



FW de Klerk
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FW DE KLERK FOUNDATION WELCOMES SOUTH AFRICA'S RATIFICATION OF INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The FW de Klerk Foundation welcomes the decision by government to ratify the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which commits parties to ensuring these rights. Together with the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and two Optional Protocols, the ICESCR forms a constituting part of the *International Bill of Human Rights*. The ratification takes place 21 years after President Mandela first signed the ICESCR, commencing South Africa's journey towards promoting and protecting the economic, social and cultural rights of its people.

The ratification follows a protracted struggle by South African human rights groups, who have for years called on government to ratify and incorporate the ICESCR. These calls were answered on 10 October 2012, when Cabinet agreed to South Africa's planned ratification. South Africa finally deposited its instrument of ratification with the United Nations on 12 January 2015. South Africa did, however, ratify the Covenant with the declaration that the country "*will give progressive effect to the right to education, as provided for in Article 13(2)(a) and Article 14, within the framework of its National Education Policy and available resources.*" South Africa must now incorporate and domesticate the ICESCR (which will enter into force for South Africa on 12 April 2015) - especially those provisions of the ICESCR not already provided for in the Constitution and other legislation.

Most of the rights in the Covenant are already included in the South African Bill of Rights. However, the following provisions that might be of special interest to South Africa:

Article 2.2 "*The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*" (Some aspects of government policy relating to affirmative action and demographic representivity might be inconsistent with this requirement.)

Article 6.1 "*The States Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*" (The South African Bill of Rights does not include any provision that specifically recognises the right to work.)

Article 7(ii)(c) "*The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work...*" including: "*(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*" (Some of the government's affirmative action policies requiring



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race quotas and demographic representivity might be irreconcilable with this provision.)

Article 9 *“The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.”* (The government does not yet provide comprehensive social security or social insurance.)

Article 11.1 *“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”* (This right is not explicitly included in the South African Bill of Rights.)

The government’s decision has been commended by the South African Human Rights Commission (SAHRC), who said that *“it ensures that South Africa is finally able to honour its international obligations and to consolidate its commitment to alleviate poverty and ensure justice for all”*.

The FW de Klerk Foundation joins the SAHRC in expressing hope that the ratification will ensure and advance the protection, promotion and realisation of social, economic and cultural rights of everyone in South Africa.

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