



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

REVISED STRATEGIC PLAN 2020 – 2025

31 MARCH 2022

Accounting Officer Statement

South Africa continues to grapple with further divisions in society in the form of growing levels of inequality, poverty, unemployment, and violence. The Commission has committed, over a period of five years, to tackle key priority human rights areas to address some of these dire issues. The global covid-19 pandemic has been a set-back in strides as these issues have become more prevalent.

The strategic focus on anti-corruption and human rights has been befitting of the context that prevailed during the pandemic. The losses in some key sectors due to the plundering of state resources through corruption have plagued the country. This has resulted in deepened levels of poverty and high rates of unemployment, further depicted in higher levels of violence in the past year. The government's covid relief efforts, through various grants, have necessitated the need for more interrogation by the Commission and other stakeholders into Pro-Human Rights Budgeting Governance. The pandemic has had devastating impacts which limited resources for the advancement of our priority areas (Health, Education, Human Settlements, Water and Sanitation, Land and Food Security, Environment and Food Security).

Civil and Political Rights were at the centre of engagements during the enforcement of lockdown restrictions. The prevalence of growing inequality, unemployment and poverty will necessitate efforts in addressing imminent service delivery protests, whilst avoiding violence and protecting the right of people to peaceful protest. The National Preventive Mechanism (NPM) has made strides in carrying out its monitoring and reporting mandate. Much work remains to be done in institutionalising and formalising its role for its future advancement, especially where its role intersects with the mandate of the Commission.

The Commission continues to mainstream and tailor its responses and redress in ways that are conscious of transversal or cross-cutting issues. At the core of the Commission's work, the advancement of equality remains key. Priority and focus are also given to the intersecting parties affected by any human rights violations such as children, people with disability, older persons, and migrants. Gender mainstreaming remains vital and is appreciated in a much broader view, within work done around Sexual Orientation and Gender Identity Expression (SOGIE).

In the forthcoming planning period, performance plans will reflect more towards the attainment of the key priority strategic areas. Given the fleeting years of the strategic plan, better planning that yields the desired impact and outcomes as envisaged, will propel the Commission towards the

goal of ensuring entrenched realisation of human rights in the country. A goal the Commission remains unwavering on.

Lessons have certainly been learned in the past few years and these will be a guide in how we better implement the Strategic Plan. The Commission must certainly acknowledge the collaborative efforts made with other Chapter 9 institutions and with government departments. These efforts have gone a long way in ensuring that issues are resolved in a conducive manner, avoiding litigation where possible. The Commission remains resolute and committed in its goal to ensure the effective implementation of the Strategic Plan while ensuring that a culture of human rights materialises.

The Accounting Officer must also use this statement to make relevant acknowledgements and to indicate the institution's commitment to implementing the Strategic Plan.

Advocate Tseliso Thipanyane
South African Human Rights Commission

Table of Contents

PART A: OUR MANDATE	
1. CONSTITUTIONAL MANDATE	5
2. LEGISLATIVE AND POLICY MANDATES	6
2.1 South African Human Rights Commission Act	6
2.2 Promotion of Access to Information Act	8
2.3 Promotion of Administrative Justice Act	8
2.4 Promotion of Equality and Prevention of Unfair Discrimination Act	8
2.5 Legal Practice Act	9
2.6 Protected Disclosures Act	9
2.7 International and regional human rights obligations	9
3. INSTITUTIONAL POLICIES AND STRATEGIES OVER THE FIVE YEAR PLANNING PERIOD	10
3.1 Relevant policy developments	10
3.2 Mandate based strategies	10
3.3 Themes underpinning our strategy	11
3.4 Human Rights priority focus areas for the Commission	13
3.5 Transversal or Cross-cutting issues for special attention	13
4. RELEVANT COURT RULINGS	16
PART B: OUR STRATEGIC FOCUS	
1 VISION	21
2 MISSION	21
3 VALUES	21
4 SITUATIONAL ANALYSIS	21
4.1 External Environment Analysis	21
4.2 Internal Environment Analysis	29
PART C: MEASURING OUR PERFORMANCE	
1 INSTITUTIONAL PERFORMANCE INFORMATION	30
1.1 Impact statement	30
1.2 Measuring Outcomes	30
1.3 Explanation of Planned Performance over the Five Year Period	32
2 KEY RISKS AND MITIGATION	37
PART D: TECHNICAL INDICATOR DESCRIPTIONS	
1 TECHNICAL INDICATOR DESCRIPTIONS	39

Part A: Our Mandate

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 Protected Disclosures Act

The object of the Protective Disclosure Act 26 of 2000 is to protect an employee or worker, whether in the private or the public sector, from being subjected to an occupational detriment on account of having made a protected disclosure. It further provides for certain remedies in response to the occupational detriment on account of the protected disclosure. The Act in section 4 provides for remedies that include pursuing any other process allowed and prescribed by any law. The SAHRC is specifically mentioned in section 8 of the Act as a body to which protected disclosures can be made in good faith, and further places an obligation to render assistance to the affected party or to refer the party to an appropriate forum within the prescripts of the Act.

As part of its strategic priority area on anti-corruption, the SAHRC, being a body to which disclosures can be made, must comply with the prescripts of the Act. The implications of occupational detriment are a human right violation, and as such require the SAHRC to provide appropriate redress.

2.7 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.

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
- 3.4.9 National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

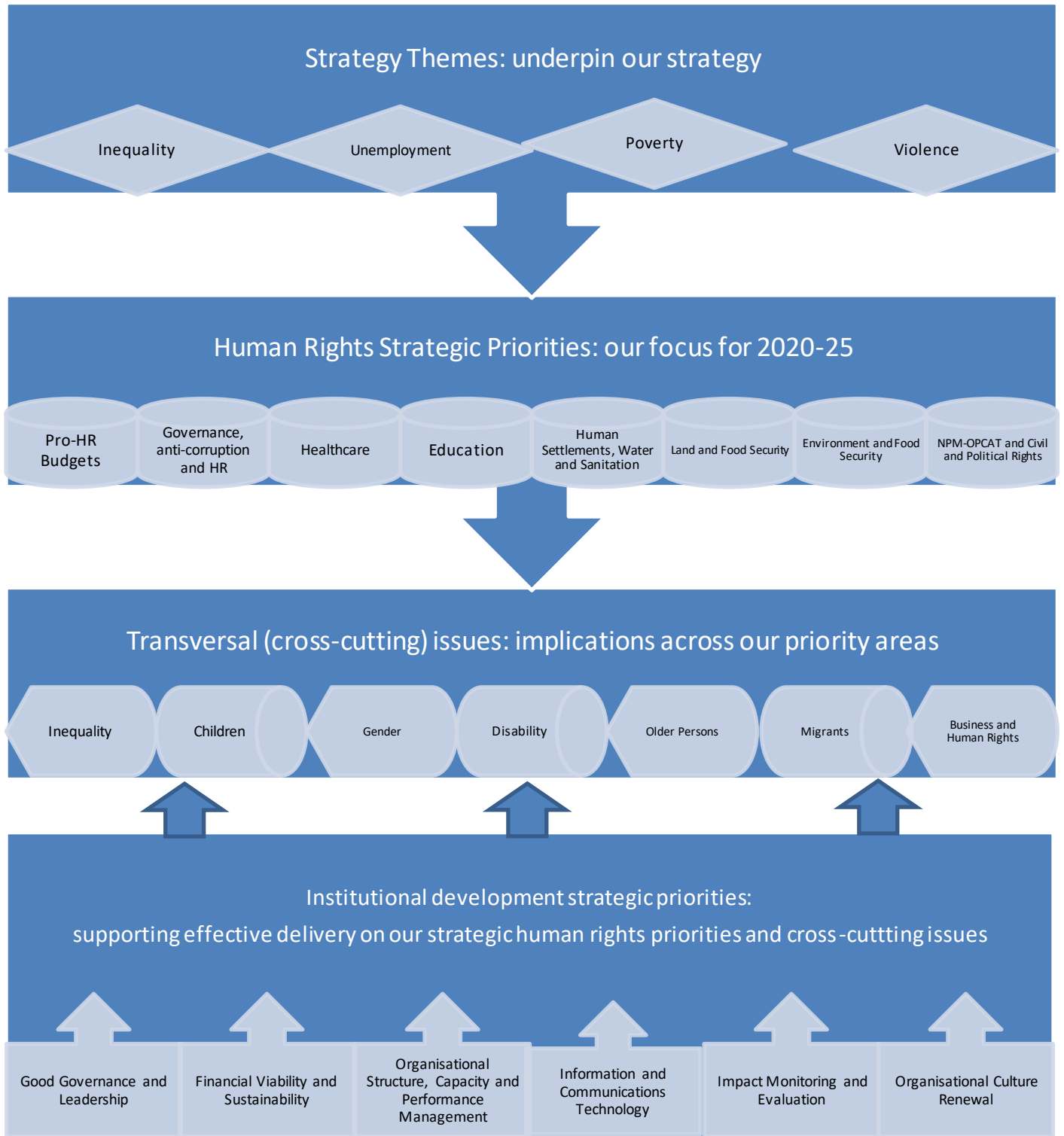
3.5 Transversal or Cross-cutting issues for special attention

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.

Diagram 1: SAHRC Strategic priorities for 2020 - 2025



4. 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 Municipality¹

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

¹ 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 provinces². 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 effect³.

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)⁴. 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

² 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).

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

⁴ 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.

Part B: Our Strategic Focus

1 Vision

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

Transforming society. Securing rights. Restoring dignity.

2 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.

3 Values

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

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.

4 Situational analysis

4.1 External Environment Analysis

As part of its situational analysis, the Commission conducted strategic focus area reflection sessions relating to its identified human rights priorities.

4.1.1 Pro-Human Rights Budgeting

The Commission recognises the budget as an important planning tool, which is crucial within the context of the economic growth and ability of the state to uplift the nation. In order to realise greater human rights impact, there is a need to ensure effectiveness of the budget as a planning tool, and its alignment with human rights objectives. Pro-human rights budgeting therefore is about prioritising and balancing the rights in the Bill of Rights when allocating the budget, and ensuring that poor and most vulnerable people are provided for. Inadequate and improper budgeting implies less provision, especially for socio-economic rights. The constitutional references to 'progressive realisation of rights' and 'universal access' presuppose appropriate budgeting and spending thereof.

The Commission would conduct budget analysis to promote state accountability. This would entail monitoring state expenditure and assessing budgetary decisions and their impact on socio-economic rights. Given the Commission's inexperience in this field, it would collaborate with experts to enhance its own understanding of the budgeting processes and inform a framework for analysis and monitoring of the budget towards a pro-human rights budget. Section 184 (3) of the Constitution provides an opportunity for the Commission to request budget information from government with respect to the realisation of socio-economic and environmental rights. The Commission's '*Final Report of the Gauteng Provincial Inquiry into the Alexandra Township Total Shutdown, 2021*' serves as an important basis to assess budgeting for socio-economic rights at the local level.

4.1.2 Governance, anti-corruption and human rights

According to the case study of the South African Institute of Chartered Accountants, '*Unite 4 Mzansi: State capture 101, 2021*', South Africa has lost an estimated R1.5 trillion through corruption over the 5 year period, 2014 to 2019, and the scourge continues. The Auditor-General of South Africa reports on findings of significant irregular, fruitless and wasteful expenditure every year. Corporate governance studies are very limited on governance and human rights. Corruption has devastating impact on human rights and vulnerable groups. Municipalities that are placed under administration are dysfunctional and cannot deliver services to people.

The Commission sees a need to fill the gap to promote corporate accountability and would facilitate collaborations and dialogues with broader stakeholders in this regard. The Commission, in conjunction with the Public Protector, convened an anti-corruption conference in March 2021, and is in progress implementing the key resolutions thereof, including the protection of whistle-blowers. It would continue to implement advocacy initiatives, raise public awareness and lobby for the strengthening of institutions that deal with corruption. This would include engagements with business to address corruption in the private sector.

The envisaged outcomes for this priority area include good and clean governance in the public sector, achieved through development and implementation of pro-human rights and anti-corruption governance systems across all government spheres; as well as full compliance with all applicable anti-corruption legislation and regulations. The Commission would also advocate for reparation for victims of corruption and redress of related human rights violations.

4.1.3 Health

The monitoring work of the Commission has revealed several challenges relating to the provision of health care in the country. The gross inequalities between the urban and rural areas, as well as public and private sector, meant inequitable access to health care. There were also shortages of human resources, equipment and medicines; deteriorating infrastructure and poor maintenance of facilities; and poor state of emergency medical services. The COVID-19 pandemic has exacerbated these challenges. It further resulted in restricted

access to healthcare for non-COVID-19 patients; and posed health and safety risks for frontline workers, mainly due to shortage of personal protective equipment. Healthcare infrastructure was not in tandem with the population growth and burden of disease. The lockdown regulations hindered access to healthcare for many users: the Commission's findings reveal severe adverse effects on services such as HIV⁵, TB, Oncology, elective surgeries, etc. and that some patients missed their treatment.⁶

The COVID-19 has exposed many people to serious mental health challenges⁷. Along with the health impacts, the disease has led to self and social isolation, disconnection from family and friends, quarantine and lockdowns on movement, resulting in more people than ever experiencing feelings of helplessness, grief, anxiety and depression⁸. Demand for health support services has increased exponentially as a result. However, this demand has not been met with an increase in the provision of services. To address these challenges and increase the capacity and availability of support, governments, local communities and the SAHRC need to increase the resources directed towards addressing psychological suffering, now and after the pandemic has passed.

Recognising the need for the Commission to play a greater role in the promotion of access to mental healthcare, it formed strategic alliances with organisations specialising in mental healthcare and community development, and initiated a project to promote mental health as a human right.⁹ The key objectives of the project are to increase mental health awareness and ensure improved service provision.

The Commission would focus on monitoring healthcare facilities to address the identified challenges, and including areas of vulnerability, such as old age homes, special schools for children with disabilities and frail care centers. As government intensifies efforts to roll out the national vaccination strategy, the Commission had begun monitoring to ensure equitable, fair and adequate distribution of the vaccine. The Commission would also monitor the implementation of recommendations made from its past health related reports. Most of this work would be through strategic engagements with key government and civil society stakeholders.

4.1.4 Education

The *International Covenant on Economic, Social and Cultural Rights (1966)* (ICESCR), in its *General Comment 13 on the Right to Education (1999)*, adopted the 4A's (Available, Accessible, Acceptable and Adaptable education) features to make education a meaningful right in all its forms and at all levels. These ICESCR defines these interrelated features as:

- a) Available: education is free and there is adequate infrastructure and trained teachers able to support the delivery of education.

⁵ Waterfield, K.C., Shah, G.H., Etheredge, G.D. *et al.* Consequences of COVID-19 crisis for persons with HIV: the impact of social determinants of health. *BMC Public Health* 21, 299 (2021). <https://doi.org/10.1186/s12889-021-10296-9>

⁶ <https://www.brookings.edu/blog/africa-in-focus/2021/10/12/covid-19s-impact-on-overall-health-care-services-in-africa/>

⁷ Singh S, Roy D, Sinha K, Parveen S, Sharma G, Joshi G. Impact of COVID-19 and lockdown on mental health of children and adolescents: A narrative review with recommendations. *Psychiatry Res.* 2020;293:113429. doi:10.1016/j.psychres.2020.113429

⁸ Hwang, Tzung-Jeng *et al.* "Loneliness and social isolation during the COVID-19 pandemic." *International psychogeriatrics* vol. 32,10 (2020): 1217-1220. doi:10.1017/S1041610220000988

⁹ Nguse S, Wassenaar D. Mental health and COVID-19 in South Africa. *South African Journal of Psychology.* 2021;51(2):304-313. doi:[10.1177/00812463211001543](https://doi.org/10.1177/00812463211001543)

- b) Accessible: the education system is non-discriminatory and accessible to all, and positive steps are taken to include the most marginalised.
- c) Acceptable: the content of education is relevant, non-discriminatory and culturally appropriate, and of quality; schools are safe and teachers are professional.
- d) Adaptable: education evolves with the changing needs of society and challenges inequalities, such as gender discrimination; education adapts to suit locally specific needs and contexts.

These features inform the Commission's assessment and approach to the schooling education environment in the country. The work of the Commission over the years has revealed challenges in the South African schooling system, including:

- a) Inadequate and poor schools infrastructure:- water and sanitation, learner and teacher support material (LTSM), and differentiated facilities and equipment;
- b) Safety and security threatened by violence in schools;
- c) Safety and health challenges, and currently exacerbated by the Covid-19 pandemic;
- d) Very low literacy rates adversely affecting realisation of the right to read and write;
- e) Racism in schools:- discriminatory admissions and other schools policies and codes of conduct;
- f) Poor sexual education and high rates of teenage pregnancies.

With the spread of the Covid-19 in the country, the Commission has increasingly monitored the readiness of schools to ensure safety and continuity of schooling, and avoid regress in the realisation of the right to education. Education experts indicate that school drop-out rates could surge in future years if urgent interventions are not put in place to recover learning time lost due to the pandemic lockdowns.

Lost learning time, including the related closure of early childhood development centres, would delay learner language and reading abilities, thereby adversely affects learner literacy. Already in South Africa, according to the 2016 Progress in International Reading Literacy Study (PIRLS), quoted in *SAHRC, The Right to Read and Right (2021)*, almost 80% of Grade 4 learners could not read for meaning across all languages. The Study also indicates that South Africa was placed last out of 50 countries that participated.

It is ascertained that improving literacy levels required training, resources provision (LTSM) and accurate assessment interventions. The PIRLS, 2016, found that more than half of primary schools in the country lacked books, libraries and infrastructure, limiting progress in reading literacy for Grade 4 learners. In addition, impoverished households were further burdened by the divide arising with learning from home during lockdown. The SAHRC, 2021, notes with concern that *"at the current rate of progress, South African will only achieve universal literacy (98% reaching the Low International Benchmark) in the year 2100"*.

The Commission's strategic interventions for the realisation of the right to education during the current planning cycle are aimed at ensuring that the country:

- a) Achieves universal access to basic education;
- b) Increases availability of education, and bridges the schooling divide, through equitable funding models and budget allocations, development of schools infrastructure, and learner and teacher support material.
- c) Improves the quality of education (with a focus on the right to read and write);
- d) Improves safety and security in schools (including enhanced Covid-19 readiness and vaccination management, addressing violence, and promoting compliance with infrastructure norms and standards);
- e) Realises good governance in schools; and
- f) Protects the rights of vulnerable groups, eliminating unfair discrimination and promoting social cohesion in schools.

The Commission shall employ various promotional, protection and monitoring mandate strategies to influence the realisation of the right to education.

4.1.5 Human settlements, water and sanitation

The systemic issues of concern for the Commission under these priority areas include, the availability, affordability and adequacy of housing and human settlements; spatial justice; informal settlements; illegal evictions and the plight of vulnerable groups. In terms of water and sanitation, the issues include availability, accessibility, adequacy and quality of water and sanitation provision; water infrastructure and governance; and environmental impact. As such the Commission would influence the state's realisation of human settlements that increasingly promote spatial justice; reduction in homelessness arising from illegal evictions and municipal by-laws; and universal and equitable access to clean, safe and adequate water and sanitation.

Availability, affordability and adequacy of human settlements

Availability: The country faces a huge housing backlog estimated to be about 2.4 million houses, coupled with increasing demand and population growth.

Affordability: Economic factors play a significant role in stifling the realisation of the right to adequate housing. High levels of poverty; inequality; unemployment; and COVID-19 have compounded the impact.

Adequacy: Significant population inadequately housed and living in conditions of squalor and abject poverty. The Commission's interest in this regard is for the state to ensure adequate provision, and increased availability and access to housing.

Spatial justice

The legacy of the apartheid spatial geography and injustice still lingers in the country, whereby housing projects are dislocated from economic opportunities. Transport costs estimates indicate that 50% of poor residents spend above 20% of their income on transport. The findings of the SAHRC *Final Report of the Gauteng Provincial Inquiry into the Alexandra Township Total Shutdown, July 2021*, imply the existence of

isolated pockets of affluence that reinforce racial and class segregation. The Commission would continuously engage to promote integrated human settlements where housing developments are closer to social and economic amenities and opportunities.

Informal settlements

The slow pace of informal settlements upgrading, exacerbated by underspending on the urban settlement development grant, in South Africa means that more than a tenth (13,6%) of households in the country live in informal dwellings. The country registers approximately 2700 informal settlements. The state's upgrading and provision of water, sanitation and hygienic environment in informal settlements remains a focus for the Commission.

Illegal evictions

There continues a spate of unlawful and inhumane evictions across municipalities despite constitutional and legislative protections. There appears to be a disjuncture between legislation, policy and practice. General Comment no. 7 of the concluding observations of the Committee on Economic and Social Rights recommended that South Africa should ensure evictions were carried out in line with international norms and standards. The Commission therefore would continue to monitor the state's actions towards reduction in unlawful evictions.

Vulnerable groups

The absence of a national policy on homeless people, or a special needs housing policy, aggravates the plight of vulnerable groups. This despite the recommendations made by the Commission through various outputs including the Research Brief and Mental Health Report, as well as the UN Special Rapporteur, as far back as 2007. The difficulties faced by vulnerable groups were further highlighted during the Covid-19 pandemic and lockdown, with homeless people demeaned and ill-treated. The provision of safe and adequate housing for vulnerable persons would be one of the issues receiving the Commission's attention.

Universal and equitable access to safe, clean and adequate water and sanitation

The challenge of water availability is endemic due to South Africa being a water scarce country; coupled with the climate change crisis. In addition, the country experiences inaccessibility and inadequacy of water, with narrow and selective coverage. Population growth and the resultant increase in water demand further strain the situation. It must be noted that the challenges of unavailability, inaccessibility, inadequacy and poor quality of water affect vulnerable groups the most and thus widen inequalities: there is a gendered impact of these challenges, whereby women and girl children, as water 'bearers' in our current societal structure, suffer the most. Similarly, persons with disability and older persons are most adversely affected by the inaccessibility and unavailability of water, having to travel long distances and carry heavy loads to fetch water. The Commission's intent is to engage the state for the promotion of universal and equitable access to clean, safe and adequate water and sanitation.

Water infrastructure and governance

The Final Report of the Gauteng Provincial Inquiry into the Sewage Problem of the Vaal River, February 2021, laments the negative environmental impact arising from the dysfunctionality of waste water treatment works and plants in municipalities across the country. Approximately 44% of Waste Water Treatment Plans were in poor critical condition, with 11% completely dysfunctional. This also has harmful effects on the right to health and well-being of communities, and right to a healthy environment. Due to insufficient water and sanitation infrastructure, only 2% of the budget of municipalities was being used for maintenance, far lower than the norm of 8%. Consequently, vital assets such as waste water treatment plants were degraded (*Auditor-General of South Africa, Municipal Finance Management Act Audit Report*). The other findings of the Commission over time include that there were weak enforcement of mechanisms such as polluter pays principles; and the stalling of bulk Infrastructure projects, such as the Nandoni Dam, Giyani Water Project, and De Hoop Dam. The Commission would further work to influence the state for refurbishment of infrastructure; greater application of enforcement mechanisms - the polluter pays principle; effective and efficient implementation of bulk infrastructure projects; and increased attention to the impact of climate change on water resources.

4.1.6 Transversal or cross-cutting issues

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

- a) Inequality:** Promoting practices that improve the state of equality and prevent and eliminate situations that perpetuate inequalities across all the identified priority focus areas.
- b) Children:** Promoting, protecting and monitoring the observance of the rights of children across all the identified priority focus areas.
- c) Gender:** Promoting, protecting and monitoring the observance of gender rights, including the rights of women, across all the identified priority focus areas.
- d) Disability:** Promoting, protecting and monitoring the observance of people with disabilities across all the identified priority focus areas.
- e) Older Persons:** Promoting, protecting and monitoring the observance of the rights of older persons across all the identified priority focus areas.
- f) Migrants:** Promoting, protecting and monitoring the observance of the rights of migrants across all the identified priority focus areas.
- g) 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.

In addition to the analysis based on the human rights priority areas, the Commission did a general PESTEL analysis as follows:

Factor	Situation
Political	<ol style="list-style-type: none"> 1. Interference and disrespect for constitutional institutions. 2. Identify threats to constitutional democracy and devise strategies to address these: including violence and corruption. 3. Non-responsiveness and lack of political will. 4. Engagements to mitigate against political violence during upcoming local government elections.
Economic and Social	<ol style="list-style-type: none"> 1. Constraints of the fiscus and low economic growth negatively affect budget allocations to state institutions. 2. Requires that we streamline our work and strategies to ensure greater effectiveness, efficiency, and impact. 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. 4. Greater collaboration and partnerships. 5. Greater strategic engagements and emphasis on the benefits of our work to society. 6. Implications of corruption on human rights. 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.
Technological	<ol style="list-style-type: none"> 1. Fourth Industrial Revolution implications for human rights. 2. Need a focus on technology and human rights. 3. Familiarise ourselves with developments and challenges to remain relevant. 4. Cyber security concerns. 5. Data analytics to identify human rights violations. 6. Upgrading systems to enhance efficiencies.
Environmental	<ol style="list-style-type: none"> 1. Environmental rights should be one of the key departure points – greatest threat to human kind. 2. Impact and implications of climate change – floods; drought; water shortages; pollution. 3. Effects on poor people are often more devastating. 4. Find strategic entry points to influence state action on dealing with climate change.
Legal	<ol style="list-style-type: none"> 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. 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. 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. 4. Ongoing review and legal challenges to old legislation bearing the hallmark of apartheid.

4.2 Internal Environment Analysis

The Commission conducted an internal analysis that considered its strengths, weaknesses, opportunities and threats.

Strengths	Weaknesses
<ol style="list-style-type: none"> 1. Organisational and programme structure, including provincial offices, aligned with the constitutional mandate. 2. National Treasury budget allocation provides for continuous annual financial resources. 3. Full complement of Commissioners, with varied networks and stakeholder relations. 4. Stable information and communications technology environment. 5. Human capital management strategy and capacity development plan. 6. Institutional strategies and interventions responsive to the needs of vulnerable groups, including women, children, youth and people with disabilities. 	<ol style="list-style-type: none"> 1. Monitoring mandate is insufficiently provided for by the organisational structure. 2. Insufficient resources, both financial and human, compared with the vast constitutional mandate. 3. Information and communications technology not optimally utilised for the advancement of human rights. 4. Inconsistent and unclear complaints handling procedures, especially for high profile matters. 5. Inadequate utilisation of internal capacity, especially for the protection mandate. 6. Challenges developing impact based indicators appropriate for the nature of the protection mandate work. 7. Disintegrated and poor human rights monitoring system.
Opportunities	Threats
<ol style="list-style-type: none"> 1. Fairly good organisational reputation and strong stakeholder relations. 2. Broad constitutional mandate and legislative powers and functions. 3. Availability of pro bono external legal assistance as opposed to briefing expensive counsel. 4. Strengthening equality court litigation so as to be the determining body on jurisprudence in this regard. 5. Increasing social media following and optimal utilisation thereof. 	<ol style="list-style-type: none"> 1. Political interference with the work of the Commission. 2. Lack of standing directives in terms of litigation processes. 3. Litigation costs. 4. Untenable Treasury regulations for the procurement of legal counsel. 5. The Corona Virus Disease of 2019 (COVID-19).

Part C: Measuring Our Performance

1 Institutional Performance Information

1.1 Impact statement

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

1.2 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

	Human Rights Priority Issue	Envisaged Outcome for realisation by the State and relevant actors
1.	Pro-Human Rights Budgeting (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.	Governance, Anti-Corruption and Human Rights (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.	Healthcare (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) ¹⁰ .
4.	Education (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.

¹⁰ It must be noted that these also include affordability and quality.

	Human Rights Priority Issue	Envisaged Outcome for realisation by the State and relevant actors
		Good governance promoted in all schools.
5.	Human Settlements, Water and Sanitation (The Commission will pay particular attention to the effects on inequality; children; gender; disability; older persons; migrants; and the role of business)	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.
6.	Land and Food Security (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.
7.	Environment and Food Security (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.
8.	Civil and Political Rights and NPM / OPCAT (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.

1.2.1 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.

1.2.2 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.

1.2.3 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

	Outcome	Outcome Indicator	Baseline¹¹	Five Year Target
1.	Effective and efficient delivery on the mandate	Percentage achievement of targets	82% achievement	Minimum 85% achievement of targets
2.	Increased reach of the Commission	Number of people reached through various promotional mechanisms ¹²	8.6 billion people reached per annum	8.7 billion people reached per annum
3.	Redress mechanisms provided where human rights have been violated or threatened	Number of cases where redress mechanisms have been provided	41 923 cases	20 000 cases ¹³
4.	Recommendations and directives made to improve the state of human rights in the country	Number of recommendations and directives made to improve the state of human rights in the country	250 recommendations and directives	250 recommendations and directives ¹⁴

1.3 Explanation of Planned Performance over the Five Year Period

1.3.1 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.

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

	Human Rights Priority Issue and Outcome	NDP Priorities
1.	Pro-Human Rights Budgeting: 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.	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.

¹¹ Based on achievements over the previous 5 year planning cycle, 2015 – 2020.

¹² The various promotional mechanisms include media items published through print, broadcast and online media; social media following; and outreach through engagements and workshops.

¹³ It must be noted that the targeted number of cases where redress mechanisms have been provided for the current planning cycle has been purposefully reduced as the Commission is shifting away from quantitative targets towards more qualitative and high impact based targets such as protection mandate initiatives and strategic impact litigation.

¹⁴ It must be noted that the targeted number of recommendations made to improve the state of human rights in the country remains the same as the baseline, considering that the Commission would also focus on monitoring the implementation of recommendations already made in the past.

	Human Rights Priority Issue and Outcome	NDP Priorities
		Priority 4: Spatial integration, human settlements and local government. Priority 5: Social cohesion and safe communities. Priority 7: A better Africa and World.
2.	Governance, Anti-Corruption and Human Rights: 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.	Mainly Priority 6: A capable, ethical and developmental state. However, this has implications for all the 7 NDP Priorities.
3.	Health: 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.	Priority 2: Education, skills and health.
4.	Education: 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.	Priority 2: Education, skills and health. Priority 5: Social cohesion and safe communities.
5.	Human Settlements, Water and Sanitation: 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.	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.
6.	Land and Food Security: 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.	Priority 4: Spatial integration, human settlements and local government. Priority 5: Social cohesion and safe communities.
7.	Environment and Food Security: 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.	All 7 priorities.
8.	Civil and Political Rights and PM / OPCAT: Improved compliance with the OPCAT. Improved conditions at all places of detention.	Priority 5: Social cohesion and safe communities.

	Human Rights Priority Issue and Outcome	NDP Priorities
	Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.	Priority 6: A capable, ethical and developmental state. Priority 7: A better Africa and World.

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.	Pro-Human Rights Budgeting: 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.	Mainly SDG Goal 16 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.
2.	Governance, Anti-Corruption and Human Rights: 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.	SDG Goal 16 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.
3.	Health: 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.	SDG Goal 3 Ensure healthy lives and promote well-being for all at all ages.
4.	Education: 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 addresses in schools. Promote Good governance in all schools. Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.	SDG Goal 4 Ensure inclusive and equitable education and promote lifelong learning opportunities for all.
5.	Human Settlements, Water and Sanitation: 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.	SDG Goal 6 Ensure availability and sustainable management of water and sanitation for all. SDG Goal 11 Make cities and human settlements inclusive, safe, resilient and sustainable.

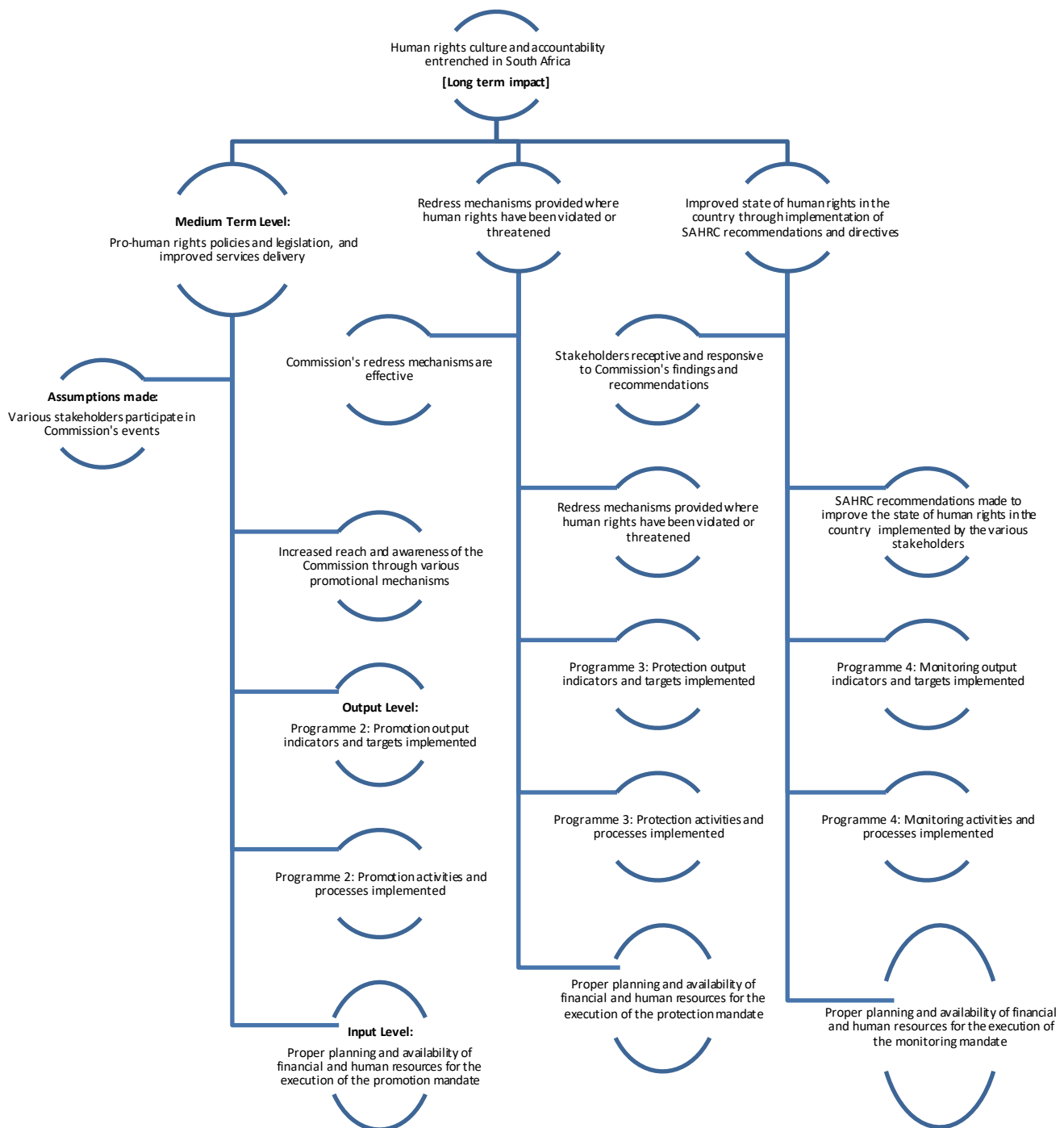
	Human Rights Priority Issue and Outcome	Sustainable Development Goals
	Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.	
6.	Land and Food Security: Reduced evictions; and increased protections – through legislative reform and implementation of appropriate policies. Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.	SDG Goal 15 Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.
7.	Environment and Food Security: 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. Key focus on the transversal issues of inequality; children; gender; disability; older persons; migrants; and the role of business.	SDG Goal 13 Take urgent action to combat climate change and its impacts.
8.	Civil and NPM / OPCAT: 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.	SDG Goal 16 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

1.3.2 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.

1.3.3 Explanation of the outcomes and indicators, and their contribution to impact

Diagram 2: Theory of change for the Commission's impact



The Commission's outcomes will enable the realisation of the desired impact of entrenched human rights in the country. In terms of the promotion programme and mandate, the increased reach of the Commission would lead to greater awareness of human rights, and enables the Commission to have wider influence on the adoption of pro-human rights policies, legislation, and improvements in service delivery by respective role

players. Adoption of pro-human rights stances is reflective of an entrenched culture of human rights. The assumption made in this regard is that the various stakeholders would participate in the different Commission's events. The Commission would enhance its reach through the various interventions as articulated in its planned output indicators and activities, such as strategic engagements; hosting of dialogues and conferences; and media and communications liaison.

The protection programme or mandate outcome of redress mechanisms provided where human rights have been violated or threatened would result in a culture of human rights. Mechanisms would have the effect of deterring human rights violators or threats, and simultaneously provide redress thereof. The various mechanisms implemented include the finalisation – through applicable legal mechanisms - of complaints and enquiries lodged with the Commission; initiatives to address systemic violations; strategic impact litigation; and other strategic engagements to strengthen the protection mandate. These form the basis for the outputs, activities and processes to be implemented by the Commission. The assumption made in this regard is that the Commission would utilise all the available mechanisms at its disposal.

The strength of the monitoring mandate lies in the findings and recommendations made to the respondent stakeholders. The Commission's recommendations serve to improve the state of human rights in the country. Their implementation therefore implies accountability for human rights, and a recognition of the need for the improvements. In turn, increased accountability would result in an entrenched culture of human rights. The outputs, activities and processes in concern herein include monitoring reports, systems and activities. An assumption made is that the relevant stakeholders would be responsive and implement the recommendations.

The effective and efficient delivery on the mandate would enable the achievement of set 5 year targets and desired outcomes. This administrative outcome rests on the internal enablers including good governance and leadership; financial viability; impact evaluations; human capital management 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.

2 Key risks and mitigation

The Commission conducted a risk assessment profiling, revising its risk management policy, strategy and appetite statement.

No.	Outcomes	Key risks	Risks mitigation
1	Effective and efficient delivery on the mandate	Unsustainable institutional performance	Study to assess sufficiency of the Commission's budget. Strategic engagements based on outcomes of study. Appoint temporary personnel to deliver on planned priorities.
2		Unsafe and unsecure personnel.	Review and implement safety and security policy and protocol. Update communicate and implement a COVID-19 protocol.
3		Outdated and ineffective ICT systems.	Review and implement ICT governance strategy (ensure appropriate enhancements - Move to Cloud). Scoping exercise (issues of migrations and demands of 4IR). Appoint CIO - structural enhancement. Implementation of ICT plan.
4		Cyber security risk	Develop and implement cyber security policy. Develop and implement POPIA policy.
5		Poor Governance practices.	Review and develop comprehensive Institutional Governance Framework (IGF). Monitor and report on compliance with the IGF. Establish dedicated governance and risk function - (enhance SSG unit).
6		Adverse audit findings	Develop automated performance planning and reporting system. Performance information workshops with all personnel
7		Desirable outcomes and strategic priorities not met.	Review institutional monitoring and evaluation framework. Conduct evaluation studies.
8	Increased reach of the Commission	Lack of awareness of rights. Poor visibility of the Commission. Poor service delivery. Inability to influence human rights based policy and legislative reform.	Conduct strategic interventions. Implement MoUs and Agreements. Empower community human rights champions. Implement media and communications plan. Review stakeholder engagements strategy.
9	Redress mechanisms provided where human rights have been violated or threatened	Unresolved complaints and human rights violations not addressed.	Review and implement revised Complaints Handling Procedures. Review and implement revised Complaints Management System. Institute strategic impact litigation. Undertake initiatives to address systemic violations. Manage and reduce backlogs.
10	Recommendations and directives made to improve the state of human rights in the country	Inability to measure state of human rights.	Develop children's rights mapping framework or complete report. Review and implement a comprehensive human rights monitoring system. Monitor and report on implementation of recommendations and concluding observations.

Part D: Technical Indicator Descriptions

1 Technical Indicator Descriptions

Indicator title	Percentage achievement of targets
Definition	The extent to which the set targets have been achieved.
Sources of data	Audited institutional annual performance reports.
Method of calculation or assessment	Quantitative calculation of the proportion or extent to which targets have been achieved, based on an average percentage over the 5 year period, 2020 to 2025. {Number of targets achieved per annum, as a proportion of the total number of targets per annum, multiplied by 100, calculated for each of the 5 years. Then a total sum (added up) of each resultant annual percentage achievement divided by the number of years (5)}.
Assumptions	The institution remains stable and continues to operate throughout the planning cycle.
Disaggregation of beneficiaries (where applicable)	Women, youth, and people with disabilities inherently integrated in the work of the Commission.
Spatial transformation (where applicable)	Spatial transformation inherently integrated into the work of the Commission, through a focus on marginalised areas as well.
Desired performance	Minimum average of 85% achievement of targets over the 5 year period.
Indicator responsibility	Head of Strategic Support and Governance.

Indicator title	Number of people reached through various promotional mechanisms
Definition	Number of people reached by the Commission through various promotional mechanisms, including media items published through print, broadcast and online media; social media following; and outreach through engagements and workshops.
Sources of data	Quarterly Media Monitoring Reports; Provincial Office Quarterly Reports; Advocacy and Communications Annual Reports.
Method of calculation or assessment	Numerical: number of people reached. Print = readership based on official statistical records of the respective media houses, and as identified through the media monitoring service. Broadcast = listenership and viewership based on official statistical records of the respective media houses, and as identified through the media monitoring service. Social media = number of followers on Facebook and Twitter. Outreach engagements and workshops = number of people in attendance.
Assumptions	Targeted stakeholders have an interest and do participate and attend Commission events.
Disaggregation of beneficiaries (where applicable)	Women, youth, and people with disabilities inherently integrated in the work of the Commission.
Spatial transformation (where applicable)	Spatial transformation inherently integrated into the work of the Commission, through a focus on marginalised areas as well.
Desired performance	8.7 billion people per annum reached through the identified mechanisms.
Indicator responsibility	Commissioners; Advocacy Coordinator; Communications Coordinator; Provincial Managers.

Indicator title	Number of cases where redress mechanisms have been provided
Definition	Cases where the Commission has provided complainants and / or victims of human rights violations with opportunities for redress through the available legal means, in line with the Commission's constitutional mandate, and legislative powers and functions. The redress mechanisms include alternative dispute resolutions, litigation, referrals and initiatives addressing systemic human rights violations.
Sources of data	Annual Trends Analysis Reports; Legal services complaints handling statistics; Litigation reports; provincial office quarterly reports.
Method of calculation or assessment	Numeric: number of cases where the Commission has utilised at least one of the mechanisms at its disposal, as per the definition above, to provide redress to affected parties.
Assumptions	The Commission's redress mechanisms are operational and effective.
Disaggregation of beneficiaries (where applicable)	Women, youth, and people with disabilities inherently integrated in the work of the Commission.
Spatial transformation (where applicable)	Spatial transformation inherently integrated into the work of the Commission, through a focus on marginalised areas as well.
Desired performance	20 000 cases
Indicator responsibility	Head of Legal Services; Provincial Managers.

Indicator title	Number of recommendations and directives made to improve the state of human rights in the country
Definition	The number of recommendations and directives made by the Commission through its various research and investigative reports, with a view to improve the state of human rights in the country.
Sources of data	Focus area reports. Research reports. Investigative reports. Recommendations Repository.
Method of calculation or assessment	Numeric: number of recommendations and directives made by the Commission through its various research and investigative reports.
Assumptions	Stakeholders are receptive to the Commission's recommendations.
Disaggregation of beneficiaries (where applicable)	Women, youth, and people with disabilities inherently integrated in the work of the Commission.
Spatial transformation (where applicable)	Spatial transformation inherently integrated into the work of the Commission, through a focus on marginalised areas as well.
Desired performance	250 SAHRC recommendations and directives made to improve the state of human rights in the country
Indicator responsibility	Commissioners. Head of Research. Head of Legal Services. Provincial Managers.