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**REVISED SAHRC STRATEGIC PLAN 2020 – 2025**

**31 January 2021**

## **OFFICIAL APPROVAL**

It is hereby certified that this strategic plan:

- (i) Was developed by the Secretariat (management) of the South African Human Rights Commission under the guidance of the Executive Authority (Commissioners);
- (ii) Takes into account all the relevant policies, legislation and other mandates for which the Commission is responsible;
- (iii) Accurately reflects the strategic outcome oriented goals and objectives which the South African Human Rights Commission will endeavour to achieve over the period of 2020 to 2025; and
- (iv) Will be tabled for final approval by the Commissioners Strategic Oversight meeting of 27 – 28 January 2021.

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# Part A: Our Mandate

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## 1. Constitutional mandate

The South African Human Rights Commission (SAHRC / Commission) is established in terms of Section 181 of the Constitution. It is one of six State Institutions established to strengthen constitutional democracy in South Africa. In terms of Section 181(2) of the Constitution the SAHRC is “independent and subject only to the Constitution and the law”. It is required to be impartial and to exercise its powers and perform its functions without fear, favour or prejudice.

The SAHRC is specifically mentioned in Section 184 of the Constitution. In terms of this section the functions of the SAHRC are the following:

- a) The South African Human Rights Commission must:
  - i. promote respect for human rights and a culture of human rights;
  - ii. promote the protection, development and attainment of human rights; and
  - iii. monitor and assess the observance of human rights in South Africa.

The Commission has the powers, as regulated by the national legislation, necessary to perform its functions, including the power:

- i. to investigate and to report on the observance of human rights;
  - ii. to take steps to secure appropriate redress where human rights have been violated;
  - iii. to carry out research; and
  - iv. to educate.
- b) Each year, the Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.
- c) The Commission has additional powers and functions prescribed by other national legislation.

The SAHRC is constitutionally mandated to, inter alia, investigate any complaint alleging violation of human rights and to assist any person adversely affected thereby to secure appropriate redress.

In terms of the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999, as amended by Act 29 of 1999) and National Treasury Regulations, the Commission must prepare and submit a five-year strategic plan consistent with the Revised Framework for Strategic Plans and Annual Performance Plans issued by the Department of Planning, Monitoring and Evaluation in 2019. The Accounting Officer (Chief Executive Officer)

is responsible for making sure that such a plan is developed and submitted to the Executive Authority, and is tabled with Parliament.

## 2. Legislative and Policy Mandates

The Commission derives its mandate from the Constitution, and other legislation including the South African Human Rights Commission Act, 40 of 2013 (SAHRCA); the Promotion of Access to Information Act 2 of 2000 (PAIA); the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA); and the Promotion of Administrative Justice Act 3 of 2000 (PAJA).

The Commission has additional powers and functions which are set out in Act 40 of 2013: the South African Human Rights Commission Act, and further supplemented by the following legislation: the Promotion of Access to Information Act 2 of 2000 (PAIA), the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA), and the Promotion of Administrative Justice Act 3 of 2000 (PAJA).

In this respect, the Commission has to:

- i. promote awareness of the statutes;
- ii. monitor compliance with the statutes;
- iii. report to Parliament in relation to these statutes; and
- iv. develop recommendations on persisting challenges related to these statutes and any necessary reform.

### 2.1 South African Human Rights Commission Act

The SAHRCA provides for the composition, powers and functions of the SAHRC. In terms of Section 13 of the Act, 1 (a), the Commission is competent and obliged to:

- (i) make recommendations to organs of state at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of human rights within the framework of the Constitution and the law, as well as appropriate measures for the further observance of such rights;
  - (ii) undertake such studies for reporting on or relating to human rights as it considers advisable in the performance of its functions or to further the objects of the Commission; and
  - (iii) request any organ of state to supply it with information on any legislative or executive measures adopted by it relating to human rights; and
- (b) the Commission -
- (i) must develop, conduct or manage information programmes and education programmes to foster public understanding and awareness of Chapter 2 of the Constitution, this Act and the role and activities of the Commission;

(ii) must as far as is practicable maintain close liaison with institutions, bodies or authorities with similar objectives to the Commission in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction or other appropriate instances;

(iii) must liaise and interact with any organisation which actively promotes respect for human rights and other sectors of civil society to further the objects of the Commission;

(iv) may consider such recommendations, suggestions and requests concerning the promotion of respect for human rights as it may receive from any source;

(v) must review government policies relating to human rights and may make recommendations;

(vi) must monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission;

(vii) must prepare and submit reports to the National Assembly pertaining to any such convention, treaty, covenant or charter relating to the objects of the Commission; and

(viii) must carry out or cause to be carried out such studies concerning human rights as may be referred to it by the President, and the Commission must include in a report referred to in section 18(1) a report setting out the results of each study together with such recommendations in relation thereto as it considers appropriate.

(2) (a) The Commission may recommend to Parliament or any other legislature the adoption of new legislation that will promote respect for human rights and a culture of human rights.

(b) If the Commission is of the opinion that any proposed legislation might be contrary to Chapter 2 of the Constitution or to norms of international human rights law which form part of South African law or to other relevant norms of international law, it must immediately report that fact to the relevant legislature.

(3) The Commission is competent -

(a) to investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights, and if, after due investigation, the Commission is of the opinion that there is substance in any complaint made to it, it must, in so far as it is able to do so, assist the complainant and other persons adversely affected thereby, to secure redress, and where it is necessary for that purpose to do so, it may arrange for or provide financial assistance to enable proceedings to be taken to a competent court for the necessary relief or may direct a complainant to an appropriate forum; and

(b) to bring proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons.

Section 14 of the Act, provides that the SAHRC may, by conciliation, negotiation or mediation, endeavour to resolve any dispute or to rectify any act or omission emanating from or constituting a violation of a human right.

Section 15 of the Act further details the investigative powers and functions of the Commission as well as processes and obligations of respondents thereof.

Section 16 of the Act confers wide powers on the SAHRC in order to enable it to exercise its powers and perform its duties and functions, including the power to enter and search premises.

## 2.2 Promotion of Access to Information Act

The Commission promotes compliance with PAIA and produces an annual report in this regard in line with Sections 83 & 84. Key prescripts of the PAIA are the development of transparency frameworks and increasing institutional responsiveness to information requests, with a view to promote access to information.

It is anticipated that the assigned powers of the Commission with respect to access to information will, during the course of this strategic planning period, be transferred to the Information Regulator as established by Parliament within the context of the Protection of Personal Information Act, No, 4 of 2013 (POPI). However, the Commission remains with constitutional obligations to promote, protect and monitor the right of access to information.

## 2.3 Promotion of Administrative Justice Act

The PAJA is pioneering legislation that intends changing the way Government interacts with the people it serves. It creates ways of enforcing the right to be treated fairly in administrative actions. The PAJA seeks to protect the public from unlawful, unreasonable and procedurally unfair administrative decisions. It is a law that gives people affected by administrative decisions the right to be informed that a decision is to be taken, to be given reasons for decisions and to have decisions reviewed in court. The Commission has an obligation, as mandated by the Constitution, to protect, promote, and monitor the right to administrative justice.

## 2.4 Promotion of Equality and Prevention of Unfair Discrimination Act

Section 25 (5) (a) of the PEPUDA prescribes the submission of equality plans to the SAHRC to be dealt with in the prescribed manner, in consultation with the Commission on Gender Equality.

Section 28 (2) requires the SAHRC to assess and report on the extent to which unfair discrimination on the grounds of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems.

The Commission will continue to prepare a thematic equality report on an annual basis to monitor implementation of the PEPUDA, notwithstanding the fact that Sections 25 and 28 are not yet in operation.

## 2.5 Legal Practice Act

The Legal Practice Act (LPA) 28 of 2014, replaces the Attorneys Act, and recognises the SAHRC as a place for legal practice. In terms of the LPA candidate attorneys may undertake community services at the SAHRC as part of their practical vocational training (formerly articles of clerkship) in order to be admitted and enrolled as an attorneys. The SAHRC is now therefore recognised as a place for legal practise in terms of Section 34 of the LPA.

In addition, attorneys and advocates already in practice may be required to perform 2 hours of community service per month at institutions such as the SAHRC. The implications of the legislation is that the SAHRC is now able to actively contribute to the development of candidate attorneys who seek to gain interest in human rights and public interest law, and register their articles with the SAHRC. In addition, the legislation creates opportunities for attorneys and advocates to support the work of institutions such as the SAHRC on a pro-bono basis in accordance with the hours allocated for community service. This latter reform of the law is a welcomed one which could contribute to alleviating prohibitive costs associated with securing appropriate relief for the public when rights are violated.

## 2.6 International and regional human rights obligations

The Commission is actively involved in ensuring compliance with international and regional human rights obligations through advocating for country ratification of instruments, their domestication and reporting on them.

At an international level, the Commission is recognised by the Global Alliance of National Human Rights Institutions as an 'A' status national human rights institution (NHRI). The Commission has thus adhered to the Paris Principles, which are guiding principles that serve to guide the nature and functioning of NHRIs. These principles emphasise the independent nature of NHRIs and guide the manner in which they should conduct their work. They state, among other things, that national human rights institutions should:

- i. monitor any situation of violation of human rights;
- ii. be able to advise the government, the Parliament and any other competent body on specific violations;
- iii. educate and inform on issues of human rights; and
- iv. be able to use their quasi-judicial powers where these exist.

The mentioned legislation and policies form the basis on which the Commission plans its operations for the 2020 to 2025 period.



## 2.7 Relevant court rulings

In view of the legislative environment, the Revised Framework for Strategic Plans further requires that institutions provide for “any specific court rulings that have a significant, ongoing impact on operations or service delivery obligations”.

The Commission frequently participates in litigation to secure appropriate redress where rights are violated or, as a friend of the court to advance human rights based outcomes and jurisprudence. Often there are judgements with serious implications for the work of the Commission, work which however remains unfunded. Court orders may require the Commission to take specific actions such as monitoring activities. Monitoring activities resulting from court orders are therefore more detailed and specific in nature from the planned routine monitoring conducted by the Commission in terms of its mandate. Such monitoring activities whilst supplementing monitoring envisaged in Section 184 of the Constitution, impacts on the planning and resources of the Commission.

It should be noted that monitoring activities arising from court rulings differ in terms of extent and duration. Some examples of court rulings which require specific monitoring by the Commission are summarised below:

### **a) A ruling on the Regulations Relating to Minimum Norms and Standards for Public Schools**

In the matter of *Equal Education v Minister of Basic Education 2018*, the High Court in Bhisho, Eastern Cape, declared several sections of the Regulations Relating to Minimum Norms and Standards for Public School infrastructure to be inconsistent with the Constitution and the Schools Act and therefore unlawful and invalid. The court held that the Department of Basic Education (DBE) must immediately see to the improvement of school infrastructure and must be held liable for failure not to do so. The Commission said of this case,

*"It confirms that it is not sufficient for the Department of Basic Education to merely develop Norms and Standards, but that it must be held accountable for its inability or failure to adequately budget and deliver."*

The Court ruled that it was unconstitutional and invalid for the government to delay fixing poor and unsafe school infrastructure. The Commission believes that the judgment would help redress past inequalities by making sure that all schools were provided with the minimum standards of infrastructure.

*Norms and Standards on School Infrastructure:* Section 18(14) requires all planning, building and design to comply with all relevant laws, including the National Building Regulations, SANS 10-400 (i.e. fire safety) and the Occupational Health and Safety Act.

**b) A ruling on the provision and access to reliable and sufficient supply of safe water in areas of the Madibeng Local Municipality<sup>1</sup>**

In this matter the community of the Klipgat C area in the Madibeng Local Municipality complained that water supply was inadequate, and that residents had been without water supply for a long period of time. Despite attempts to resolve the crisis with the Madibeng Local Municipality, the situation remained unchanged.

The Commission obtained an interim order in the North Gauteng High Court, seeking increased water supply and access to clean water for the residents from the municipality. In addition, a second part of the application to court seeks long term solutions to the water supply challenges. This second part of the relief sought from the courts is yet to be determined, however, the interim was granted.

One consequence of the interim order, is that the Commission must monitor compliance with interim order by the municipality. Monitoring actions require periodic inspection, interview activities with a spread of community members, gathering information relating to the current levels of water delivery, the quality of the water, and the demographics in the area to demonstrate the water supply shortages in relation to levels prescribed in Regulatory standards. Following its monitoring and evaluation report in this regard, the Commission has instituted contempt proceedings against the Madibeng Local Municipality.

In this instance, monitoring has revealed that the municipality did not fully comply with the interim order, it is likely that the Commission will be required to monitor compliance with potential court orders for a period of time post final judgements in the matter.

**c) A ruling on the unconstitutional detention of immigrants at the Lindela Repatriation Center**

The SAHRC and the People against Suffering, Oppression and Poverty (PASSOP), obtained an order from the Gauteng High Court of South Africa relating to the systemic and persistent practices of unlawful detention of migrants at the Lindela Repatriation Centre (Lindela). The court determined that detention periods in excess of the period determined in the legislation was unlawful and ordered that the Minister of Home Affairs and Bosasa (Pty) Ltd which had at the time managed Lindela, provide the SAHRC, with quarterly reports report setting out:

- i. The steps taken to comply with the court order granted;
- ii. Full and reasonable particulars in relation to any person detained at Lindela for a period in excess of 30 days from the date of that person's initial arrest and detention.

The Minister of Home Affairs and Bosasa (Pty) Ltd were also directed to provide the SAHRC, with access to Lindela and detainees. For the purposes of monitoring compliance with the court order, the SAHRC has adopted a multi-faceted or socio-legal methodology to fulfil its responsibilities. Monitoring activities include

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<sup>1</sup> **SAHRC & 19 Others v Madibeng Municipality, MEC for Local Government & Human Settlement, Minister of Water and Sanitation & Minister of Health (NGHC Case No.: 21099/17)**

site inspections at Lindela, interviews with detainees and an analysis of detainee information; in addition to reviews of reports provided by the Department of Home Affairs (DHA) to the SAHRC. A diverse range of detainees are held at Lindela with differing language and cultural needs. The Commission accordingly must accommodate these needs to obtain information required for the purposes of monitoring compliance. In addition, the monitoring activities require outlays in terms of human resources to evaluate lawfulness of detention, conditions of detention, levels of compliance by the DHA and the managing authority; and to thereafter issue recommendations to the DHA for the protection of vulnerable persons in detention.

The monitoring activities resulting from the court order in this instance is not limited to a specific length of time and engages the Commission's resources in the form of interventions both in terms of periodic monitoring; and in terms of exceptional events such as death of detainees.

**d) A ruling on the unlawful eviction of residents of Arthurstone Village**

Residents of Arthurstone Village were evicted unlawfully and in violation of their rights by the Amashagana Tribal Authority, in the Mpumalanga Province. The Commission obtained judgement in favour of approximately 150 residents through the High Court in Pretoria. The affected residents resettled on the land, but experienced further challenges to their basic rights as the local Municipality prevented the supply to electricity in the area.

Such cases demonstrate that monitoring compliance with court orders therefor places additional duties on the Commission to ensure that while compliance with the terms of an order is secured, vulnerable groups do not experience violations to related basic rights exacted in other forms.

**e) A ruling on emolument attachment orders to prevent human rights abuses of vulnerable communities at greater risk of exploitation by debt recovery agents**

Prior to this judgment, Emolument Attachment Orders (EAOs) were issued in the magistrate courts to compel employers to deduct moneys (instalments in terms of judgment debt) owing to creditors, from the wages of employees. Such orders were issued by clerks of the courts without an evaluation of the implications of the order on the livelihood of the debtor. This meant that there was no judicial oversight in the process of issuing such orders. The orders could also be issued in courts where the debtor did not live or work.

The Commission made submissions before the Constitutional Court on the implications of the current practice in relation to the granting of EAO against debtors were accepted. The Court found in favour of the applicants. The judgement requires nation-wide monitoring of courts to ensure that such orders are not granted without the necessary judicial oversight. Although the order does not limit such monitoring to the Commission exclusively, reference is made to monitoring by the Commission and other stakeholders. Given the limited resources of the Commission, and implications of such a judgement, the Commission has engaged with

strategic stakeholders to encourage monitoring and compliance with the court order. Engagements have been held with the Law Council and legal training bodies for this purpose.

**f) Monitoring the delivery of school learning materials and/or textbooks**

Following on a court ruling in the BEFA matter regarding the non-delivery and late delivery of learning materials in Limpopo, the Commission conducts monitoring of the delivery of learning materials in all provinces<sup>2</sup>. The scope of such monitoring is wide and again has implications for the limited resources of the Commission. In addition to selecting random samples of schools to monitor in each province, the Commission engages with strategic stakeholders including civil society organisations, the provincial and national Department of Education to support monitoring and protect the rights of learners to a basic education. Specific monitoring actions are expanded in line with court orders. More recent judgements entrenching the rights of undocumented learners to access education, have resulted in a number of strategic responses by the Commission to all provinces to secure compliance with the court order to this effect<sup>3</sup>.

Monitoring of special needs schools requires dedicated monitoring both in terms of the Commission's mandate and in terms of compliance with its own rulings issued pursuant to hearings and investigations. These monitoring obligations follow on responsibilities on government for the implementation of the National Policy for the Equitable Provision of an Enabling School Physical Teaching and Learning Environment, which obliges the provision of basic facilities that enable schools to carry out their core functions of teaching and learning.

**g) Rulings with respect to the right to equality**

It is the strategy of the Commission to encourage development of equality based jurisprudence. In particular we continuously seek to address issues of racism, gender discrimination, and persons with disability through the courts. As a result the Commission litigated in excess of fifty such matters through the equality courts. The Commission is also alive to the need to secure strategic advantage in public interest matters. Several public impact matters are currently before the courts. These include, among others, issues of the rights of women in customary matters.

In respect of litigation before the Equality Courts, legislation permits a court to refer matters before such court to the Commission for mediation. An example of such a referral is one involving the deployment of a member of the South African Defence Force (SANDF)<sup>4</sup>. In this instance the official suffered discrimination on the basis that he is HIV positive and was on this basis not deployed in certain activities. Mediation of the matter was unsuccessful and ultimately litigation by the Commission secured relief for the benefit of the official and the

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<sup>2</sup> SCA in *Minister of Basic Education v Basic Education for All* (20793/2014) [2015] ZASCA 198; [2016] 1 All SA 369 (SCA); 2016(4) SA 63 (SCA) (2 December 2015).

<sup>3</sup> Widely referred to as the Phakamisa matter, as yet unreported: *Center for Child Law and Others v Minister of Basic Education and Others*, 2019

<sup>4</sup> Unreported decision of the Western Cape High Court: *Matubatuba and SAHRC // SANDF and Minister of Defence and Military Veterans*, 2019.

SANDF. This matter although successful demonstrates a significant commitment in resources involving numerous actions over a protracted period of time to achieve appropriate redress.

In securing appropriate redress, and promoting both compliance with court orders and respect for the rule of law, the Commission will continuously engage with key policy makers to advocate for implementation of its recommendations and court orders, as well as monitor compliance thereof, and evaluate impact over time.

### 3. Institutional policies and strategies over the five year planning period

The strategies of the Commission are informed by the Constitutional mandate, policy developments as well as the key challenges facing the country.

#### 3.1 Relevant policy developments

In March 2019, South Africa ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and subsequently designated the SAHRC as coordinator and functionary of a multi-body National Preventive Mechanism (NPM). As a designated NPM coordinator and functionary, the Commission should work with several statutory bodies, such as the Judicial Inspectorate for Correctional Services (JICS), Independent Police Investigative Directorate (IPID), Military Ombudsman, and the Health Ombudsman. The Commission advocates that these bodies should meet the requisite independence standards as set out by the OPCAT. In terms of this arrangement, the SAHRC is obliged to engage with and report to the United Nations Sub-Committee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).

Furthermore, the Commission has been designated as the Independent Monitoring Mechanism (IMM) under the Convention on the Rights of People with Disabilities (CRPD). This places obligations on the Commission to fully establish and ensure the functionality of the IMM, monitor and report on compliance with the requirements of the CRPD to the United Nations Committee on the Rights of Persons with Disabilities.

It must be noted that the Commission will also continue to pursue work relating to the Convention on the Rights of the Child (CRC), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

#### 3.2 Mandate based strategies

The Commission's mandate linked strategies include:

##### 3.2.1 Promotion - Enhancing human rights advocacy, visibility and awareness programmes:

- a. Conducting high impact engagements to influence policy, legislation and application thereof;
- b. Establishing strategic partnerships for capacity and collaboration;
- c. Empowering communities and the public to proactively engage with human rights issues; and

- d. Utilising media platforms to raise awareness and increase visibility.

### **3.2.2 Protection – Increasingly using redress mechanisms to minimise human rights violations:**

- a. Instituting strategic impact litigation
- b. Proactively conducting investigative inquiries and hearings
- c. Utilising alternative dispute resolution and mediation

### **3.2.3 Monitoring – Comprehensive human rights monitoring and impact evaluation:**

- a. Strengthening and applying a comprehensive monitoring system to assess the state of human rights.

This entails:

- Monitoring and reporting, with key recommendations (and directives), on the state of Economic and Social Rights, Equality, Civil and Political Rights;
- Monitoring the implementation of human rights based recommendations (and directives) to ensure realisation of the desired impact; and
- Includes efforts to strengthen monitoring systems as envisaged in prioritised selected international and regional human rights instruments, such as CRC; CPRD; ICESCR; and the NPM under the OPCAT.

### **3.2.4 Strengthening institutional development and stability to support the effectiveness of the strategies:**

- a. Enhancing good governance and leadership; financial viability; human resources capacity; impact monitoring and evaluation; and information and communications technology to support the delivery on the mandate and selected strategies.

## **3.3 Themes underpinning our strategy**

The Commission, as a National Human Rights Institution (NHRI), recognises the need to understand and strategise in accordance with the prevailing human rights, political and socio-economic landscape and situation in the country. This requires a redefinition of human rights from a broader perspective and acknowledging the inter-dependence of human rights. To this end, the Commission contextualised the human rights environment in terms of the key challenges facing South Africa, and what as a NHRI the Commission should be doing. The key issues confronting the country, and therefore presenting a central focus for the work of the Commission, include the challenges of:

### **A. Poverty**

With the majority of South Africans living below the poverty line, the human rights implications and challenges for poor people are insurmountable. They are the worst affected by different forms of violations across socio-economic, political, legal and environmental factors.

## **B. Unemployment**

Massive unemployment (and low paying jobs) is inextricably linked to poverty, and as such carries similar human rights implications and challenges.

## **C. Inequality**

Identified by the World Bank Inequality Report, 2018 as one of the most unequal countries in the world, South Africa is confronted with one of the most adversely profound human rights implications in inequalities.

## **D. Violence**

It is a widening concern for human rights that South African society has increasingly become violent: violence against women and children; violence in schools; violent service delivery protests; political violence; and violent crime.

The Commission will continuously ensure that its strategies and work throughout this 5 year planning period are geared towards addressing these key challenges facing the country.

### **3.4 Human Rights priority focus areas for the Commission**

The Commission has further identified priority human rights focus areas for the same planning period, and the mandate based strategies will be applicable across the priorities, which are the following:

- 3.4.1 Pro-Human Rights Budgeting
- 3.4.2 Governance, anti-corruption and human rights
- 3.4.3 Health
- 3.4.4 Education
- 3.4.5 Human Settlements, Water and Sanitation
- 3.4.6 Land and Food Security
- 3.4.7 Environment and Food Security
- 3.4.8 Civil and Political Rights, with specific emphasis on the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

### **3.5 Transversal or Cross-cutting issues for special attention**

More importantly, the Commission will, within the above identified priority focus areas, give particular attention to transversal or cross-cutting issues of:

- 3.5.1 **Inequality:** Promoting practices that improve the state of equality and prevent and eliminate situations that perpetuate inequalities across all the identified priority focus areas.
- 3.5.2 **Children:** Promoting, protecting and monitoring the observance of the rights of children across all the identified priority focus areas.
- 3.5.3 **Gender:** Promoting, protecting and monitoring the observance of gender rights, including the rights of women, across all the identified priority focus areas.
- 3.5.4 **Disability:** Promoting, protecting and monitoring the observance of people with disabilities across all the identified priority focus areas.
- 3.5.5 **Older Persons:** Promoting, protecting and monitoring the observance of the rights of older persons across all the identified priority focus areas.
- 3.5.6 **Migrants:** Promoting, protecting and monitoring the observance of the rights of migrants across all the identified priority focus areas.
- 3.5.7 **Business and Human Rights:** Monitoring the role and practices of business to ensure that they promote and protect the observance of human rights across all the identified priority areas.



# Part B: Our Strategic Focus

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## 4 Vision

The vision of the South African Human Rights Commission for the planning cycle remains as follows:

*Transforming society. Securing rights. Restoring dignity.*

## 5 Mission

The Commission, as an independent national human rights institution, is created to support constitutional democracy through promoting, protecting and monitoring the attainment of everyone's human rights in South Africa without fear, favour or prejudice.

The mission of the Commission will be strengthened by enhancing institutional focus, developing proactive outreach and advocacy initiatives that will be monitored and evaluated to ensure maximum impact.

## 6 Values

The values of the Commission are: integrity, honesty, respect, objectivity, Batho Pele principles, and equality.

## 7 Situational analysis

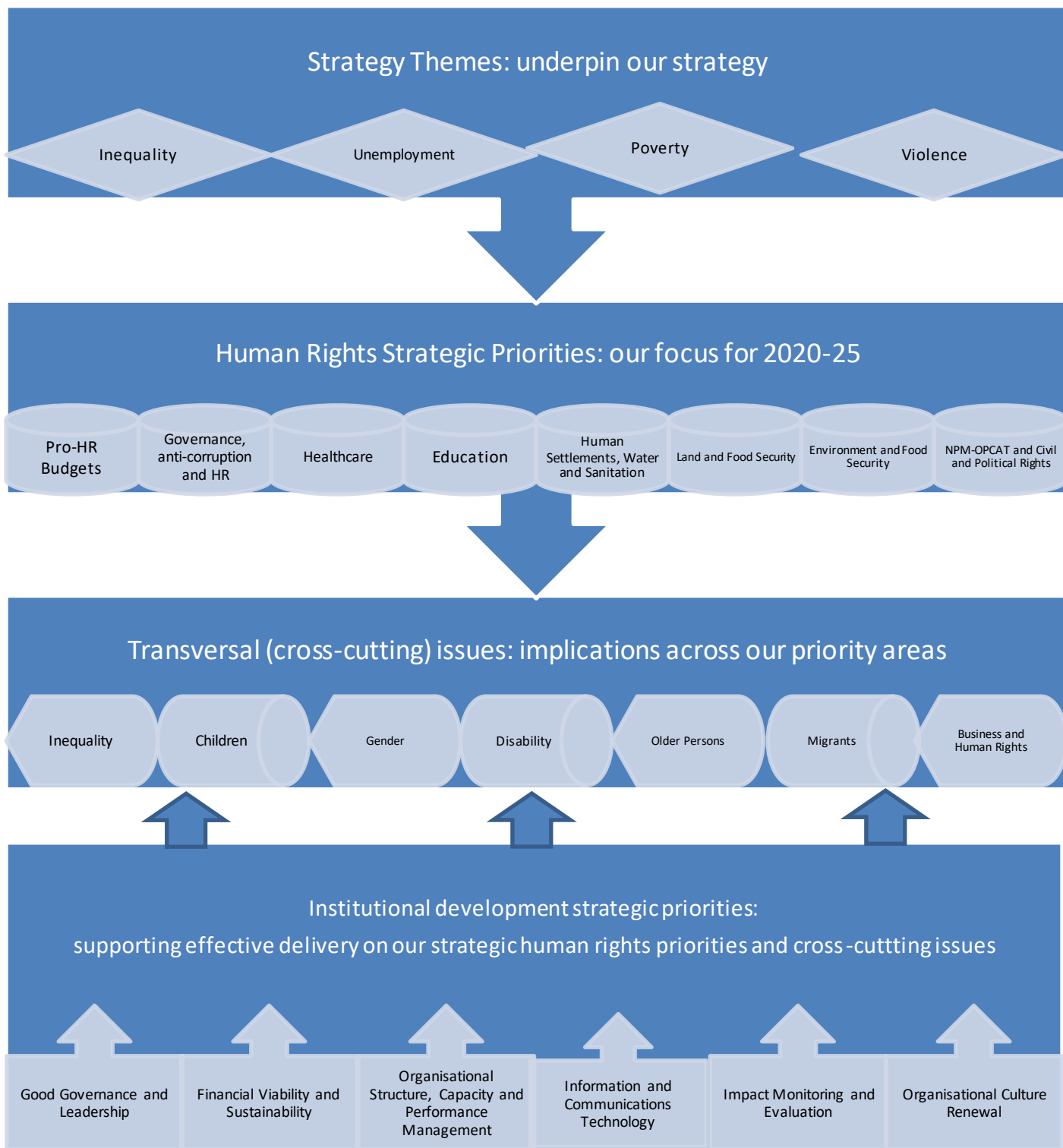
### 7.1 External Environment Analysis

Factor	Situation
<b>Political</b>	<ol style="list-style-type: none"> <li>1. Interference and disrespect for constitutional institutions.</li> <li>2. Identify threats to constitutional democracy and devise strategies to address these: including violence and corruption.</li> <li>3. Non-responsiveness and lack of political will.</li> <li>4. Engagements to mitigate against political violence during upcoming local government elections.</li> </ol>
<b>Economic and Social</b>	<ol style="list-style-type: none"> <li>1. Constraints of the fiscus and low economic growth negatively affect budget allocations to state institutions.</li> <li>2. Requires that we streamline our work and strategies to ensure greater effectiveness, efficiency, and impact.</li> <li>3. Need full appreciation and application of our mandate and powers: influence policy and state conduct (review policies and recommend reforms); subpoena powers; strengthen monitoring mandate and recommendations for state to implement.</li> <li>4. Greater collaboration and partnerships.</li> <li>5. Greater strategic engagements and emphasis on the benefits of our work to society.</li> <li>6. Implications of corruption on human rights.</li> <li>7. Inequalities: most unequal society; land ownership patterns; need to address deep rooted causes of inequality; non-effective promotional aspects of PEPUDA undermine equality efforts.</li> </ol>
<b>Technological</b>	<ol style="list-style-type: none"> <li>1. Fourth Industrial Revolution implications for human rights.</li> <li>2. Need a focus on technology and human rights.</li> <li>3. Familiarise ourselves with developments and challenges to remain relevant.</li> <li>4. Cyber security concerns.</li> <li>5. Data analytics to identify human rights violations.</li> <li>6. Upgrading systems to enhance efficiencies.</li> </ol>
<b>Environmental</b>	<ol style="list-style-type: none"> <li>1. Environmental rights should be one of the key departure points – greatest threat to human kind.</li> <li>2. Impact and implications of climate change – floods; drought; water shortages; pollution.</li> <li>3. Effects on poor people are often more devastating.</li> <li>4. Find strategic entry points to influence state action on dealing with climate change.</li> </ol>
<b>Legal</b>	<ol style="list-style-type: none"> <li>1. While South Africa has a progressive Constitution, as well as legislative and policy frameworks, there are concerns relating to poor implementation and a disregard for constitutional values, as well as the Commission's findings and recommendations.</li> <li>2. The Commission will play its role in fostering proper application of the Constitution and the law by all relevant players in order to realise positive impact and entrench a culture of human rights. This will include the Commission invoking the binding nature of its powers.</li> <li>3. The Commission will continue with strategic public interest law matters to entrench a culture of human rights and expand on the jurisprudence on human rights.</li> <li>4. Ongoing review and legal challenges to old legislation bearing the hallmark of apartheid.</li> </ol>

# Part C: Measuring Our Performance

## 8 Institutional Performance Information

Diagram 1: SAHRC Strategic Focus



## 8.1 Measuring the Impact

**Impact statement:** Human rights culture is entrenched in South Africa.

## 8.2 Measuring Outcomes

In dealing with the identified human rights priority focus areas, the Commission seeks to influence the following desirable outcomes (Table 1 below). Along with the focus on the priority issues, the Commission will also give particular attention to the human rights implications posed by the transversal or cross-cutting issues stated in Diagram 1 above.

It must be noted that the envisaged priority issue outcomes are intended for achievement by the State and other relevant actors as implementation bodies, and who will set their own targets where these are concerned.

**Table 1: Envisaged priority issue outcomes for realisation by the State and relevant actors**

	<b>Human Rights Priority Issue</b>	<b>Envisaged Outcome for realisation by the State and relevant actors</b>
1.	<b>Pro-Human Rights Budgeting</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Pro-Human Rights budget spending patterns. Compliance with Pro-Human Rights Budgeting Policy Guidelines.
2.	<b>Governance, Anti-Corruption and Human Rights</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Good, clean governance in the public sector: Full compliance with the Prevention and Combating of Corrupt Activities Act 12 of 2004. Pro-human rights and anti-corruption governance systems established in all national, provincial and local government departments.
3.	<b>Healthcare</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Achieve universal access to healthcare Improved state of healthcare services: (Improved Availability; Accessibility; Acceptability; and Adaptability) <sup>5</sup> .
4.	<b>Education</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Achieve universal access to basic education and progressive access to higher education. Improved quality of education (Focus on the right to read and write - Focus on basic education, Technical and Vocational Education and Training Colleges). Improved safety and security in all schools, including compliance with Infrastructure Norms and Standards, especially water and sanitation. Social cohesion promoted and unfair discrimination addressed in schools. Good governance promoted in all schools.
5.	<b>Human Settlements, Water and Sanitation</b>  (The Commission will pay particular attention to the effects on inequality;	Human Settlements that increasingly promote spatial justice. Reduction in homelessness arising from illegal evictions and municipal by-laws. Universal and equitable access to clean, safe and adequate water and sanitation.

<sup>5</sup> It must be noted that these also include affordability and quality.

	<b>Human Rights Priority Issue</b>	<b>Envisaged Outcome for realisation by the State and relevant actors</b>
	children; gender; disability; older persons; migrants; and the role of business)	Improved service delivery driven through a human rights perspective.
<b>6.</b>	<b>Land and Food Security</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Reduced illegal evictions; and increased protections – through legislative reform and implementation of appropriate policies. Promoting food security.
<b>7.</b>	<b>Environment and Food Security</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Implementation of The Paris Agreement on climate change. Pro-active implementation of climate change initiatives. Drought relief programmes. Water Resources Management programmes to address water scarcity. Preventing and dealing with Acid-mine drainage. Promoting food security.
<b>8.</b>	<b>Civil and Political Rights and NPM / OPCAT</b>  (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	Improved compliance with the OPCAT. Improved conditions at all places of detention.

### **8.2.1 Independent Monitoring Mechanism**

The Commission has, in accordance with the concluding observations of the United Nations Committee on Persons with Disabilities proposed in 2015, been designated as an IMM under Article 33 (2) of the CRPD. In fulfilling this role, the Commission will strive to strengthen its capacity and continue to explore best practice models and, in addition to the priority areas identified above, focus on monitoring the implementation of the CRPD.

### **8.2.2 Monitoring Implementation of the Convention on the Rights of the Child**

Similarly, the Commission will strengthen its monitoring mandate in terms of the requirements of the Convention on the Rights of the Child, including establishment of a children's unit.

### **8.2.3 Desired outcomes for the Commission**

The Commission, as an independent monitoring and oversight body, will pursue its own set of outcomes (Table 2 underneath), reflective of its efforts and influence to the State and other players towards achievement of the envisaged priority issue outcomes. It is against its own set of outcomes that the Commission's performance will be measured. However, in determining the impact of the Commission's work, the Commission will endeavour to periodically evaluate the progress made by the relevant players towards the envisaged priority issue outcomes.

**Table 2: SAHRC desired outcomes**

	<b>Outcome</b>	<b>Outcome Indicator</b>	<b>5 Year Target</b>
1.	Pro-human rights policy and legislative changes, and service delivery improvements	Number of Interventions towards pro-human rights policy and legislative amendments, or service delivery improvements	315 Interventions <sup>6</sup>
2.	Strengthened strategic stakeholder relations and increased internal human capital capacity <sup>7</sup>	Implementation of collaborative initiatives in identified priority areas	Implement collaborative initiatives with strategic partners in 5 areas <sup>8</sup>
3.	Communities are empowered to challenge, monitor and report on the state of human rights within their localities	Number of empowered communities	225 communities
4.	Increased visibility of the Commission through the media	Media visibility and reach	Reaching an audience of 8 billion per annum through media Readership; Listenership; and Viewership
5.	Increased public access to justice <sup>9</sup>	Provision of appropriate redress mechanisms	Provide redress to 63 major and systemic human rights violations <sup>10</sup>
6.	Increased accountability for human rights in the country	Completion of monitoring and evaluation report on implementation of SAHRC Reports Findings, Recommendations and Directives	Complete 5 Year Monitoring and Evaluation Report on implementation of SAHRC Reports Findings, Recommendations and Directives
7.	A stable institution with capacity to effectively deliver on its priorities	Percentage achievement of planned 5 year targets	80% - 100% achievement

### 8.3 Explanation of Planned Performance over the Five Year Period

#### 8.3.1 Alignment with the National Development Plan and Sustainable Development Goals

The Revised Framework for Strategic Plans and Annual Performance Plans, 2019, requires that the Strategic Plan contributes to the achievement of the National Development Plan (NDP). As an independent Constitutional institution, the Commission is not responsible for implementation of the NDP, but rather plays a monitoring and oversight role to promote accountability for the NDP outcomes. It is in the interest of the Commission to ensure that the NDP, and its implementation by the relevant players, is aligned with human rights principles as enshrined in the Constitution and international and regional instruments.

<sup>6</sup> This is based on each province making annual Interventions on each of the identified human rights priority areas (except for the NPM/OPCAT). It must be noted that provinces may intervene collaboratively with one another on identified nation-wide systemic issues.

<sup>7</sup> Internal human capital capacity building through collaboration and partnerships with strategic stakeholders, especially on budget monitoring; governance assessments; Land; Environment; and impact evaluations.

<sup>8</sup> The targeted priority areas include budget monitoring; governance assessments; Land; Environment; and Impact Evaluations.

<sup>9</sup> The Commission will address human rights violations across all the identified priority areas over the 5 years, using the variety of available redress mechanisms. The protection mandate will be further enhanced through application of the Legal Practice Act.

<sup>10</sup> Provide redress to at least 1 major and systemic human rights violation per identified human rights priority area in each province. It must be noted that provinces may collaboratively provide redress to issues.

The work of the Commission therefore should be seen as an enabler to the achievement of the NDP by the State and other stakeholders. The Commission's identified human rights priority areas and envisaged outcomes are aligned with the NDP (Table 3 below).

**Table 3: Alignment of envisaged outcomes with the NDP Priorities**

	<b>Human Rights Priority Issue and Outcome</b>	<b>NDP Priorities</b>
1.	<p><b>Pro-Human Rights Budgeting:</b>            Pro-Human Rights budget spending patterns.            Compliance with Pro-Human Rights Budgeting Policy Guidelines.            Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Mainly Priority 6: A capable, ethical and developmental state.            However, has implications for all the 7 NDP Priorities:            Priority 1: Economic transformation and job creation.            Priority 2: Education, skills and health.            Priority 3: Consolidating the social wage through reliable and quality basic services.            Priority 4: Spatial integration, human settlements and local government.            Priority 5: Social cohesion and safe communities.            Priority 7: A better Africa and World.</p>
2.	<p><b>Governance, Anti-Corruption and Human Rights:</b>            Good, Clean governance in the public sector.            Full compliance with the Prevention and Combating of Corrupt Activities Act 12 of 2004.            Pro-human rights and anti-corruption governance systems established in all national, provincial and local government departments.            Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Mainly Priority 6: A capable, ethical and developmental state.            However, this has implications for all the 7 NDP Priorities.</p>
3.	<p><b>Health:</b>            Improved state of healthcare services:            Availability; Accessibility (and Affordability); Acceptability (and Quality); and Adaptability.            Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Priority 2: Education, skills and health.</p>
4.	<p><b>Education:</b>            Achieve universal access to basic education and progressive access to higher education.            Improved quality of education            (Focus on the right to read and write - Focus on basic education, Technical and Vocational Education and Training Colleges).            Improved safety and security in all schools, including compliance with Infrastructure Norms and Standards, especially water and sanitation.            Social cohesion promoted and unfair discrimination addressed in schools.            Good governance promoted in all schools.            Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Priority 2: Education, skills and health.            Priority 5: Social cohesion and safe communities.</p>
5.	<p><b>Human Settlements, Water and Sanitation:</b>            Human Settlements that increasingly promote spatial justice.            Reduction in homelessness arising from illegal evictions and municipal by-laws.            Universal and equitable access to clean, safe and adequate water and sanitation.            Improved service delivery driven through a human rights perspective.            Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Priority 3: Consolidating the social wage through reliable and quality basic services.            Priority 4: Spatial integration, human settlements and local government.            Priority 5: Social cohesion and safe communities.</p>

	Human Rights Priority Issue and Outcome	NDP Priorities
6.	<p><b>Land and Food Security:</b>  Reduced evictions; and increased protections – through legislative reform and implementation of appropriate policies.  Promoted food security.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Priority 4: Spatial integration, human settlements and local government.</p> <p>Priority 5: Social cohesion and safe communities.</p>
7.	<p><b>Environment and Food Security:</b>  Implementation of The Paris Agreement on climate change.  Pro-active implementation of climate change initiatives and programmes: drought relief; flood relief; water resources management; waste management; dealing with acid mine drainage.  Promoted food security.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>All 7 priorities.</p>
8.	<p><b>Civil and Political Rights and PM / OPCAT:</b>  Improved compliance with the OPCAT.  Improved conditions at all places of detention.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p>Priority 5: Social cohesion and safe communities.</p> <p>Priority 6: A capable, ethical and developmental state.</p> <p>Priority 7: A better Africa and World.</p>

At the international level, the Commission's identified human rights priority issues and envisaged outcomes are also aligned with the Sustainable Development Goals.

**Table 4: Alignment of envisaged outcomes with the Sustainable Development Goals**

	Human Rights Priority Issue and Outcome	Sustainable Development Goals
1.	<p><b>Pro-Human Rights Budgeting:</b>  Pro-Human Rights budget spending patterns.  Compliance with Pro-Human Rights Budgeting Policy Guidelines.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>Mainly SDG Goal 16</b>  Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.  However affects most SDGs.</p>
2.	<p><b>Governance, Anti-Corruption and Human Rights:</b>  Good, Clean governance in the public sector.  Full compliance with the Prevention and Combating of Corrupt Activities Act 12 of 2004.  Pro-human rights and anti-corruption governance systems established in all national and provincial government departments.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 16</b>  Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.</p>
3.	<p><b>Health:</b>  Improved state of healthcare services:  Availability; Accessibility (and Affordability); Acceptability (and Quality); and Adaptability.  Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 3</b>  Ensure healthy lives and promote well-being for all at all ages.</p>
4.	<p><b>Education:</b>  Achieve universal access to basic education and progressive access to higher education.  Improved quality of education  (Focus on the right to read and write - Focus on basic education, Technical and Vocational Education and Training Colleges).</p>	<p><b>SDG Goal 4</b>  Ensure inclusive and equitable education and promote lifelong learning opportunities for all.</p>



	Human Rights Priority Issue and Outcome	Sustainable Development Goals
	<p>Improved safety and security in all schools, including compliance with Infrastructure Norms and Standards, especially water and sanitation.</p> <p>Social cohesion promoted and unfair discrimination addresses in schools.</p> <p>Promote Good governance in all schools.</p> <p>Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	
5.	<p><b>Human Settlements, Water and Sanitation:</b></p> <p>Human Settlements that increasingly promote spatial justice. Reduction in homelessness arising from illegal evictions and municipal by-laws.</p> <p>Universal and equitable access to clean, safe and adequate water and sanitation.</p> <p>Improved service delivery driven through a human rights perspective.</p> <p>Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 6</b> Ensure availability and sustainable management of water and sanitation for all.</p> <p><b>SDG Goal 11</b> Make cities and human settlements inclusive, safe, resilient and sustainable.</p>
6.	<p><b>Land and Food Security:</b></p> <p>Reduced evictions; and increased protections – through legislative reform and implementation of appropriate policies.</p> <p>Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 15</b> Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.</p>
7.	<p><b>Environment and Food Security:</b></p> <p>Implementation of The Paris Agreement on climate change. Pro-active implementation of climate change initiatives and programmes: drought relief; flood relief; water resources management; waste management; dealing with acid mine drainage.</p> <p>Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 13</b> Take urgent action to combat climate change and its impacts.</p>
8.	<p><b>Civil and NPM/ OPCAT:</b></p> <p>Improved compliance with the OPCAT.</p> <p>Improved conditions at all places of detention.</p> <p>Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.</p>	<p><b>SDG Goal 16</b> Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.</p>

### 8.3.2 Priorities of women, children and people with disabilities

The Revised Framework for Strategic Plans requires specific attention to the vulnerable groups including women, children and people with disabilities. As indicated earlier, the Diagram 1 above indicates the transversal or cross-cutting issues to which the Commission will pay particular attention, along with pursuing each of the envisaged priority outcomes. It must be noted that the Commission's priority transversal issues of inequality, children, gender, disability, older persons, and migrants, are broad enough to cover and include the specific areas of attention as required by the Framework.

### 8.3.3 Explanation of the outcomes and indicators, and their contribution to impact

The chosen Commission outcome indicators are a reflection of our intentions to influence the desired outcomes. The indicators will be used to measure our performance towards the realisation of the outcomes, in terms of achievement of our 5 year targets on the one hand, and impact on influencing the culture of human rights on the other.

In terms of our administrative outcomes, a stable organisational environment and adequate capacity are required to enable us to achieve on the set 5 year targets and desired outcomes. It is in this context that the Commission's strategy involves institutional development and stability priorities of good governance and leadership; financial viability; impact evaluations; and effective performance management. We are re-imagining an institution that is exemplary of a human rights culture in its own establishment, and that can effectively deliver on its mandate.

For a human rights culture to be embedded, it must be reflected in government laws and policies, on the one level. On another level, empowered communities and societal mindset changes enable better understanding and interaction with human rights issues, and promote respect thereof.

Access to justice avails redress options and opportunities to society.

An accountable State ensures that it is sufficiently responsible for a sustained human rights culture.

The sustained pursuit and achievement of the stated Commission outcomes, and the envisaged priority outcomes, is key to realising the desired impact of an entrenched human rights culture in our society.

## 9 Key Risks

The Commission has conducted a risk assessment profile, revised its risk management policy and strategy. It is in the process of analysing the key risks that may affect the achievement of the envisaged and desired outcomes, as well as developing mitigation plans.