**REPORTS ON DISCRIMINATION, SEGREGATION AND THE RIGHT TO ADEQUATE HOUSING**

QUESTIONNAIRE

**BASIC INFORMATION**

1. **Name of Individual, Organization, Institution, Agency or State:** South African Human Rights Commission

Type of Entity\*

National Government or federal governmental ministry/agency

Inter-governmental organization or UN agency

Local or regional government, agency, representative or mayor

Association, tenant union or housing cooperative

NGO network, umbrella organization

Community-based NGO

Academia

Foundation

National human rights organization, ombudsperson

Real estate, urban planning or construction

Real estate investor or investment fund

Trade Union

Other:

2**. Categorization of your Work**

Please select one or more responses, as appropriate.

Public administration

Advocacy

Funding

Legal Assistance

Networking

Policy

Research

Technical Assistance

Training

N/A

Other:

3. **City/Town**: The SAHRC has offices in all the 9 Provinces of South Africa

4. **State/Province**: The Provinces are Eastern Cape, Free State, Gauteng, KwaZulu Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape

5. **Country (please indicate your region or “international” if focus the work of your organization covers multiple countries);** South Africa

6. **Contact e-mail (will remain confidential) in case we have questions:** Click here to enter text.

**HOUSING DISCRIMINATION**

7. **What specific forms of de facto or legal discrimination or barriers towards equal enjoyment of the right to adequate housing do the following groups face in your country (please provide evidence with examples, studies, reports and relevant statistical information):**

* People of African Descent, or Roma
* Racial, caste, ethnic, religious groups/minorities or other groups
* Migrants, foreigners, refugees, internally displaced persons
* Women, children or older persons
* Indigenous peoples
* Persons with disabilities
* LGBTQ persons
* Low income persons, including people living in poverty
* Residents of informal settlements; persons experiencing homelessness
* Other social groups, please specify

The existing legal barriers towards the equal enjoyment of the right to adequate housing in South Africa operate on numerous levels. There are various barriers to accessing the right to adequate housing namely, the housing market requires one to be formally employed before accessing rental housing as well as when accessing housing finance. South Africa has an unemployment rate of 32.5% and 18.3% of people who are employed work in the informal sector.[[1]](#footnote-1) People who are unemployed or informally employed experience barriers to accessing adequate housing because of their inability to prove their income. For these people, the only option then becomes the informal housing market, which is usually unsecured housing which may lead to eviction. Low income households may have access to state-subsidised housing, but the waiting lists are lengthy and there is a lack of transparency around how houses are allocated.

Approximately, 38% of South Africans live in poverty and are unemployed, when these people do not meet the requirements for a house built by government (namely living with a partner or having financial dependents) their options for housing are severely limited. They have to live in temporary shelters (which often include risks to health and safety) or become homeless. An independent investigation on a temporary shelter for the homeless conducted by Medecins Sans Frontieres (Doctors Without Borders) for the South African Human Rights Commission found concerning trends including lack of education on hygiene, soiled communal toilets, interruption to their treatment of chronic disease and insufficient treatment of drug withdrawal symptoms.[[2]](#footnote-2)

South Africa currently does not have a national special needs housing policy to cater for the disadvantaged groups such as the poor, people living with disabilities, women, children and the elderly. This is despite the Special Rapporteur on adequate housing during a country visit to South Africa in 2007 having [recommended](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/110/55/PDF/G0811055.pdf?OpenElement) that the State formulates a specific national policy for groups with specific housing requirements (special housing needs) and the SAHRC having recommended the finalisation and adoption of a special needs housing policy.[[3]](#footnote-3)

8. **Discrimination in housing can affect various dimensions of the right to adequate housing and other human rights. Could you provide more details regarding the specific areas in which housing discrimination is experienced? Below are examples of various forms of discrimination that can be experienced in relation to different dimensions of the right to adequate housing:**

*Accessibility*

* Discrimination in relation to access to land, including water and natural resources essential for habitation;
* Discrimination in relation to housing for rental or for acquisition or in accessing public or social housing;
* Access to emergency and/or transitional housing after disaster, conflict related displacement or in case of homelessness, family or domestic violence;
* Accessibility of housing for persons with disabilities or older persons, including access to housing for independent living or to care homes;
* data collection or requirements to furnish certain certifications resulting in the exclusion of particular persons from accessing housing;

*Habitability*

* discrimination in relation to housing conditions, overcrowding or housing maintenance;
* Exposure to health risks within the home, including lack of ventilation, heating or insulation, exposure to fire or housing collapse risk, unhealthy building materials, or other unhealthy housing covered by the WHO Guidelines on housing and health;
* Exposure to other risks which render housing uninhabitable, including sexual or gender-based violence, interference with privacy and physical security in the home and neighbourhood;
* Discrimination in relation to housing renovation or permission of housing extension;

*Affordability*

* Discrimination in relation to access to public benefits related to housing;
* Lack of equal access to affordable housing;
* Discrimination in public and private housing financing;
* Discrimination related to housing and service costs, housing related fees, litigation or taxation;

*Security of tenure*

* Discrimination in relation to ownership or inheritance of housing and land and related natural resources including water including on the basis of a distinction between formal and informal tenure arrangements;
* Discrimination in relation to evictions, resettlement and compensation for loss or damage of housing, land or livelihoods;
* Differential treatment in land or title registration, permission of housing construction;

*Availability of services, materials, facilities and infrastructure*

* Discrimination in relation to access to work, schooling, health care or public benefits based on the residential address or related to a lack of an official address;
* Public transportation services and transportation costs;
* Provision of water, sanitation, energy, waste collection and other utility services; their quality or cost, including interruptions/blackouts including policies relating to disconnection from utility services;
* spatial disparities in access to health care, education, child care, cultural and recreational facilities;

*Location*

* Discrimination in relation to freedom of choice of the place of residency within the country, within a particular region or location;
* Discrimination based on place of residence or address, such as exclusion from invitation to job interviews or access to credit;
* Exposure to environmental health risks, such as external air quality, flooding, toxic ground exposure; noise; risk of landslides etc.;
* Living quality and physical security in the neighbourhood, including geographical disparities in policing and law enforcement;

*Cultural adequacy*

* Discrimination in relation to the recognition of culturally adequate dwellings as housing as well as equal access to public space;
* Prohibition of accessing, maintaining or constructing culturally adequate housing;
* Lack of recognition of mobile forms of residency.

The right to adequate housing necessarily includes and cannot be realised without to realisation of the right to water and sanitation. The 2019 General Household Survey conducted by Statistics South Africa revealed that only 88.2% of South Africans had access to piped or tap water in their dwellings, off-site or no-site. Additionally, 25.8% of South Africans reported that they experienced water interruptions in 2019. South Africa still experiences sanitation backlogs with a number of households still using the bucket toilet system. In 2019 it was reported that 82% of South Africans had access to improved sanitation, this figure however is greatly unequal among the provinces. In the Limpopo and Mpumalanga provinces only 63% of households had access to an improved sanitation system.

South Africans who live on land held under customary land laws face a number of challenges as their security of tenure over their land is often less secure than that of people who have title deeds to their homes. Ingonyama Trust which holds vast amounts of land in Kwa-Zulu Natal under customary law, for example, has been reported to extort money from residents and unlawfully make people enter into lease agreements and pay rental in order to live on land administered by the Trust.[[4]](#footnote-4) These unlawful actions undermine the right to housing of South Africans who live in rural areas.

9. **Are there any particular current laws, policies or practices in your country, region or town/community that contribute to or exacerbate discrimination in relation to the right to adequate housing?**

In its report on the High Level Public Inquiry on the impact of rural land use and ownership patterns on human rights the South African Human Rights Commission (Commission) found that even though customary land rights are protected in the Constitution, in practice it is difficult to protect people who have customary rights to access, use and own land.[[5]](#footnote-5) South Africa’s property ownership based on common law “perpetuates discrimination against mining affected communities that cannot assert ownership in order to mitigate the adverse impacts of mining on this rights” – this can range from the destruction of dwellings and forced relocations to the pollution of water sources.[[6]](#footnote-6) Evidence received by the Commission during the public inquiry demonstrated that farm dwellers and labour tenants demonstrated a worrying trend in the forced eviction of farm dwellers despite the implementation of the Extension of Security of Tenure Act which protects farm dwellers.[[7]](#footnote-7) Women farm dwellers are particularly disadvantaged as their rights to land are contingent on the presence of a male and when his employment is terminated, the woman and entire family also have to vacate the farm.[[8]](#footnote-8)

10. **Can you explain exemptions in national law that allow (certain) public, private or religious housing providers to give preferential or exclusive access to housing to members of a particular group, for example based on membership, employment contract, public service, age, disability, civil status, sex, gender, religion, income or other criteria?**

No

11**. In case there may be differential treatment of particular groups in relation to housing, please explain why such treatment could be justifiable according to international human rights standards - for example positive measures benefiting a particular group to overcome systematic discrimination or disadvantage-or if it would amount to discrimination?**

N/A

**SPATIAL AND RESIDENTIAL SEGREGATION**

12. **What forms of spatial segregation along racial, caste, ethnicity, religion, nationality, migration status, heritage, economic status/income or other social grounds can be observed in urban and urban-rural contexts in your country?**

The historic context of South Africa was one based on systemic ghettoisation, segregation and compartmentalisation of privileges and advantage along racial lines. Apartheid was spatial injustice *par excellence[[9]](#footnote-9)* , which intentionally and strategically used geographical dislocation to exclude people according to racial lines from the space and economy. Since 1994, through a number of programes such as the Reconstruction and Development Programme (RDP), the Breaking New Ground (BNG) and the National Development Plan (NDP) South Africa has recognised that the effects of apartheid spatial planning and its patterns linger on and has sought to break them down through land reform, more compact cities, decent public transport and the development of industries and services that use local resources and/or meet local needs’.[[10]](#footnote-10) Despite these legislative and policy measures adopted by the state, spatial inequalities still exist in South Africa.[[11]](#footnote-11) The spatial inequality is racialised in nature in that majority of poor black households continuing to live in peripheral, poorly located areas with insufficient access to opportunities and resources.[[12]](#footnote-12) As a result of this planning, unevenness has resulted which has reified and stratified into spatial injustice with privilege and advantage being premised on geographic location and space in and around urban areas.[[13]](#footnote-13) This has undermined universal access to human rights perpetuating inequality and exclusion.

13. **What impacts do these forms of spatial and residential segregation have on affected communities? Please point to indicators such as rates of poverty, un-employment and under-employment; prevalence rates of malnutrition; disparities in access to services and facilities (such as access to schooling, health care or other public benefits); disparities in access to infrastructure (lack of and/or poor quality provision of water, sanitation, transportation, energy, waste collection and other utility services); rates of exposure to environmental health risks (poor air quality, flooding, toxic ground exposure, etc).**

The spatial economy in South Africa is that of a spatial mismatch, which creates an asymmetry on the living conditions of residents in cities between those living in the ‘core areas’ and in ‘peripheral areas’. Those in core areas enjoy by design more opportunities of access to education and quality of life, while those in the periphery have limited opportunities and diminished quality of life.[[14]](#footnote-14) For instance women in peripheral areas face a heightened risk due to having to travel long distances to work in urban centres from far-flung and under-resourced locations.[[15]](#footnote-15) Living on the periphery of the urban areas (core areas) makes it difficult for the poor people to find jobs, which thus creates poverty traps.[[16]](#footnote-16) Those in the periphery, face social and economic exclusion.[[17]](#footnote-17)

14**. Have any particular historical or current laws, policies or practices in your country, region or town/community caused or exacerbated segregation?**

South Africa inherited historical legacy of apartheid anchored on centuries of legislative and policy implementation which relegated the black majority to the land which was unproductive and edged them out from space and economy. Legislation such as the Hut taxes (starting in 1870) and the Natives Land Acts of 1913 and 1926, was strategically designed to confine blacks to the periphery and viewed them as labour sending reservoirs.[[18]](#footnote-18)

Unfortunately, the democratic government’s implementation of post-apartheid housing policies has had the adverse impact of reinforcing historical injustices created by apartheid. Through its programme of redistributive housing, government has built houses in peripheral locations where there is little or no economic growth. This has had the unintended consequences of exacerbating exclusion, inequality and the entrenchment of poverty.

Further, the notion of “world class cities” as a means to attract foreign direct investment to boost the economy can result in ‘preference being granted to private investment in the development of prime land situated close to economic hubs, as opposed to prioritising the needs of the poor’.[[19]](#footnote-19) This is already evident in the South African context through the proliferation of gated communities.[[20]](#footnote-20) This is a form of institutionalised residential segregation based on race and class.

15. **In your view, what factors (current or historical) are the principal *drivers* of spatial and residential segregation in urban and urban-rural contexts in your country?**

The drivers of spatial segregation include the historical factor of apartheid spatial planning. The other factors, as highlighted above include: government’s post-apartheid housing subsidy programmes which have reinforced poverty due to the location of housing opportunities provided; the notion of the ‘world class cities” which has not recognised the needs of poor sufficiently to prevent the reinforcement of separation and exclusion; and the phenomenon of gentrification which edges out and displaces historical communities due to capital investments which plummet the cost of living in a particular area.[[21]](#footnote-21)

16. **Are there examples in your country of where spatial and residential clustering has been a result of voluntary choices of residence by members of particular groups?**

There is a group made up of Afrikaner nationalists in a town called Orania where only white people may reside. Residents of Orania rely on the right to self-determination under section 245 of the Constitution to resist attempts to incorporate them into a local municipality and to reinforce their right to live separately from the rest of South Africa.[[22]](#footnote-22) It must be noted that the existence of the town operates contrary of the principles of equality, non-discrimination and dignity enshrined in the Constitution. There is no evidence that the Afrikaner group in South Africa has been the subject of discrimination.

17. **The preservation of cultural identity, the right to self-determination of indigenous peoples and the protection of minority rights are examples of grounds for which groups may choose to live separately. Can you comment on how these forms spatial/territorial separation are evidenced in your country, if these communities they are subject to discrimination and suffer adverse consequences from spatial segregation such as through disparities in access to services, infrastructure, living conditions, etc.?**

Orania detailed above is one such example. There is no evidence that the Afrikaner group in South Africa has been the subject of discrimination.

18. **In your view, are certain forms of observed residential separation/voluntary clustering compatible with human rights law and if so why? (for example to protect rights of minorities or to respect the freedom of choice of individuals to decide with whom to live together).**

The South African Human Rights Commission conducted an [inquiry](http://www.sahrc.org.za/home/21/files/Reports/Report%20on%20Voluntary%20Associations.pdf) titled “*The Exclusionary Policies of Voluntary Associations: Constitutional Considerations*”. The SAHRC highlighted that in order for a Voluntary association, i.e. a home for the aged set up and maintained by a religious organisation for the primary purpose of providing for the religious and other related needs of those in the community in the twilight of their lives, to be said to fairly discriminate, it should establish a constitutionally sanctioned objective and also demonstrate that the inclusion of a person not affiliated to that faith would materially and significantly affect the voluntary association’s ability to carry out its objectives in order to justify that particular person’s exclusion. Thus, any voluntary or exclusionary clustering has to demonstrate the objectives forming the basis of such exclusion (which have to be sourced in the Constitution), the impact on the excluded person and whether there are no other less intrusive means which could be adopted. This approach is in line with South Africa’s equality jurisprudence.

19. **Are there any laws or policies requiring certain individuals (and their families) to live in particular housing provided to them or in a particular geographical area (e.g. asylum seekers, migrants, IDPs, refugees, ethnic, religious, linguistic or other minorities, indigenous peoples, persons with disabilities, public service and military personnel)?**

No

20. **In your view, what are the principal *barriers* to diminishing spatial, including residential segregation?**

The policy practice of government building houses in the periphery hinders spatial integration and perpetuates spatial injustice. The lack of a central coordinating mechanism to tackle spatial segregation in the country. This coordinating mechanisms will develop spatial and human settlements frameworks to ensure that new human settlements developed do not exacerbate spatial segregation but rather ameliorate same. It will ensure greater coordination and collaboration amongst all the spheres of government and all stakeholders. The other barrier has been that the private sector has not been adequately and sufficiently leveraged on to ensure that the human settlements it develops offer spatial integration. The principal challenge to diminishing spatial segregation is financial. Land that is located in the financial hubs is expensive and that poses challenges for poor people, who are also mostly Black. Land which is located at the periphery of the city is usually more affordable for government and so it becomes that land that government procures in order to build houses under the RDP housing programme. This has inadvertently perpetuated residential segregation.

**MEASURES AND GOOD PRACTICES TO CURB DISCRIMINATION AND REDUCE SEGREGATION**

21. **What laws, policies or measures exist at national or local level to prevent or prohibit discrimination in relation to the right to adequate housing?**

The Constitution of the Republic of South Africa, 1996 provides the right to equality in section 9. This is further buttressed by the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 200 which generally prohibits unfair discrimination. The Constitution further provides in section 26(1) that, “everyone has the right to have access to adequate housing”. In terms of housing, the Rental Housing Act of 1999 (RHA) states that while advertising or negotiating for a lease agreement, or after one has been entered into, “a landlord may not unfairly discriminate against such prospective tenant or tenants, or the members of such tenant’s household or the bona fide visitors of such tenant” on the basis of race, gender, marital status, sexual orientation, ethnic or social origin, or language

The Constitutional Court in *Government of the Republic of South Africa and others v Grootboom and others*[[23]](#footnote-23) stated that the section 26(1) places a negative obligation upon the state and all other entities and persons to desist from preventing or impairing the right of access to housing.[[24]](#footnote-24) The Constitutional Court has coined reasonableness as the standard of interpretation and has stated that a government programme would be unreasonable if it excludes from its scope those in desperate conditions and in need of immediate relief. In the *Blue Moonlight* case[[25]](#footnote-25) the Constitutional Court found that the City of Johannesburg’s housing policy was unconstitutional in that it differentiated between persons evicted by a private landowner and those relocated by the City.

The Spatial Planning Land Use Management Act (SPLUMA) was implemented in 2015 with the aim of fostering spatial justice. SPLUMA lists as one of its objectives to “ensure that the system of spatial planning and land use management promotes social and economic inclusion”. It aims to abolish land use laws and spatial planning patterns based on racial inequality, segregation and unsustainable settlement patterns. The purpose of the Act is to achieve its objectives by redressing past spatial imbalances and exclusions, including people and areas that were previously excluded in spatial development projects (especially informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation and upgrading informal areas and settlements.

The government has also adopted the Integrated Urban Development Framework (IUDF) which is a national policy framework aimed at the achievement of spatial transformation guided by the ‘3Cs model’ of achieving compact, connected and coordinated cities and towns as opposed to fragmented development.[[26]](#footnote-26) However, despite legislative and policy intents, these have not translated to change in the lives of people. This is largely due to weak co-ordination between the three spheres of government and inadequate inter-governmental collaboration. Therefore, to address this ‘change deficit’ and weak co-ordination, government has adopted the National Spatial Development Framework, to enhance the spatial objectives in the National Development Plan. The National Spatial Development Framework is aimed at articulating a post-apartheid spatial development logic. This logic seeks to be a guide and driver of spatial transformation to ensure that everyone enjoys quality of life.

22**. Have your State, regional or local Government adopted any positive measures, such as measures of affirmative action, to reduce discrimination, segregation or structural inequality in relation to housing? To what extent have such initiatives been successful to address housing discrimination and segregation?**

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23. **Have any particular laws, policies or measures been implemented to limit or reduce residential segregation? To what extent have such policies raised human rights concerns?**

See above at 21 and the [Tafelberg](http://www.saflii.org/za/cases/ZAWCHC/2020/87.html) case where the court held that sections 25 and 26 of the Constitution creates an imperative to address historically unequal distribution of land. The court held that the Western Cape Provincial government (this translates to all the provincial governments across the country) has an obligation to promote spatial justice through the integration of the city’s neighbourhoods under SPLUMA.

24. **What is the role of the media, as well as other non- governmental organizations, of religious and governmental institutions, in fostering a climate that reduces or exacerbates discrimination in relation to housing and segregation?**

Realising the right to housing has been a concerning challenging in South Africa, as a result a number of civil society organisations have been formed with the purpose of addressing the challenges linked to housing and spatial injustice. The Legal Resources Centre, Socio-Economic Rights Institute, Ndifuna Ukwazi, Abahlali baseMjondolo, Reclaim the City and numerous grassroots civil society organisations work daily to address the inequitable housing situation in the country using a variety of methods including advocacy and litigation. These organisations have conducted litigation, research and engaged in rigorous debates around the adequacy and deficiencies in the measures adopted by government in fostering inclusionary housing and addressing the pernicious effects of apartheid spatial geography.

The media plays an essential role. The media shines a spotlight in instances where people are living in deplorable and discriminatory conditions. The media serves as a mirror to reflect the extent to which government is moving in transforming the lives of people and undoing the past injustices.

The state is the main guarantor of human rights. Thus, governmental institutions must come up with legislative, policy and programmatic measures that do not exacerbate the pernicious past which was anchored on segregation and discrimination.

25. **Which institutional mechanisms exist to report, redress and monitor cases of discrimination or segregation in relation to the right to adequate housing and how effective have they been to address discrimination?**

The Rental Housing Act 50 of 1999 establishes the Rental Housing Tribunal which deals with complaints emanating from the rental housing market. There is also the Community Schemes Ombud Service which regulates all community schemes in South Africa. It is a dispute resolution mechanism for people in community schemes. The South African Human Rights Commission exists as a National Human Rights Institution mandated to promote respect for human rights and a culture of human rights; promote the protection, development and attainment of human rights; and monitor and assess the observance of human rights in the Republic of South Africa.[[27]](#footnote-27) The SAHRC has exercised its monitoring functions by undertaking research studies to ensure that the right to housing is progressively realised.[[28]](#footnote-28)

26. **In your view, what are the principal barriers to seek justice for discrimination/segregation in relation to the right to adequate housing?**

Some of the principal barriers for not seeking justice for segregation or discrimination include poverty; lack of knowledge of rights; and geographic location of adjudication institutions.

27. **Can you specify how individuals and groups subject to structural discrimination or experiencing segregation can submit complaints to administrative, non-judicial or judicial bodies to seek relief? Please share any leading cases that have been decided by your courts or other agencies in this respect.**

The South African Human Rights Commission as a national human rights institution receives complaints[[29]](#footnote-29) and can conduct inquiries to address housing related complaints of a systemic nature.[[30]](#footnote-30)

**DATA ON DISCRIMINATION IN HOUSING AND SPATIAL/RESIDENTIAL SEGREGATION**

28. **Is any data on housing disparities, housing discrimination and spatial segregation collected and publicly available? If so where can it be accessed? Are there any practical or legal barriers to collect and share such information in your country?**

Statistics South Africa has used the General Household Survey as an instrument to track the progress of development since 2002. The survey tracks progress on housing including challenges and disparities in accessing housing. The data collected is publicly available on the Statistics South Africa website.

29. **Can you kindly share any studies or surveys by local, regional or national Governments or by other institutions to understand better housing disparities, housing discrimination and spatial segregation and how it can be addressed (e.g. title and link, or kindly submit document).**

1. South African Human Rights Commission, ‘Access to housing, local governance and service delivery’ (2015) available at <https://www.sahrc.org.za/home/21/files/Access%20to%20Housing%202015.pdf>
2. High Level Panel on the assessment of key legislation and the acceleration (2017) available at <https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High_Level_Panel/HLP_Report/HLP_report.pdf>
3. DPME ‘Towards a 25 year review 1994 -2019’ (2019) available at <https://www.gov.za/sites/default/files/gcis_document/201911/towards25yearreview.pdf>
4. PASSOP, ‘Employment and Housing Discrimination Against LGBTI Refugees and Asylum Seekers in South Africa’ (2013) available at <http://www.passop.co.za/wp-content/uploads/2012/02/2013-Leitner-South-Africa-PASSOP-LGBT-report-1.pdf>
5. Socio-Economic Rights Institute, ‘Edged out: Spatial mismatch and spatial justice in South Africa’s main urban areas’ (2016) available at <https://www.seri-sa.org/images/SERI_Edged_out_report_Final.pdf>
6. Housing from a human settlement perspective, in-depth analysis of the General Household Survey Data 2002-2014 available at <http://www.statssa.gov.za/publications/Report-03-18-06/Report-03-18-> [062014.pdf](http://www.statssa.gov.za/publications/Report-03-18-06/Report-03-18-062014.pdf)

30. **Can you provide information and statistics related to complaints related to housing discrimination, how they have been investigated and settled, and information on cases in which private or public actors have been compelled successfully to end such discrimination or been fined or sanctioned for non-compliance?**

Click here to enter text.

1. Statistics South Africa “Quarterly Labour Force Survey Quarter 4:2020” http://www.statssa.gov.za/publications/P0211/P02114thQuarter2020.pdf [↑](#footnote-ref-1)
2. ‘Report on health conditions in the Strandfontein COVID-19 Temporary Shelter for the Homeless: findings of an independent investigation for the South African Human Rights Commission, conducted on Saturday 11 April 2020.’ https://www.msf.org.za/sites/default/files/publications/covid\_investigation\_report\_health\_strandfontein\_shelter.pdf. [↑](#footnote-ref-2)
3. South African Human Rights Commission, [*Creating an Enabling Environment for the Realisation of the Right to Adequate Housing for Persons with Special Needs: Expediting the Special Needs Housing Policy and Programme’*](https://www.sahrc.org.za/home/21/files/SAHRC%20Research%20Policy%20brief%202016-2017%20--The%20Right%20to%20Adequate%20Housing%2031%20March%202017%20-v3.pdf)*,* Economic and Social Rights Research Policy Brief 2016/2017 (2017). [↑](#footnote-ref-3)
4. C Makhanye ‘Rural women take the Ingonyama Trust to court’ https://mg.co.za/news/2020-12-07-rural-women-take-the-ingonyama-trust-to-court/ [↑](#footnote-ref-4)
5. South African Human Rights Commission *Report on the High Level Public Inquiry on the impact of rural land use and ownership patterns on human rights* Pg 25 https://www.sahrc.org.za/home/21/files/SAHRC%20Land%20Hearing%20Report%20FINAL%20WEB%20READY.pdf. [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)
7. Ibid page 15 [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. J Van Wyk ‘Can SPLUMA play a role in transforming spatial injustice to spatial justice in South Africa’ (2015) (30) (1) *SAPL* 26, 29. [↑](#footnote-ref-9)
10. National Planning Commission National Development Plan: Vision for 2030 (2011) 233. [↑](#footnote-ref-10)
11. M Strauss & S Liebenberg, ‘Contested spaces: Housing rights and evictions law in post-apartheid South Africa’ (2014) 13/4 *Planning Theory* 429, 430. [↑](#footnote-ref-11)
12. South African Human Rights Commission ‘Access to housing, local governance and service delivery’ (2015) 85. [↑](#footnote-ref-12)
13. See, for example, the following website for maps of the residential location of people in South Africa across racial groups: adrianfrith.com/2013/09/08/dot-maps-of-racialdistribution-in-south-african-cities. [↑](#footnote-ref-13)
14. Gauteng City Region Observatory ‘Uneven spaces: Core and periphery in the Gauteng City-Region’ (2017) 16. [↑](#footnote-ref-14)
15. South African Human Rights Commission ‘Unpacking the gaps and challenges in addressing gender-based violence in South Africa’ (2018) 27. [↑](#footnote-ref-15)
16. Socio-Economic Rights Institute of South Africa ‘Edged Out: Spatial Mismatch and Spatial justice in South Africa’s Main Urban Areas’ (2016, 2. [↑](#footnote-ref-16)
17. DPME ‘Towards a 25 year review 1994 -2019’ (2019) 144. [↑](#footnote-ref-17)
18. Ibid. [↑](#footnote-ref-18)
19. South African Human Rights Commission ‘Access to housing, local governance and service delivery’ (2015) 85. [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. See the experience of the Bo-Kaap community in Cape Town who once embarked on protest action challenging gentrification. [↑](#footnote-ref-21)
22. ‘Inside the all-white 'Apartheid town' of Orania, South Africa’ https://abcnews.go.com/International/inside-white-apartheid-town-orania-south-africa/story?id=62337338 [↑](#footnote-ref-22)
23. 2001(4) SA 466 (CC). [↑](#footnote-ref-23)
24. Ibid para 34 [↑](#footnote-ref-24)
25. *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* (CC) 2012 (2) SA 104 (CC). [↑](#footnote-ref-25)
26. Department of Cooperative Governance and Traditional Affairs Integrated Urban Development (2016) 7. [↑](#footnote-ref-26)
27. Section 184 of the Constitution of the Republic of South Africa, 1996. [↑](#footnote-ref-27)
28. See South African Human Rights Commission Creating an Enabling Environment for the Realisation of the Right to Adequate Housing for Persons with Special Needs: Expediting the Special Needs Housing Policy and Programme’, Economic and Social Rights Research Policy Brief 2016/2017 (2017) where the Commission conducted a study and recommended that the South African government finalises and adopt a Special Needs Housing Policy and Programme to cater for the needs of the most vulnerable in the provision of housing. [↑](#footnote-ref-28)
29. The SAHRC for the 2016/18 received 289 housing-related complaints. See <https://www.sahrc.org.za/home/21/files/SAHRC%20Trend%20Analysis%202016%20-%202017.pdf> [↑](#footnote-ref-29)
30. See South African Human Rights Commission Investigative Hearing Report: Access to Housing, Local Governance and Service Delivery (2015) where the Commission after having numerous complaints regarding the right to housing conducted an investigative national hearing into access to housing, local governance and service delivery and directed recommendations to government. [↑](#footnote-ref-30)