[38] Corruption undermines public service delivery, slows economic growth, stunts development, erodes credibility, legitimacy and trust for democratic institutions and laws.[39]

Supporting policy implementation is a group of institutions mandated in Chapter 9 of the Constitution to hold the government accountable. The South African Human Rights Commission (SAHRC) can investigate discrimination on the basis of race and ethnicity, among others. Other institutions include the Commission for Gender Equality and the Commission for the Promotion and Protection of Cultural, Religious and Linguistic Minorities. Prosecution on the basis of racism includes the *ANC v. Penny Sparrow, Vicki Momberg v. the State* and the *SAHRC v. Adam Catzavelos* case in the Equality Court.[40] According to SAHRC, the year 2019–20 clocked the highest number of complaints of human rights violations in five years, at 11,000 cases.[41]

In terms of policy implementation in relation to non-nationals, the ruling ANC government has reversed progressive policies. The Refugees Act was amended in 2017 with the addition of "abandonment provisions" seeking to limit the rights of refugees.[42] Refugees would only be allowed to work in certain sectors of the economy, and their freedoms of expression and political engagement would be limited, to the extent that their refugee status could be revoked.[43] The abandonment provisions allowed the government to revoke a person's refugee status if they sought the consular services of their country of origin.[44] The Scalabrini Centre obtained a court interdict against the Department of Home Affairs to stop the implementation of the abandonment provisions.[45] In November 2021, Cabinet announced the decision not to renew ZEP, which was a progressive way of allowing Zimbabweans to enter, live and work in South Africa without the bureaucratic burden of seeking asylum.[46]

5. DATA COLLECTION
AVERAGE SCORE: 5

RACE | SCORE: 6
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 5

Stats SA gathers data across themes such as causes of death, work and labour force, education and crime. Stats SA highlights inequality, with statistics provided mostly on class, race and gender.

Data in South Africa are regularly collected through census and other surveys conducted by Statistics South Africa (Stats SA), in accordance with the Statistics Act of 1999. As the government's primary data collection institution, Stats SA gathers data across themes such as causes of death, work and labour force, education and crime. Stats SA highlights inequality, with statistics provided mostly on class, race and gender.

Stats SA is responsible for the National Census, which amasses data about population demographics and socio–economic dynamics, including living conditions and access to services. Three censuses have taken place in the democratic era (in 1996, 2001 and

The government does not impose restrictions on non-state data collection. However, government agencies are found to fail in the provision of information when requested to do so.

2011), with the fourth conducted in February–March 2022. Budget cuts in recent years have adversely affected Stats SA's capabilities.

The National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, for which the Department of Justice and Constitutional Development is responsible, provides for the collection of data on the relevant categories. However, the plan was only launched in 2019, and data are yet to be released.

The Medical Research Council is another state entity that collects health-related data, with research conducted on gender and violence, for example.

Alarmingly, Chapter 9 institutions tasked with investigations into discrimination on the basis of race, ethnicity or against foreign non-nationals and indigenous people do not have publicly available information about the number of cases they attend to and do not disaggregate cases according to the social categories of concern in this overview.

Several civil society, academic and private sector organizations, as well as public–private partnerships, contribute to national data collection. Data collection in relation to people of other nationalities takes place through research institutions such as the African Centre for Migration and Society.

An example of public–private collaboration is the Gauteng City-Region Observatory (GCRO), a partnership between the universities of Johannesburg and of the Witwatersrand, and the Gauteng provincial government. The GCRO focusses on various thematic areas: data analytics, information and visualization; governance, histories and futures; inclusive economies, poverty, inequality and social mobility; social change, spatial transformation, sustainability; and just transitions, understanding quality of life and government support.[47] Data collection is usually undertaken not in relation to ethnicity but rather race, as a primary fault line inherited from apartheid and colonialism. For the same reason, Stats SA's Census questionnaire collects data on race and gender but not on ethnicity.[48]

The government does not impose restrictions on non-state data collection. However, government agencies are found to fail in the provision of information when requested to do so.[49] Hence, despite the Promotion of Access to Information Act of 2000, data that may confirm government failure can be difficult to access. These organizations are concerned about the lack of integration and consistency between data generated by government systems and external agencies. Moreover, basic population statistics are difficult to disaggregate. This was evident during the COVID-19 pandemic, when the government had difficulty in assessing how many individuals and households were in need of social assistance during the national lockdown. For example, more men than women received the COVID-19 social support grant because women were not regarded as qualifying recipients of the grant because they were perceived as receiving the child support grant.[50] This is problematic because income for women is therefore linked to social reproduction, and their specific needs are not taken into account, in contrast to men's.

6. CLAIMS-MAKING AND CONTESTATION
AVERAGE SCORE: 6

RACE | **SCORE: 6**
INDIGENEITY | **SCORE: 7**
ETHNICITY | **SCORE: 6**
NATIONALITY | **SCORE: 4**

South Africa is a protest-intensive society, with protests reflecting both intra- and interparty political rivalries.

South Africa's Constitution contains a Bill of Rights with civil, political, economic, social and cultural rights that protect claims-making: Section 17 safeguards the right to peaceful demonstration and protest, the freedom to claim rights is constitutionally protected under Section 15 (freedom of belief and conscience), Section 16 (freedom of expression), Section 17 (freedom of assembly) and Section 18 (the right to freedom of association).

The Constitution encourages claims-making by providing for "new mechanisms through which citizens could advance social claims, not only more easily than during apartheid but also relative to other young democracies."[51] These mechanisms include the Constitutional Court and "Chapter 9 institutions," which are institutions created in accordance with Chapter 9 of the Constitution, such as SAHRC.

Parliament, the provincial legislatures and state departments are required by law to enable citizen participation in policy and law-making processes, including through written submissions and public hearings.

The Promotion of Equality and Prevention of Unfair Discrimination (PEPUDA) was adopted in 2000 to give effect to the Bill of Rights. PEPUDA establishes the Equality Courts. So far, 382 Magistrates' Courts have been designated as equality courts, with the primary aim of providing "access to justice to marginalized and vulnerable citizens to assert their rights" concerning unfair discrimination.[52]

South Africa is a protest-intensive society, with protests reflecting both intra- and inter-party political rivalries.[53] Protests are mainly about poor service delivery, governance failures and corruption by officials at local and national government levels. Despite the right to protest being limited to non-violent action in the Constitution and the Regulation of Gatherings Act of 1993, research shows protests are becoming more violent over time.[54] The most violent social unrest in the post-apartheid era occurred during July 8th–17th, 2021, in the provinces of KwaZulu-Natal and Gauteng, with more than 354 deaths and 3,400 people arrested in connection with inciting public violence, murder, arson and looting. The cause of the violence was political, ethnic and xenophobic mobilization capitalizing on socio–economic exclusion, which had worsened due to increased joblessness in the wake of the COVID-19 pandemic and related economic restrictions.[55] The contestations with migrant communities have tended to be ethnicized and politicized through the involvement of Zulu nationalist elements.

Xenophobia was evident in arson attacks on long-haul trucks, which started 10 days of public violence. Long-haul trucks have increasingly been targeted in recent years in a campaign against foreign African truck drivers.[56] Research from the 1990s onwards

The political environment for claims-making is not even across diversity types. While migrant groups have started organizing in pressure groups and with public protests, these groups seem overwhelmed by the negative political climate within which constitutional and legal provisions have limited effect in protecting the rights of "non-nationals."

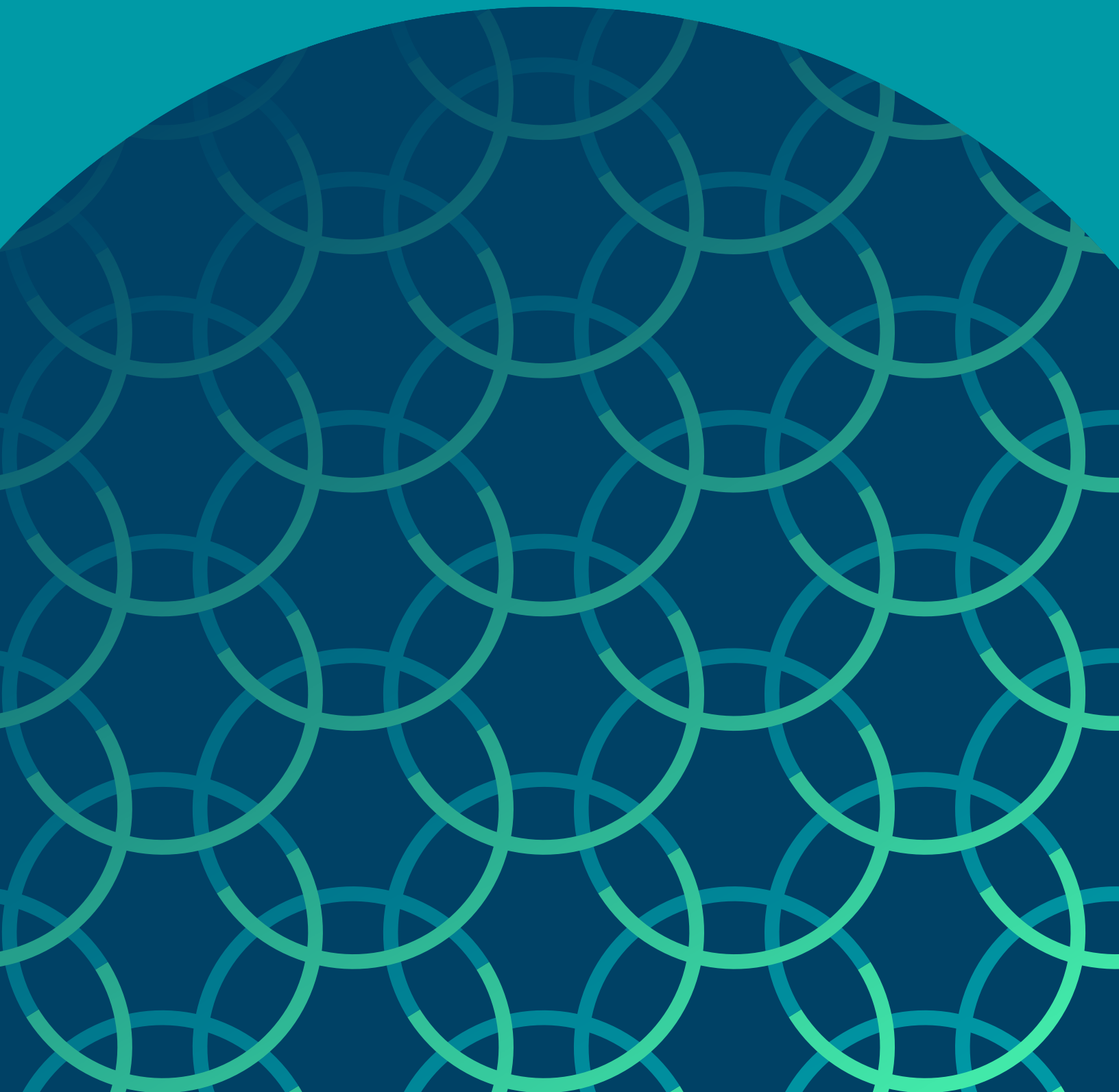
shows that South Africans across class and demographic groups "are generally uncomfortable with the presence of Black and Asian non-nationals in the country."[57] These anti-immigrant sentiments have taken claims-making into the realm of public violence against African foreigners in the democratic era, with tens of thousands of mostly African non-nationals subjected to xenophobic attacks resulting in deaths, serious injuries, looting and burning of foreign-owned businesses.[58] Anti-foreign protest action and violence have most recently mobilized through social media with campaigns, such as Operation Dudula, and hashtags, such as #NigeriansMustGo, #ForeignersMustGo and #PutSouthAfricansFirst.[59]

The political environment for claims-making is not even across diversity types. While migrant groups have started organizing in pressure groups and alongside public protests, these groups seem overwhelmed by the negative political climate within which constitutional and legal provisions have limited effect in protecting the rights of "non-nationals." This is partly due to government officials' implications in xenophobic violence, which occurs by either failing to take action against civilian perpetrators or by direct involvement, such as "documentation raids", which is when the police administer extrajudicial beatings.[60] Alongside foreign nationality, race and ethnicity emerge as factors in police brutality against protestors, such as the Marikana massacre of 2012. This police attack has been the worst example of police violence in the democratic era, resulting in 34 mine workers being killed. The police justified their deadly attack by raising ethnicity, as the workers hailed from the rural areas under traditional leadership.[61]

Regarding indigeneity, Khoisan revivalism in the form of public protests and legal battles for recognition demonstrates the positive side of the constitutional guarantees and permissions allowing indigenous groups to stake claims. However, such protests point to the lack of formal recognition that some indigenous groups still experience under the post-apartheid regime.

In relation to gender, the government annually hosts a campaign called 16 Days of Activism for No Violence against Women and Children. GBV remains endemic, leading to the #TotalShutdown marches of 2018 in which women across cities and towns protested. The government responded to demands in the form of a 2020 national strategic plan against GBV and femicide. An interim steering committee was given six months to set up a permanent GBV council. A reported ZAR$21-billion Response Fund was created to finance the council's activities over the next 10 years.[62] An immediate challenge to both the interim committee and future council is that no legislation was enacted to provide a mandate or regulate the operations of the proposed council. Thus, there remains uncertainty about whether the GBV council currently exists as an entity.[63]

PART III.
LEADERSHIP FOR PLURALISM



7. POLITICAL PARTIES
AVERAGE SCORE: 5

RACE | **SCORE: 5**
INDIGENEITY | **SCORE: 5**
ETHNICITY | **SCORE: 5**
NATIONALITY | **SCORE: 5**

The phenomenon of populism, mobilizing race, ethnicity, indigeneity, nationality and gender for political ends, has taken hold in South Africa, as elsewhere in Africa and the world.

Since the advent of democracy in 1994, with the right to free political association, there has been a significant increase in political parties, a far cry from apartheid when several organizations were banned, and their supporters were persecuted. Parties have proliferated, given the system of proportional representation which enables greater participation. Some 300 parties registered for national and provincial elections (occurring every five years), with 14 political parties represented in Parliament. Some 325 out of 1,167 registered parties contested the last local government elections in 2021.[64]

The phenomenon of populism, mobilizing race, ethnicity, indigeneity, nationality and gender for political ends, has taken hold in South Africa, as elsewhere in Africa and the world.[65] As part of the former liberation movement, the governing ANC espouses a vision of a "non-racial, non-sexist and prosperous" country to be achieved through racial and gender redress. Affirmative action measures are aimed at demographic representation across institutions, and growth-based redistribution of wealth aims to undo colonial patterns of economic exclusion.

The ANC's electoral dominance in the democratic era slipped from a high mark of 69 percent of parliamentary seats in the 2004 election, to 57 percent in 2019. Jacob Zuma (president 2009–18) defended himself against rape and corruption charges by invoking Zulu ethnic pride, with supporters wearing t-shirts with his face and the words "100 percent Zulu boy."[66] Zuma reverted to traditional wear, defended unconstitutional control by indigenous leaders over their subjects and launched verbal attacks against "clever Blacks" for being critical of ANC traditionalism and following "the white man's way."[67] Ethnicity was again wielded in the ANC during the July 2021 unrest, where Zulu nationalists claimed that they were defending Zuma as a Zulu leader. When current SA president Cyril Ramaphosa, who is not Zulu, blamed tribalism for the unrest, he was criticized and had to withdraw his statements.[68]

Zuma's protégé, the then ANC Youth League leader Julius Malema, utilizes similar rhetoric, with political opponents "routinely viciously discredited on racial grounds."[69] He was expelled from the ANC due to factional politics of patronage and founded the Economic Freedom Fighters (EFF), currently the third largest party. EFF policies envisage the nationalization of property and other assets to advance "Black empowerment." In 2016, Malema stated that "[w]e are not calling for the slaughtering of white people – at least for now."[70] The EFF has provoked stand-offs between Black and white people at shopping centres, schools and courts. Their discourse includes anti-Indian rhetoric, targeting officials that pose an obstacle to alleged corruption by EFF leaders. Former finance minister Pravin Gordhan is referred to by his middle name, Jamnadas, to invoke

Notably, disparate parties have come together in the past few years in espousing anti-immigrant policies and xenophobic positions with related rhetoric, including the ANC, the EFF and the DA.

an anti-Indian racial slur akin to "coolie."[71] Regarding indigeneity, the EFF also supports the entrenchment of traditional leaders.

The rise of the EFF over the past decade points to the polarization of politics. Its support increased from 6.4 percent in 2014, to 10.8 percent of votes in 2019. At the same time, the white right-wing party Freedom Front Plus (FF Plus) increased its support from 0.9 percent in 2014 to 2.4 percent of votes in 2019. The FF Plus openly propounds the defence of white people's interests, with a specific ethnic focus on Afrikaners but is careful to steer away from racist pronouncements.

This is in contrast to the second largest party and official opposition, the Democratic Alliance (DA). The party, which has relatively stable support at around 20 percent, provoked public outrage when its former leader, Helen Zille, suggested on Twitter that colonialism had positive developmental aspects. The party represents the South African liberal position, which started with British colonialism in the country. It adopted diversity as one of its policy pillars, as propounded by its first Black leader, Mmusi Maimane. He was ejected from the party when the party reverted more vehemently to its position of "colour-blindness." This position consists of denying that affirmative action is needed for the redress of racial inequality caused by colonialism and apartheid and has led the party to push out several black leaders, including its first Black parliamentary leader, Lindiwe Mazibuko.[72]

Notably, disparate parties have come together in the past few years in espousing anti-immigrant policies and xenophobic positions with related rhetoric, including the ANC, the EFF and the DA, as well as newer parties such as ActionSA (part of ruling coalitions in the capital, Tshwane, and the economic centre of Johannesburg), African Transformation Movement and the Patriotic Alliance (part of ruling coalitions in several small municipalities).

Gender as a cross-cutting issue features in the ANC's and EFF's continuing rhetoric about whether a woman could be president of the country. The spreading of sexual violence rumors as well as an abuse of South Africa's epidemic of GBV have been used to discredit women political opponents.[73]

8. NEWS MEDIA
AVERAGE SCORE: 5

A. Representation | Score: 5

RACE | **SCORE: 6**

INDIGENEITY | **SCORE: 5**

ETHNICITY | **SCORE: 5**

NATIONALITY | **SCORE: 5**

B. Prominence of Pluralistic Actors | Score: 5

RACE | **SCORE: 5.5**

INDIGENEITY | **SCORE: 5.5**

ETHNICITY | **SCORE: 5**

NATIONALITY | **SCORE: 5**

The primary challenge is that the media caters largely to business and English-speaking elite and middle-class groups. Therefore, most reporting covers urban centres where media houses are based.

The news media plays an important part in advancing and maintaining the new democratic order.[74] Freedom of expression is enshrined in the Constitution and, along with various laws and policies, provides the foundations for representation and pluralism. There is a Broadcasting Complaints Commission, Press Council, Press Ombudsman, the South African National Editors' Forum and the National Community Radio Forum, all collectively protect freedom of the press and address complaints from the public, including complaints related to ethnic and racial discrimination. Furthermore, the Media Development and Diversity Agency, established in 2003, oversees the inclusion of historically disadvantaged communities, languages and cultural groups, which also applies to indigenous groups whose presence and voices are usually absent from the news media.[75]

The wide range of independent news media online, in print, on television and radio, available nationally, provincially and locally, include some 295 radio stations and over 20 newspapers in daily circulation. Furthermore, the public broadcaster, the South African Broadcasting Corporation (SABC), provides news and entertainment in all 11 official languages, with sign language to be added as the 12th. Several free-to-air and satellite television channels air programs in various languages, showcasing diverse cultures.

However, several issues prevent representation and pluralistic actors in the news media. The primary challenge is that the media caters largely to business and English-speaking elite and middle-class groups. Therefore, most reporting covers urban centres where media houses are based. This leaves the majority of South Africans who are poor, young and vernacular speakers woefully underrepresented.[76]

There are some news special features that attempt to cover issues in rural areas, but the latter is usually an exception rather than the norm. The SABC, due to its long establishment, resources and diversity, fares better as it has a near-universal reach and is the source for most news. However, access to and content for SABC TV is primarily focussed on urban and middle-class people, leaving smaller towns and rural areas reliant on its radio services.[77] Issues of governance, political interference, corruption and bureaucratic failure have left the SABC unable to expand its offerings, thus perpetuating the elites focus.[78] Private news media that are available online and through satellite television are provided by the largest media company on the African continent, Naspers, through its subsidiary MultiChoice, but these services may be difficult to access due to subscription fees and data costs.

To address these limitations, government policies promote community-focussed media since 1994, with more than 200 new community radio stations serving a weekly listenership of around 8.3 million people in their preferred languages about local day-to-day issues.[79] But challenges remain, including apartheid-era infrastructure deficits in Black communities and the former rural homelands. Community radio stations rely on commercial airtime sales, limiting content creation and employment.[80]

Regarding nationality, the media have reported extensively on violence against non-national Africans but does not provide much reportage on the living conditions and challenges faced by non-nationals daily.

Since 1994, employment demographics in the commercial media have become more reflective of the population: Black Africans are at 45 percent, coloured (mixed race) people at 19 percent and Indian people at 7 percent of all employees, while 55 percent of staff are women.[81] Women, particularly Black women, remain underrepresented in the upper echelons of the media. But the problem of unrepresentative ownership persists. Despite changes through mergers, buyouts and Black economic empowerment deals, four of the top 10 media houses do not have Africans on their boards, and 41 percent of the sector remains in white hands.[82]

Overall, the urban bias in news coverage makes it difficult to gauge how people of different ethnicities and indigenous groups view issues of "national importance," especially if they are based in rural areas. Issues of national importance may not reflect the realities of inequality in semi-urban and rural areas.

The rise in investigative journalism exposing corruption, which intercepts state monies meant for service delivery to specifically the poor, has been met with threats from the ruling and some opposition parties, including the Protection of State Information Bill. This legislation, which has been stalled, seeks to muzzle and persecute journalists that are critical of the state.

9. CIVIL SOCIETY
AVERAGE SCORE: 8

RACE | **SCORE: 8**
INDIGENEITY | **SCORE: 8**
ETHNICITY | **SCORE: 8**
NATIONALITY | **SCORE: 8**

Civil society recommendations and actions are undermined by a lack of political will to implement existing and new policies.

Civil society has been at the forefront of fighting for plural inclusion, contributing to the political and social pressure that ended apartheid. It plays a vital role in the post-apartheid democracy, challenging discrimination, repression, anti-democratic policies, state failures, corruption and abuse of power by elected and public officials.[83]

Civil society is comprised of NGOs and not-for-profit organizations that provide services and funding, and do research, advocacy, training and activist organizing for human rights and related issues, including LGBTQ+ and women's rights. Some groups organize in specific sectors, such as faith-based groups, local community action and advice groups, business groups and other formations outside of government's formal institutions.

Civil society services include food and shelter, which are also available for women who are survivors of GBV. Research is conducted on socio–economic, political and social factors that contribute to marginalization in South Africa, including poverty and gender inequality. Civil society contributes to a diverse and plural society by keeping the government accountable for its actions and providing policy recommendations. But, civil society recommendations and actions are undermined by a lack of political will to implement existing and new policies.

Issue-specific campaigns and alliances seeking to mobilize specific groups and the broader public include Defend Our Democracy, the Alliance for Rural Democracy, the C19 People's Coalition and Save South Africa (a campaign advancing the removal of the previous president, Jacob Zuma, for corruption). International NGOs are active, including a South African chapter of the Network for Immigrant Rights and Responsibilities, in advocating against xenophobia.

Some civil society groups have been exceptional in representing minorities and advancing pluralism within South African society. The UN High Commission for Refugees (UNHCR) acknowledges that civil society in South Africa generally has a wide understanding of diverse groups which include "refugees, asylum seekers, economic migrants and other locally defined 'outsiders' including domestic migrants and ethnic minorities."[84]

Where race, indigeneity and ethnicity are concerned, civil society organizations (CSOs) have been advocating for rights, mainly in the form of access to land rights and use in the rural areas of South Africa, including for women. Some notable civil society groups in this space are the Institute for Poverty, Land and Agrarian Studies, the Rural Women's Movement and Land Access Movement of South Africa.

Some civil society formations advocate strongly for the rights of white people as a minority group in South Africa. A prominent example is AfriForum, "a civil rights organisation

CSOs are also hobbled by a lack of funding, with bilateral and multilateral funding frequently channelled through government departments, rather than directly provided to CSOs.

that mobilises Afrikaners, Afrikaans-speaking people and other minority groups in South Africa and protects their rights."[85] Its litigation and public relations strategies challenge the notion that the white minority does not face human rights violations and racism. It is difficult to reconcile these civil society groups' claims of discrimination with the reality that economic power is still concentrated in white hands.

The successes of CSOs in challenging corruption and abuse of power has been met with hostility from politicians and government officials.[86] An oft heard countercriticism is that CSOs collude with external powers to undermine the government.[87] However, this rhetoric remains unsubstantiated.[88]

CSOs are also hobbled by a lack of funding, with bilateral and multilateral funding frequently channelled through government departments, rather than directly provided to CSOs.[89]

10. PRIVATE SECTOR
AVERAGE SCORE: 5

RACE | SCORE: 5
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 5

South Africa's economy and labour sector suffered the same injustices of social engineering as the rest of society during apartheid, particularly with the marginalization of Black people and women in the economy. The estimated size of the private sector in South Africa is between 50 percent and 70 percent of the overall economy, thus making it key to efforts correcting inequalities.[90]

There are several ways in which the private sector falls short of the goals of a plural society, which, in South Africa, involves a redistribution of resources, access to the economy including through labour absorption and fair and equal labour practices. Various laws address these goals, including the Employment Equity Act of 1998 and Broad-based Black Economic Empowerment Act of 2003.

Progress in reflecting the national demographics in the ownership of publicly traded enterprises economy has been inadequate. Foreign investors owned 41 percent of listed shares on the Johannesburg Stock Exchange, Black South Africans owned 23 percent, while white South African owned 22 percent.[91]

South Africa has one of the highest unemployment rates in the world, which affects Black Africans the most. While 8.6 percent of white people are jobless, vastly higher percentages of the other groups are unemployed according to the official race categories: 19.5 percent of Indian/Asian, 28.5 percent of Coloureds and 38.2 percent of Black South Africans.[92]

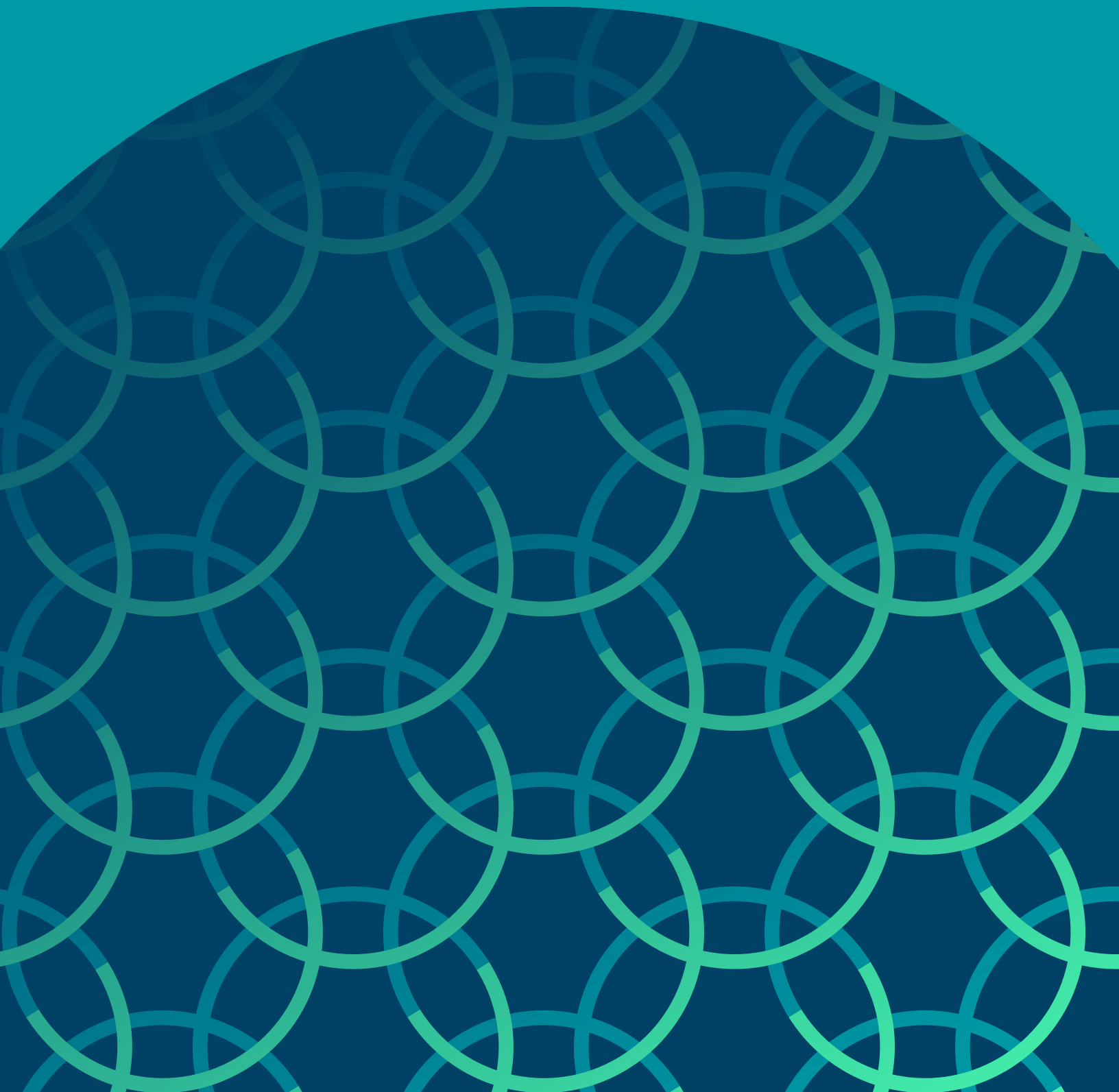
The private sector also falls short of pluralism because of its lack of diverse demographics in management and executive positions.

The private sector also falls short of pluralism because of its lack of diverse demographics in management and executive positions. White and Indian minority groups "are most likely to be recruited, promoted and trained" in top management positions.[93] Top management positions are occupied by 64.7 percent whites, followed by 15.8 percent Africans, 10.6 percent Indians, 5.7 percent Coloureds and 3.1 percent foreign nationals.[94] These numbers, alongside the statistics for unskilled positions of 83.7 percent Africans, 10.9 percent Coloureds, 0.7 percent Indians, 0.9 percent whites and 3.7 percent foreign nationals, confirms that the legacy of apartheid-era policy remains a reality.[95]

Women make up 43 percent of the total workforce and are overrepresented in the more precarious informal sector. Hence, women represented 67 percent of the nearly three million job losses due to the COVID-19 pandemic.[96] Black African women have an official unemployment rate of 41 percent, and an estimate suggests that only one-in-50 Black women are employed.[97] In top management, white and Indian men are overrepresented, with only 24.9 percent of such positions held by women.[98] Of these, only 4.6 percent are Black African women.[99]

Figures are not available concerning indigeneity or ethnicity. Yet, given the marginalization of rural-based groups based on indigeneity and ethnicity at the intersection with race and gender, it can be assumed that indicators for Black rural women subjected to ethnically defined traditional councils, on the basis of invented indigenous customs, would be comparable or worse than the figures cited here for Black women generally.

PART IV.
GROUP-BASED INEQUALITIES



11. POLITICAL
AVERAGE SCORE: 6

RACE | **SCORE: 7**
INDIGENEITY | **SCORE: 5**
ETHNICITY | **SCORE: 7**
NATIONALITY | **SCORE: 5**

In practice, the system overall allows for diverse presentation across parties, but political mobilization still occurs on racial, ethnic and indigenous grounds.

The Bill of Rights provides positive obligations on the state regarding representation and participation, specifically the following: Section 18 Everyone has the right to freedom of association; Section 19 (1) Every citizen is free to make political choices, which includes the right: (a) to form a political party, (b) to participate in the activities of, or recruit members for, a political party, and (c) to campaign for a political party or cause; Section 19 (2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution; and Section 19 (3) Every adult citizen has the right: (a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret, and (b) to stand for public office and, if elected, to hold office. South Africa's election system uses proportional representation with party lists. No disaggregated data exist of parties' memberships, but parties are prohibited from excluding members based on race, ethnicity, gender or other categories cited in the Bill of Rights.

In practice, the system overall allows for diverse presentation across parties, but political mobilization still occurs on racial, ethnic and indigenous grounds. For example, the ruling ANC emphasizes that its transformation policies are aimed at Black South Africans in general, where "Black" includes Coloured and Indian South Africans alongside Black Africans but adds that its policy focus is on Black Africans in particular. The EFF rallies Black South Africans with explicitly racial messages but has white members. The Inkatha Freedom Party, which emerged from the ethnic Zulu homeland, mobilizes Zulu speakers but includes many Indian and white members. A newer party is the Khoisan Revolution Party, which advocates on behalf of indigenous Khoisan. The FF+ promotes white minority rights but includes Coloured Afrikaans-speakers. White, Afrikaans-speaking towns have been established since 1994, such as Orania and Eureka, which appeal to Afrikaner nationalist notions of racial purity.

In relation to participatory democracy, the Constitution, in sections 59(1)(a), 72(1)(a) and 118(1)(a)13, requires that Parliament and the legislatures be transparent and also provide for public participation through petitions and other public involvement in legislative processes.[100] Parliament adopted the Public Participation Framework in 2013, but it has yet to be implemented. In terms of ethnicity and indigeneity, public participation remains largely proscribed to the elite institutions of customary leaders who are deemed to represent their communities.

Nationality is again a category through which political exclusion is effected. Political leaders feed into the narrative that immigrants are a burden to society.[101] The Constitution uses the distinctive language of "everyone" when speaking to the rights of association, political participation and representation and only resorts to the language of citizenship

in relation to elections. However, in practice non-nationals have only in recent years become organized to the extent of organizing demonstrations and marches, in contrast to other groups who pursue their rights on the basis of their citizenship status. Increasingly, both the governing party and opposition parties target non-nationals to capitalize on widespread xenophobic sentiment, promoting the interests of native inhabitants against those of foreign migrants, including with immigration-restriction measures.[102] A wave of xenophobic riots in 2015 led to Parliament establishing an Ad Hoc Joint Committee on Probing Violence Against Foreign Nationals, which blamed foreign nationals for contributing to the violence by dominating informal trade, hence demonizing foreign business owners.[103]

South Africa is regarded as "one of the most gender-diverse parliaments" across the globe, being third in Africa and tenth in the world.[104] In the National Assembly, women comprise 46 percent of representatives and 36 percent in the National Council of Provinces. After the 2019 elections, women's representation increased from 30 percent to 43 percent at a provincial level.[105] Despite such high representation, women's experiences are still marred by discriminatory experiences in the work context, also in politics, including GBV.

12. ECONOMIC
AVERAGE SCORE: 3.5

RACE | SCORE: 4

INDIGENEITY | SCORE: 3

ETHNICITY | SCORE: 4

NATIONALITY | SCORE: 3

While the upper echelons of the economy have been deracialized with the emergence of a Black economic elite, the "white population group had the highest annual mean and median expenditure compared to other population groups.

Using the benchmarks of income inequality, such as the Gini coefficient, South Africa is one of the world's most unequal countries.[106] According to Chatterjee, Czajka and Gethin, "South Africa displays unparalleled levels of wealth concentration. The top 10 percent of South African wealth holders own more than 85 percent of household wealth, while the top 1 percent wealth share reaches 55 percent. The top 0.01 percent (about 3,500 adults) own a higher share of wealth than the bottom 90 percent as a whole (about 32 million individuals). The average wealth of the bottom 50 percent is negative" and across all classes, there is no evidence that wealth inequality has decreased since the end of apartheid.[107]

While the upper echelons of the economy have been deracialized with the emergence of a Black economic elite,[108] the "white population group had the highest annual mean and median expenditure compared to other population groups [...]. When it comes to population groups, the expenditure share of coloureds was in line with their population size. Unfortunately, this was not the case for the other population groups. The expenditure share of Black Africans was significantly smaller than their large population share in the country; while [sic] the expenditure share of whites remained disproportionately large relative to their small population share."[109]

Moreover, according to another report, "Black African respondents reported greater lived poverty in comparison with other historically defined race groups [...] In terms of social mobility – equality of opportunities – the 2019 SARB data shows that [...] many reported not having access to the financial resource, social capital, education and transport they need to realise their personal goals."[110] The implications for migrant populations and indigenous communities are even starker. Despite victories in land claims, for example, "indigenous people across southern Africa continue to experience rates of impoverishment and marginalisation that are among the highest globally."[111]

Many reports point to the high unemployment rate as one source, as well as the failure of the ANC government to reign in predatory rent-seeking by elites, which has resulted in the continued concentration of wealth in a small elite.[112]

There are no disaggregated data available for ethnicity, but workers in the countryside earned less than half of what urban workers did, which is where ethnically-defined communities under traditional councils find themselves.[113]

Self-employment accounts for 25 percent of total jobs for foreign nationals in South Africa, compared to 16 percent for locals.[114] It can be inferred from the scholarship on problems faced by African migrants in obtaining or even renewing the necessary documents required to gain meaningful employment that they face high economic inequality.[115] In fact, according to the ACMS, foreign-born migrants are more likely to be informally employed and face precarious employment conditions, even though migrants with the same qualifications as South Africans are more likely to be employed.[116]

On average, women earn less, save less and hold less secure jobs as they are more likely to be employed in the informal sector.[117] According to the Quarterly Labour Force Survey by Stats SA, the country's labour market is more favourable toward men who tend to be more likely to occupy full-time, formally paid employment than women.[118]

13. SOCIAL
AVERAGE SCORE: 5

RACE | SCORE: 5
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 5

Social inequalities continue to persist in post-apartheid South Africa, most markedly along racial and gender lines. The Bill of Rights contains positive obligations on the state to provide access to public goods. Specifically, the Bill of Rights declares that Section 26 (1) Everyone has the right to have access to adequate housing. Section 27(1) Everyone has the right to have access to (a) health care services, including reproductive health care; (b) sufficient food and water; and (c) social security, including if they are unable to support themselves and their dependants, and appropriate social assistance. According

The bulk of the national budget is spent on education, health care and welfare. However, the returns on education and health care are not commensurate with the spending.

to Section 29 (1), everyone has the right (a) to a basic education, including adult basic education; and (b) to further education. In recognition of limitations to state capacity and budget, the principle of progressive realization applies, meaning the state must take reasonable measures towards actualizing social rights.

The bulk of the national budget is spent on education, health care and welfare. However, the returns on education and health care are not commensurate with the spending.[119] The public schooling system struggles to deliver human capital for a modern economy, partly accounting for the high unemployment rate. This is reflected in the senior certificate pass rate in public schools having been dropped to 30 percent, while university admission is allowed even if the average mark is as low as 45 percent.[120] Meanwhile, health care standards in public hospitals have dropped to life-threatening levels, as illustrated by mounting medical negligence claims costing R1.7 billion in 2020/2021.[121]

The people worst affected are poor and rural people, of whom the majority are Black. Middle-class people, whether white or Black, opt for private education and health care. In relation to health care, this is reflected in the Inequality Trends report figures of individuals with access to private medical aid, which has remained at a relatively low level between 2002 and 2017, at 15.9 percent and 16 percent, respectively.[122] As socio–economic inequality has remained at high levels in the post-apartheid era, the majority of Black Africans and Coloureds remain dependent on state schooling, health care and welfare. The discriminatory apartheid legacy has been compounded by bureaucratic failure and corruption in the democratic era. With regard to health care, eight out of ten Black-led households usually use public health care facilities when a household member gets ill compared to one out of ten white-led households.[123] These proportions have not changed much between 2009 and 2017.[124] A third of the population receives social grants, 19.2 million people, with South Africa having the most extensive social security support in sub-Saharan Africa.

Data sources do not disaggregate access to education, health care and welfare according to ethnicity or indigeneity. However, given that school attendance and health care access are at the lowest levels in the rural areas, it can be inferred that the ethnically and indigenously defined groups living under traditional councils most suffer the brunt of education and health care failure in the public sector.

Regarding nationality, the Constitution does not limit social rights to those classified as citizens. However, with the extensive official documentation needed to access these services, non-legal nationals face limited realization of these rights despite forming part of the Constitution's "everyone" resident in the country. In particular, as Alfaro-Velcamp noted in relation to health care access, "the National Health Act of 1998, the Refugee Act of 2008, and the Immigration Act 13 of 2002 should better specify the intent of the South African Constitution with respect to socio-economic rights and access to health and emergency care. [However, the] laws are not consistent and create contradictory and confusing situations for patients and medical practitioners."[125] This problem is further exacerbated by the language barrier for migrant populations, as highlighted by Sobane, van der Merwe and Shandu.[126]

Moreover, despite voting in favour of adopting the UN Declaration on the Rights of Indigenous Peoples, South Africa has, up to now, not ratified International Labour Organization Convention No. 169. This Convention contains specific sections that focus

Despite South Africa's highly progressive social justice commitment in the Constitution, including a highly active social justice sector, the experience on the ground still paints a picture of stark distinctions in terms of race, nationality, indigeneity and gender, while no clear data currently exists in terms of ethnicity.

on social security and health (Part V) and education and means of communication (Part VI), which would require further commitment from the government in terms of resources and management beyond those currently provided under the Bill of Rights. To this end, the lag in ratification limits the scope within which indigenous communities can claim equitable access in terms commensurate with their special status and recognition. This is despite South Africa's adoption of the Act No. 3 of 2019: Traditional and Khoi-San Leadership Act, which provides for the recognition of Khoi-San communities, including their traditional leadership institutions.

Regarding gender, the Afrobarometer indicated that South African men and women are equally likely to complete secondary school (62 percent men, 63 percent women) and some form of post-secondary education (21 percent and 20 percent).[127]

Overall, we conclude that, despite South Africa's highly progressive social justice commitment in the Constitution, including a highly active social justice sector, the experience on the ground still paints a picture of stark distinctions in terms of race, nationality, indigeneity and gender, while no clear data currently exists in terms of ethnicity.[128]

14. CULTURAL
AVERAGE SCORE: 6

RACE | SCORE: 7
INDIGENEITY | SCORE: 6
ETHNICITY | SCORE: 7
NATIONALITY | SCORE: 4

Anglican Archbishop Desmond Tutu, a foremost anti-apartheid cleric and head of the post-apartheid TRC, coined the term "Rainbow Nation" to capture the diversity of the South African population. The Bill of Rights provides the following guarantees: Section 15(1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion; and (2) Religious observances may be conducted at state or state-aided institutions. Section 30 confers on every person the right to "use the language and to participate in the cultural life of their choice." Section 31 entitles persons belonging to a cultural, religious or linguistic community "(a) to enjoy their culture, practice their religion and use their language; and (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society."

The Constitution and related legislation (Act 19 of 2002) established the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities to promote respect and tolerance for the rights of cultural, religious and linguistic communities. The development of indigenous knowledge systems receives attention in the form of education policy and funding from the National Research Foundation.

The democratic-era inclusion of indigenous languages marks an important shift from apartheid when only Afrikaans and English held official status and languages spoken by Black South Africans were mostly denied recognition.

As part of inculcating cultural pluralism, annual public holidays include Heritage Day on September 24th, which extends into September as Heritage Month. The heritage celebrated refers to cultural traditions, beliefs and rituals expressed in music, dress, food and oral histories. A campaign has been underway to celebrate Heritage Day as "Braai Day," referring to barbequing (*braai*) as a popular South African practice that cuts across racial, ethnic and cultural boundaries.

The country's cultural diversity is also reflected in the recognition of 11 languages in the Constitution.[129] These are Afrikaans, English, Pedi, Sotho, Tsonga, Tswana, Venda, Xhosa and Zulu. The democratic-era inclusion of indigenous languages marks an important shift from apartheid, when only Afrikaans and English held official status and languages spoken by Black South Africans were mostly denied recognition.

The most spoken languages in the home are Zulu (25.3 percent), Xhosa (14.8 percent) and Afrikaans (12.2 percent).[130] However, English dominates in the public discourse, as the use of most languages outside the household declined, except Zulu and Tswana.[131] While only 8.1 percent of individuals speak English inside the home, it is the second most commonly spoken language outside the household, at 16.6 percent, after Zulu with 25.1 percent of the population. The other languages that predominate outside the home are Xhosa (12.8 percent), Pedi and Afrikaans (9.7 percent each) and Tswana (9.4 percent).[132]

English language domination precludes full social participation. As Munyai and Phooko argued in relation to English in the democratic era: "[t]he advancement of a language that is not indigenous to Africa was done at the expense of African languages.[133] The irrefutable consequence of colonialism in Africa, through the introduction and facilitation of the colonial education system, has led to European or colonial languages becoming official languages of the African continent. This has led to a hierarchy of languages, in terms of which the colonizers' language has been globally accepted and perceived as prestigious and dominate in both private and public sectors." The full effects of the predominance of English in governmental processes that affect ordinary people, also in political participation, have not been adequately researched.

Regarding discrimination on the basis of nationality, South African xenophobia has a cultural dimension related to language. The superiority of South Africans in relation to foreigners from other African states is asserted with the use of the slur *Amakwerekwere*, which refers to "a Black person who cannot demonstrate mastery of the local South African languages, and one who hails from a country assumed to be economically and culturally backward in relation to South Africa."[134]

Finally, ethnicity in relation to culture is wielded in problematic ways to promote oppressive ideas about gender, for example, in relation to "correct" forms of Zulu masculinity and femininity to justify GBV, as in the public discourse practised by former president Jacob Zuma.[135]

15. ACCESS TO JUSTICE
AVERAGE SCORE: 5

RACE | SCORE: 7
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 4

The separation of powers between the executive, legislative and judicial arms of state is a constitutional principle. As a constitutional democracy, the 1996 Constitution rather than Parliament is the supreme authority. The judiciary is independent, with the Constitutional Court at the apex, tasked with upholding the Constitution. The Constitution is explicit in limiting the reach of the state in proclaiming that no person or organ of the state may interfere with the functioning of the courts, and an order or decision of a court binds all organs of the state and the people to whom it applies. The courts are required to declare any law or conduct invalid if inconsistent with the Constitution and develop jurisprudence that accords with and extends the values, letter and spirit of the Constitution and the Bill of Rights.

The Constitution requires that everyone enjoys access to justice. Apart from the Constitutional Court, Supreme Court of Appeal, High Courts and Magistrates' Courts, various specialized courts exist, for example, on labour and electoral matters. Alternative dispute resolution mechanisms exist in the form of, for example, the Commission for Conciliation, Mediation and Arbitration on labour matters.

For matters pertaining to the social categories of interest here, disputes related to the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 can be settled in the Equality Courts. The 382 Magistrates' Courts designated as such provide "marginalized and vulnerable citizens with access to justice to assert their rights' in relation to unfair discrimination."[136] The Equality Courts do not require legal presentation and encourage resolution of cases through remedies such as apology, the payment of damages and community service. Cases have risen from 75 in 2003–4 to 621 in 2019–20, with complaints in relation to discrimination based on race and gender being common.[137]

Due to the bifurcated legal system explained earlier, Parliament has twice tried to adopt the controversial Traditional Courts Bill, halted through successful advocacy and protest by rural activists.[138] Their challenge to the bill was due to its violation of the separation of powers doctrine, as it concentrated executive, legislative and judicial power in the hands of traditional leaders. Women were also barred from representing themselves in traditional courts.

The lawmakers finally succeeded in forcing the Bill through Parliament in 2020. It is currently under review for constitutionality, as it prohibits people living in traditional communities from opting for civil courts: the Bill "compel[s] people who are summoned to appear before a traditional court to do so – even where they dispute the legitimacy of the court and the traditional leader [...] denying people the right to opt out of the traditional court system conflicts with the notion of customary law as a voluntary and

Afrobarometer respondents with greater experiences of poverty and less education, which in the South African context generally applies to the black population, are less trusting of the courts than are more secure and educated respondents, which generally applies to the white population.

consensual system of law. It may also unjustifiably infringe the rights to a fair trial and equality."[139] Another law, the Communal Land Rights Act of 2004, was struck down by the Constitutional Court after activists challenged the law's concentration of control over land in the hands of traditional councils.

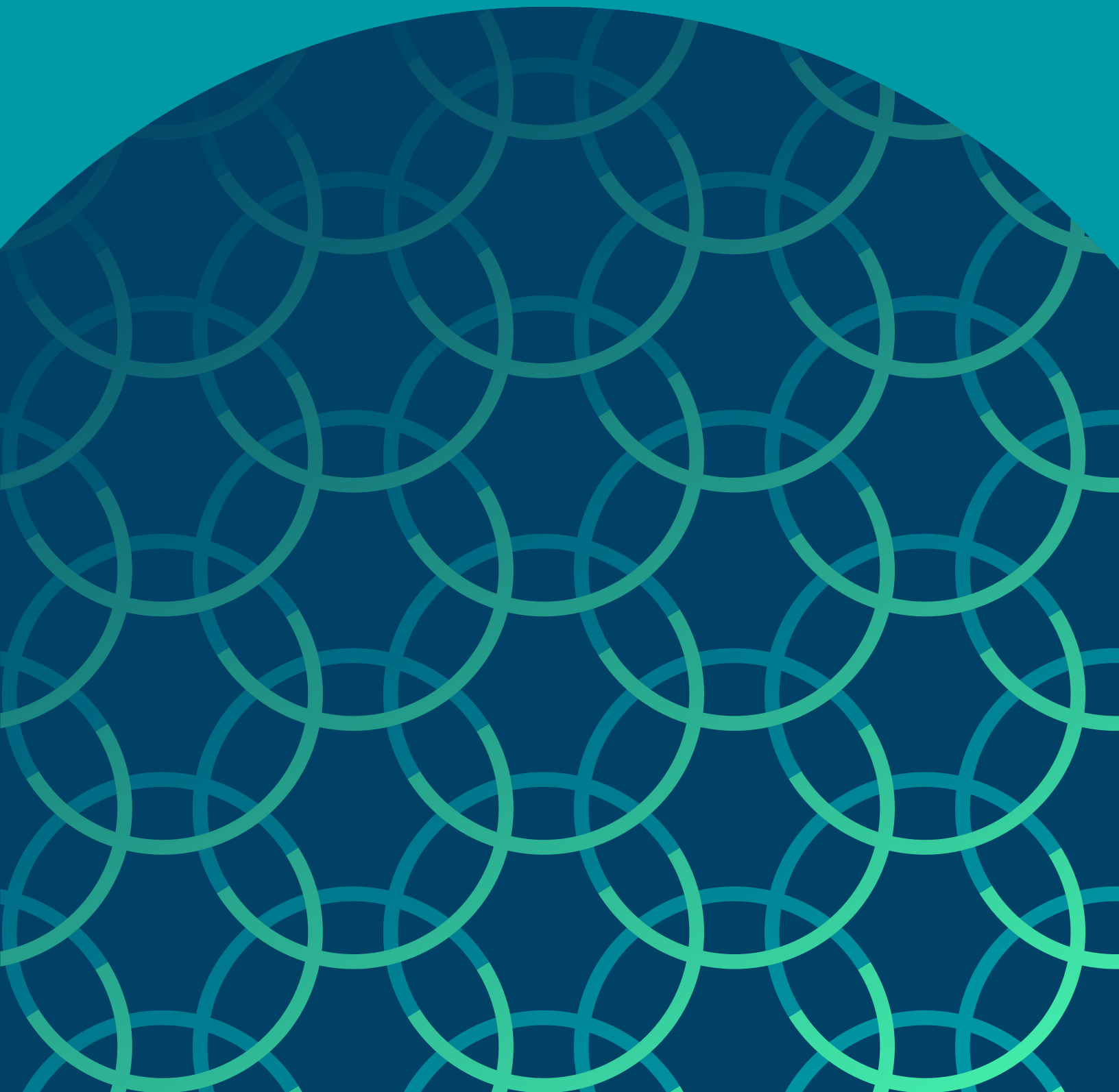
The Integrated Justice System aims to increase the efficiency and effectiveness of the criminal justice process through successful investigation, prosecution, punishment for priority crimes and rehabilitation of offenders. However, the system battles with overcrowding in prisons, in part due to a high percentage of prisoners awaiting trial. These prisoners, of whom the majority are Black, are frequently awaiting trial for socio–economic crimes and imprisoned merely because they are unable to afford bail in a context of high levels of poverty.

The latest Afrobarometer is the first where a majority (53 percent) of respondents indicate little or no trust in the judiciary.[140] According to the survey, respondents with greater experiences of poverty and less education, which in the South African context generally applies to the Black population, are less trusting of the courts than are more secure and educated respondents, which generally applies to the white population.

Non-nationals in South Africa are generally more disadvantaged as it pertains to accessing the extensive framework of rights for migrants.[141] Anti-immigrant sentiment prevents non-nationals from accessing justice.[142] When arrested, undocumented migrants, in particular, frequently experience human rights abuses, physical torture and denial of legal representation.[143]

Fewer than half of South Africans think that equal opportunities and treatment for women have improved in recent years (46 percent) and that the government has succeeded in promoting gender equality (46 percent).[144] GBV against women at the hands of men continues to plague the country as a result of perpetrators not being held responsible for their actions.[145] It is estimated that annually, 500,000 sexual crimes are committed in South Africa, and for every 25 men accused of rape, only one is convicted.[146]

PART V. INTERGROUP RELATIONS AND BELONGING



16. INTERGROUP VIOLENCE
AVERAGE SCORE: 5

RACE | SCORE: 6
INDIGENEITY | SCORE: 6
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 3

The Afrobarometer indicated that a steady undercurrent of xenophobia, combining prejudice on the basis of race and nationality, has marked the post-apartheid era in South Africa.

In its summary on violence, safety and reconciliation, the 2019 South African Reconciliation Barometer (SARB) noted that "safety and violence present challenges to South Africa. Crime levels in South Africa frequently rank as among the highest in the world, especially in terms of violent crimes (such as murder and rape). Feeling safe or unsafe may also relate to socio-economic and power dynamics in society – impacting both reconciliation and social cohesion processes."[147] The SARB does not provide disaggregated scores related specifically to intergroup violence, but it does paint a picture of a country where residents generally feel unsafe.

Outbursts of political violence, which killed an estimated 14,000 people, marked the 46-month process of inter-party negotiations that produced the end of apartheid. The province of KwaZulu-Natal was the main theatre for political violence in the 1990s, primarily to do with the ethnically influenced political divide between the IFP, a party that grew out of the Zulu Bantustan of KwaZulu, and the ANC, of which the African nationalism has a strong bend towards the Xhosa ethnic group. KwaZulu-Natal currently still largely accounts for intergroup violence in the country due to corruption and intra-party fights for power.[148] Intergroup violence includes actors in politics and organized crime, which has shifted into intra-ethnic violence amongst the Zulus and battles among ANC factions, which manifest in "taxi wars" (conflict among taxi associations).[149]

While ethnicity is closely aligned with indigeneity in the South African context, no violence has been reported on the basis of indigeneity.

The Afrobarometer indicated that a steady undercurrent of xenophobia, combining prejudice on the basis of race and nationality, has marked the post-apartheid era in South Africa.[150] Xenophobic violence against African migrants, driven by notions such as "South Africans First," has occurred since the late 1990s, but numbers have recently reached unusually high levels.[151] Since the 2008 outbreak of xenophobic violence, hundreds of fatalities have occurred.[152] Conflict is intensified by growing xenophobia and racism in South Africa, manifesting in attacks including arson on businesses owned by non-national Africans and Asians.[153] Both elected officials and the media propagate dehumanizing rhetoric around immigration, with Black non-natives frequently characterized as "parasitic" and "criminal."[154] Statistically representative surveys have demonstrated that South Africans hold deep anti-foreigner sentiments across race and class.[155] The Afrophobic nature of South African xenophobia highlights the racial nature of this phenomenon. Current xenophobic exclusion is informed by notions of race, resulting in negative discourses against foreigners in everyday life.[156] Migrants from elsewhere in Africa are presented as threats to the safety, security and transformation of the country and its citizens.[157]

Violence between Black and white people has occurred in individual incidents but not in an organized fashion. However, local organizations associated with protecting white people's interests, such as Afriforum, have succeeded in globally circulating a narrative about murders supposedly targeting white farmers, framing these attacks as a "white genocide" as part of a global narrative about a supposed threat to the survival of white people and "white culture."[158]

The exposure of girls and women to interpersonal violence is widespread, and the victimization of men by men, especially to severe and homicidal forms of aggression, is of considerable concern, with male homicide being eight times the global rate.[159] In the last two decades, several laws and policies have been adopted to combat GBV. However, indications suggest that the policy response to violence is not coherently formulated, comprehensive or evenly implemented.[160]

17. INTERGROUP TRUST
AVERAGE SCORE: 4

RACE | SCORE: 5

INDIGENEITY | SCORE: 4

ETHNICITY | SCORE: 4

NATIONALITY | SCORE: 3

While levels of trust have increased for all population groups, the increases from substantially higher bases are greatest for Indian/Asian and White respondents. By contrast, Black African and Coloured respondents experienced a smaller increase, from a lower base.

Despite the notion of the Rainbow Nation (cited in the Cultural indicator), people in South Africa generally do not trust people from other ethnic groups, according to the recent Global Centre for Pluralism's *Pluralism Perceptions Survey*, implemented by Afrobarometer.[161] Most of the participants surveyed said that they trust people from other ethnic groups "just a little" or "not at all."[162] Over 60 percent of the respondents said they have very little trust or no trust at all. This seems a worrying state of affairs for South Africa, given its history of ethnicism and racism. However, a majority of respondents (50.8 percent) indicated that they would not care whether their family member married someone from another ethnic group.

Only "[a]bout three in 10 (27.1 percent) South Africans report that they trust people from 'other race groups.'"[163] The GCRO report, however, shows a decline since 2018 in those who agree that Black and white people do not trust each other.[164] Sentiment around interracial trust appears to have improved. Trust in people living in the neighbourhood or community plays an important role in how safe people feel and in their general well-being. The survey indicates that trust in neighbours or community members has increased by 9 percent since 2018.[165] While levels of trust have increased for all population groups, the increases from substantially higher bases are greatest for Indian/Asian and White respondents. By contrast, Black African and Coloured respondents experienced a smaller increase, from a lower base.[166]

The 2019 SARB, which is produced periodically by the Institute for Justice and Reconciliation, finds more "bonding," rather than "bridging" in relation to trust: "A

greater proportion of South Africans trust their relatives more than any other groups."[167] The implications for the various diversity groups are, therefore, not positive in relation to racial reconciliation and xenophobia.

Levels of education affect intergroup trust. Intergroup trust between ethnic groups increases with levels of education.[168] Stats SA indicates minor differences between men and women about trust toward different ethnic groups.[169] However, it appears that women with higher education levels are more likely to trust diverse groups than men, as there is very little variation across levels of schooling, apart from those with no formal education for men's intergroup trust. The results suggest very little variation in both men's (25.5 percent), and women's (25.7 percent) level of comfort with intergroup marriage. There was a general tendency to answer "would not care," and this was similar towards different ethnic and religious groups.

Amid "the many reported xenophobic incidents," South Africans hold markedly xenophobic positions about people from other African countries living in South Africa:

> Four in ten (39 percent) South Africans reported that they were likely to prevent people from other African countries from moving into their neighbourhood, and from operating a business in their area (38 percent). Furthermore, just over a third reported that they were likely to prevent people from other African countries from accessing government services (34 percent), and from accessing jobs (36 percent).[170]

18. TRUST IN INSTITUTIONS
AVERAGE SCORE: 5

RACE | SCORE: 5
INDIGENEITY | SCORE: 5
ETHNICITY | SCORE: 5
NATIONALITY | SCORE: 5

Public trust in institutions has been steadily decreasing for at least a decade now, due mainly to corruption, the decline in the quality of public services and the partial treatment of different groups of people by public institutions. Irrespective of sex, ethnicity and nationality, trust in nearly all institutions in South Africa is low and declining rapidly.[171]

The findings in the *Pluralism Perceptions Survey* indicate very low levels of trust (59 percent) toward the president and ruling parties.[172] The only institutions in South Africa that received higher levels of trust were media broadcasters, both independent (63 percent) and government (61 percent), and the Department of Health (56 percent).[173] Further results in the 2021 Edelman Trust Barometer shows that South African institutions have an average trust score of 48 out of 100. This means that the country ranks lower than continental peers such as Kenya and Nigeria, and well below the global average of 56 points.[174] While this trust score is an improvement from the year before, South

Political leaders tend to be least trusted in the country and citizen's level of trust in the country's president dropped from 62 percent to 34 percent since the first Afrobarometer survey in 2000.

Africa remains in the "distrust" category, and this lack of trust is simply not sustainable. Moreover, growing inequality is significantly jeopardizing trust in institutions and the more unequal the country becomes, the less citizens are willing to trust institutions.[175]

A recent article noted a significant decline in the public health sector due to the surge in misleading and false information during the COVID-19 pandemic.[176] The World Health Organization (WHO) refers to this as an "infodemic," which can lead to mistrust in health authorities and undermine the public health response.[177] After the government's perceived mishandling of the pandemic, citizens are more likely to trust scientific sources such as doctors and the WHO than law enforcement and judiciary.[178]

Political leaders tend to be least trusted in the country and citizen's level of trust in the country's president dropped from 62 percent to 34 percent since the first Afrobarometer survey in 2000. The independent broadcasting service is the only institution to witness a major gain in trust, from 69 percent in 2011 to 79 percent in 2015.[179] Levels of trust therefore seem conversely correlated with perceptions of corruption and positively associated with perceived performance of leaders and public institutions in South Africa. Trust levels are low among citizens who think that most or all government officials are corrupt; conversely, trust levels are higher among those who think that officials are performing well.[180]

The coronavirus pandemic altered people's confidence in public institutions. By the end of the second wave, 61 percent of South Africans had more confidence in the president, believing that he was handling the pandemic well.[181] Trust in the police was at 30 percent during this time and at 32 percent in the national army. The low confidence in the police and the army was not only reflective of the general lack of confidence in South Africa's law enforcement but also the police's heavy-handedness toward poor and working-class communities during the hard lockdown, particularly Black Africans.

The Global Pluralism Monitor Barometer further revealed that trust in public institutions is at an all-time low and declining, where only 38 percent of South Africans trust the president and only 43 percent trust courts.[182] 63 percent of South Africans generally trust independent media broadcasters, while 61 percent trust government, and 56 percent trust the National Department of Health.[183] The inclusion of trust in the National Department of Health is probably due to the coronavirus pandemic, which tested health institutions globally and nationally. Worryingly, "two-thirds (67 percent) of South Africans would be willing to give up elections if a nonelected government could provide security, housing, and jobs. Nearly half (46 percent) say they would be 'very willing' to do so, with higher levels of support among younger and more educated respondents."[184]

Given the history of the violent repression of the apartheid regime, as well as the ongoing violence and repression meted out by governments across the African continent, the statistics above show how desperate South Africans are for a change in the status quo.

19. INCLUSION AND ACCEPTANCE
AVERAGE SCORE: 3.5

RACE | **SCORE: 5**
INDIGENEITY | **SCORE: 3**
ETHNICITY | **SCORE: 3**
NATIONALITY | **SCORE: 3**

Younger respondents and Black African respondents were more likely to be categorized as excluded or somewhat excluded.

Stats SA show that citizens on average expressed feelings of inclusivity, with men (47.7 percent) reporting stronger ties with fellow South Africans than women (42.7 percent).[185] While gender yielded little statistically significant differences, women with no formal education reported higher levels of inclusivity than those with secondary school education. It can thus be concluded that most of the variation in responses comes from women respondents. Moreover, Black and Coloured persons reported higher levels of inclusivity and stronger ties with fellow South Africans (42.4 percent and 55.8 percent respectively) than white persons on average. South Asians scored lowest. The differences between Black, Coloured and white persons were not statistically significantly different. For feelings of acceptance, men (82 percent) reported higher levels than women (76 percent). Black (80.5 percent) and Coloured persons (82.3 percent) also reported higher levels of acceptance, compared to white respondents (72.2 percent). According to the AfroBarometer, about one-in-eight South Africans (12 percent) reported experiences of discrimination based on gender during the year preceding the survey.[186]

According to the quality-of-life survey results in the GCRO, levels of inclusion and exclusion vary by age, population group, income and education.[187] The results further show that younger respondents and Black African respondents were more likely to be categorized as excluded or somewhat excluded. No significant differences between the sexes on feelings of exclusion and inclusion were found, but one-in-ten Coloured respondents reported always experiencing racial discrimination—the highest of all population groups.[188]

Moreover, there is generally positive evaluation of integration in terms of social interaction, including receiving medical treatment and education from people from other races (average greater than 58 percent). The same cannot be said for interracial marriage. As the SARB report concluded, "the integration statement that was met with the most disapproval pertains to a close relative marrying a person from the group of respondents identified, with 22.9 percent of respondents disapproving of integration in this regard.[189] The latter is an important indicator when measuring integration. The incidence of intergroup marriage is considered a measure of the dissolution of social and cultural barriers and therefore of social and cultural integration."[190] Meaning that, perceptions of inclusion and acceptance, in terms of race, are still informed by apartheid and colonial attitudes.

As for ethnicity, the *Pluralism Perceptions Survey* data indicate that there is less trust in people of other ethnic groups. Over 60 percent of the respondents said they have very little trust or no trust at all. However, a majority of respondents (50.8 percent) indicated that they would not care whether their family member married someone from another ethnic group.

With reference to nationality, the SARB report noted that, "Four in ten (39 percent) South Africans reported that they were likely to prevent people from other African countries from moving into their neighbourhood, and from operating a business in their area (38 percent). Furthermore, just over a third reported that they were likely to prevent people from other African countries from accessing government services (34 percent), and from accessing jobs (36 percent)."[191] In other words, inclusion and acceptance for foreign nationals is quite low, and disturbingly so, given the rights accorded to everyone by the Constitution, as well as South Africa's Refugees Act. Of particular concern is the conclusion of the report that younger individuals show greater xenophobic sentiment compared to older people.

Furthermore, there are greater xenophobic beliefs reported among more educated groups, with fewer xenophobic beliefs among those with no schooling. In essence, "[t]hese findings counter myths that poor people and those with limited formal education are mostly xenophobic, showing that xenophobic sentiments are pervasive – and often more so – among educated and wealthier South Africans."[192] No data on indigenous groups' level of trust, inclusion or acceptance could be found, but the level can be inferred from the other indicators.

20. SHARED OWNERSHIP OF SOCIETY
AVERAGE SCORE: 4

RACE | SCORE: 5
INDIGENEITY | SCORE: 4
ETHNICITY | SCORE: 4
NATIONALITY | SCORE: 2

The Global Centre for Pluralism's *Pluralism Perceptions Survey* presents a very positive picture of shared ownership of society for the country. According to the survey data, in response to the question of feelings of strong ties to South Africa and across all indicators, a large proportion of the respondents agreed or strongly agreed with the statement confirming feelings of strong ties to South Africa.[193] Although noting that the sense of belonging decreases with greater education attainment, this difference is not significant.[194] While the self-perception by others as belonging is slightly less across all indicators, it is still high. Specifically, the report notes that Black Africans and Coloured participants reported high levels of belonging, at 80.2 percent of Black Africans and 82.3 percent of Coloured participants agreeing or strongly agreeing. The relatively high percentage of 72.2 percent of white, and 73.4 percent of Asians that agree or strongly agree with the statement is noteworthy.[195] According to this survey, South Africans express high levels of ownership of society. Data disaggregated along ethnic, indigenous and foreign national categories were not available.

However, an understanding of how non-South Africans and indigenous communities feel about shared ownership of society, in particular the largely poor Black enclave, is best gleaned from the levels of protest that have beset the country since the early 2000s.

The lack of ownership and sense of belonging that African migrants in particular face adds to the bleak picture.

For example, some members of the Khoisan community have camped outside the Union Buildings in Pretoria (the seat of government) in protest demanding greater recognition of their communities. This is despite signing into law the Traditional and Khoi-San Leadership Act 3 of 2019. In fact, a political party called the Khoisan Revolution Party has brought further attention to the lack of ownership that the Khoisan communities face in relation to the rest of South Africa, which captures a general sense around the continued marginalization of indigenous communities in South Africa.

Furthermore, movements of the poor, unemployed, homeless, landless, who are largely constituted by the Black majority, have led a large number of protests in demand of better service delivery (access to which demonstrates the extent to which one feels that they are part of society by receiving the same services as everyone else). The so-called July Protests of 2021 were a culmination of this long-standing sense of lack of ownership that a majority of the country feels (arguments of a failed coup notwithstanding).

In addition, the lack of ownership and sense of belonging that African migrants in particular face adds to the bleak picture. In 2020, for example, South Africa began a process of deporting migrants that had been part of a protest in Cape Town against xenophobia. This is in addition to the general attacks that African migrants face on a daily basis in terms of both legal marches against immigrants as well as violent attacks on their communities. While protests against xenophobia have increased, the real fact of violence deters many migrants from participating in such protests themselves. Thus, putting to question the sense of belonging and ownership that such communities feel or have.

RECOMMENDATIONS

At the time of writing this report, the ongoing global COVID-19 pandemic presented an important opportunity to reflect and remain in solidarity with one another to successfully promote an inclusive society. As has been noted by recent events, the pandemic did not target any one diversity group; it affected every human across the globe. As such, it is increasingly necessary for all public and private sectors to work collaboratively to combat threats such as violence and xenophobia in South Africa. Our recommendations centre around how government can improve the economic and social conditions of the identified diversity groups and thus the overall pluralism in South African society. The following key recommendations are highlighted to strengthen pluralism and related practices in South Africa:

- Implementation of sanctions against the lack of economic transformation in the private sector. The South African government and its relevant institutions need to rebalance the role of the private sector, so that it is not just seen as a capitalist investor and lender but also as an active participant in training and promoting Africans into management and executive levels of the private sector.

- It is imperative that South Africa continues to support and actively expand policies that improve gender and racial equalities. This includes recognition and implementation of economic measures and policies that encourage social inclusion and alleviate the inequality and poverty of the Coloured communities.

- Improved and transparent data collection on socio–economic inequality. South Africa's institutions need to collect more data on socio–economic inequality and make this data more accessible. Where this data is available, it needs to be publicly accessible to encourage accountability throughout society.

- Public sanctions and condemnation of xenophobic and Afrophobic attacks, dis-/misinformation campaigns against migrant communities and publicly accessible investigations into institutions that have mismanaged immigration (e.g., home affairs, asylum centres and police stations). Improved and transparent data collection on immigration, immigrants' rights and domestic and continental policies on immigration.

- There needs to be greater awareness amongst victims and minority communities in order to improve their capacity and understanding of the laws and on issues of access to justice. In the same vein, it becomes increasingly necessary to support organizations working on justice, democracy and human rights and their participation in the construction of peace in South Africa.

- A strong focus on the practical implementation of existing institutional frameworks and laws, including differentiated protection mechanisms for women, needs to be prioritized.

- More resources and concerted effort towards the representation of indigenous communities, including the redefinition of inclusive citizenship to actively include and promote indigenous communities and the mobilization of resources and concerted effort towards the representation of indigenous communities. The South African government needs to put more resources into the representation of indigenous communities, their culture and concerns; and beyond tourism, public holidays and celebrations such as Africa Day. It is equally important to ensure that indigenous communities are formally incorporated into both regional and national planning, so that these groups are able to articulate and implement their different needs, as is their constitutional right.

- Foster a policy evaluation culture to promote the quality and use of policy evaluations across the local level of South African government.

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