Country/entity	South Africa
Region	Africa (excl MENA)
Agreement name	South African Constitution of 1993 (Interim Constitution)
Date	18 Nov 1993
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/conflict level	Intrastate/intrastate conflict

Post Apartheid South Africa and Namibian Independence (1990 - 1994)

South Africa – internal. The roots of the modern South African conflict are found in the British and Dutch colonization of Southern Africa, which resulted in the introduction of a white minority who soon held power in the region. The South African state emerged following a hard-fought pact between the British government and the white Afrikaner minority. 'Apartheid' – the Afrikaans word for separateness – became official government policy after 1948. Resistance to this system was widespread and took diverse forms. In 1912, the African National Congress (ANC) was formed to push for reforms in the country. After the 1960 Sharpeville massacre several organisations around the ANC took up arms and began to fight the Apartheid government using violent means. During the 1980s, President P.W. Botha introduced a reform policy that enabled the post-1990 peace agreements, which paved the way for the end of the apartheid system.

South Africa- Namibia. One set of agreements relates to the independence of Namibia which followed from the end of apartheid.
Close
Post Apartheid South Africa and Namibian Independence (1990 - 1994)

Stage	Framework/substantive - comprehensive
Conflict nature	Government
Peace process	South Africa peace process
Parties	Not signed, constitution known to have been endorsed by the South African Parliament
Third parties	-
Description	This is an extensive transitional document which sets out in particular the powers, authority and limitations of the new government. It is formatted in extensive chapters with detailed sub-sections. It ensures democracy and participation, fundamental human rights, the establishment of new political and legislative institutions and provides for the creation of a new permanent constitution to supersede it.

Agreement document	ZA_931206_Interim Constitution.pdf (opens in new tab) | Download PDF

Groups

Children/youth	Groups→Children/youth→Substantive Page 6, Chapter 3 FUNDAMENTAL RIGHTS, Section 30 Children (1) Every child shall have the right: (a) to a name and nationality as from birth; (b) to parental care; (c) to security, basic nutrition and basic health and social services; (d) not to be subject to neglect or abuse; and (e) not to be subject to exploitative labor practices nor to be required or permitted to perform work which is hazardous or harmful to his or her education, health or well being. (2) Every child who is in detention shall, in addition to the rights which he or she has in terms of Section 25, have the right to be detained under conditions and to be treated in a manner that takes account of his or her age. (3) For the purpose of this section a child shall mean a person under the age of 18 years and in all matters concerning such child his or her best interest shall be paramount.
Disabled persons	Groups→Disabled persons→Anti-discrimination Page 3, Chapter 3 FUNDAMENTAL RIGHTS, Section 8 Equality ... (2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language. Groups→Disabled persons→Substantive Page 10, Chapter 4 Parliament2928 , Section 42 Qualification for membership of National Assembly (1) No person shall become or remain a member of the National Assembly unless he or she is a South African citizen and is and remains qualified in terms of Section 6 to vote in an election of the National Assembly, or if he or she:2928 ... (d) is of unsound mind and has been so declared by a competent court; or

Elderly/age

Groups→Elderly/age→Anti-discrimination
Page 3, Chapter 3 FUNDAMENTAL RIGHTS, Section 8 Equality
...
(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language.
Groups→Elderly/age→Substantive
Page 2-3, Chapter 2 Citizenship and Franchise, Section 6 The franchise,
Every person who is
... (ii) ... (b) of or over the age of 18 years;
...shall be entitled to vote in elections of the National Assembly, a provincial legislature or a local government and in referenda or plebiscites contemplated in this Constitution, in accordance with and subject to the laws regulating such elections, referenda and plebiscites.

Migrant workers

No specific mention.

Racial/ethnic/ national group

Groups→Racial/ethnic/national group→Rhetorical
Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;
Groups→Racial/ethnic/national group→Anti-discrimination
Page 3, Chapter 3 FUNDAMENTAL RIGHTS
Section 8 Equality
(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language.

Religious groups	Groups→Religious groups→Anti-discrimination Page 3, Chapter 3 FUNDAMENTAL RIGHTS Section 8 Equality (2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language. Groups→Religious groups→Substantive Page 4, Chapter 3 Fundamental Rights, Section 14 Religion, belief, and opinion ... (2) Without derogating from the generality of Subsection (1), religious observances may be conducted at state or state-aided institutions under rules established by an appropriate authority for that purpose, provided that such religious observances are conducted on an equitable basis and attendance at them is free and voluntary. Page 4, Chapter 3 Fundamental Rights, Section 14 Religion, belief, and opinion ... (3) Nothing in this Chapter shall preclude legislation recognizing: (a) a system of personal and family law adhered to by persons professing a particular religion; and (b) the validity of marriages concluded under a system of religious law subject to specified procedures.
Indigenous people	No specific mention.
Other groups	No specific mention.
Refugees/displaced persons	No specific mention.
Social class	Groups→Social class→Anti-discrimination Page 3, Chapter 3 Fundamental Rights, Section 8 Equality, ... (2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language. Groups→Social class→Substantive Page 65, Chapter 15 General and Transitional Provisions Section 237 Rationalization of public administration ... (3) ... (b) Without derogating from the generality of Paragraph (a), the steps referred to in that paragraph may include: (i) the amendment, repeal or replacement of any law regulating the establishment, functions and other matters relating to an institution referred to in Section 236 (1), or of any law referred to in Section 236 (2), or of any law which deals with any of the aforegoing matters in a consequential manner: Provided that if a law referred to in Section 236 (2) is repealed, provision shall be made for the application of any law of general application regulating the employment of persons or any class of persons in the employment of the state, to the persons or class of persons affected by such repeal;...

Gender

Women, girls and gender

Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

Page 3, Chapter 3 FUNDAMENTAL RIGHTS, Section 8: Equality
(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language.

Page 30, Chapter 8 PUBLIC PROTECTOR, HUMAN RIGHTS COMMISSION, Section 119: Establishment
(1) There shall be a Commission on Gender Equality, which shall consist of a chairperson and such number of members as may be determined by an Act of Parliament.
(2) The Commission shall consist of persons who are fit and proper for appointment, South African citizens and broadly representative of the South African community.
(3) The object of the Commission shall be to promote gender equality and to advise and to make recommendations to Parliament or any other legislature with regard to any laws or proposed legislation which affects gender equality and the status of women.

Page 30, Chapter 8 Public Protector, Human Rights Commissions
Section 120 Composition and functioning
The Act of Parliament referred to in Section 119 shall provide for the composition, powers, functions and functioning of the Commission on Gender Issues and for all other matters in connection therewith.

Men and boys

Gender→Men and boys→Gender neutral wording
Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

LGBTI

Gender→LGBTI→LGBTI (positive)
Page 3, Chapter 3 FUNDAMENTAL RIGHTS
Section 8 Equality
(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language.

Family

Page 4, Chapter 3 Fundamental Rights,
Section 14 Religion, belief, and opinion
... (3) Nothing in this Chapter shall preclude legislation recognizing:
(a) a system of personal and family law adhered to by persons professing a particular religion; and

Page 5, Chapter 3 Fundamental Rights,
Section 25 Detained, arrested and accused persons
(1) Every person who is detained, including every sentenced prisoner, shall have the right:
... (d) to be given the opportunity to communicate with, and to be visited by, his or her spouse or partner, next-of- kin, religious counsellor and a medical practitioner of his or her choice; and

Page 8, Chapter 3 Fundamental Rights,
Section 34 State of emergency and suspension
... (6) Where a person is detained under a state of emergency the detention shall be subject to the following conditions:
(a) An adult family member or friend of the detainee shall be notified of the detention as soon as is reasonably possible;

State definition

Nature of state (general)

Page 1, Preamble,

We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

Page 1, Preamble,
We, the people of South Africa declare that:
... and whereas it is necessary for such purposes that provision should be made for the promotion of national unity and the restructuring and continued governance of South Africa while an elected Constitutional Assembly draws up a final Constitution;

Page 1, Chapter 1 Constituent and Formal Provisions,
Section 1 Republic of South Africa,

(1) The Republic of South Africa shall be one, sovereign state.

Page 17, Chapter 6 The National Executive
Section 81 Responsibilities of President
(1) The President shall be responsible for the observance of the provisions of this Constitution by the executive and shall as head of state defend and uphold the Constitution as the supreme law of the land.
(2) The President shall with dignity provide executive leadership in the interest of national unity in accordance with this Constitution and the law of the Republic.

[Summary: the phrase "the spirit underlying the concept of a government of national unity" is repeated in various clauses.]

Page 58, Chapter 14 Police and Defence
Section 227 Functions of National Defence Force
(1) The National Defence Force may, subject to this Constitution, be employed:
(a) for service in the defence of the Republic, for the protection of its sovereignty and territorial integrity;

State configuration

Page 2, Chapter 1 Constituent and Formal Provisions,
Section 4 Supremacy of the Constitution,
... (2) This Constitution shall bind all legislative, executive and judicial organs of state at all levels of government.

Self determination

No specific mention.

Referendum

Page 17, Chapter 5 Adoption of the New Constitution
Section 73 Adoption of new constitutional text
... (6) A text approved under Subsection (5) shall, after it has been certified by the Constitutional Court in terms of Section 71 (2), be referred by the President for a decision by the electorate by way of a national referendum.
(7) The question put before the electorate in the referendum shall be the acceptance or rejection of the text approved under Subsection (5).
(8) The text presented to the electorate in the referendum shall, if approved by a majority of at least 60 per cent of the votes cast in the referendum and subject to Subsection (13), become the Constitution of the Republic of South Africa.
(9) If the relevant text is not approved in the referendum in accordance with Subsection (8), or if a new constitutional text is not passed in terms of this Chapter within the period of two years referred to in Subsection (1), the President shall dissolve Parliament by proclamation in the Gazette within 14 days after the referendum or the expiry of the said period, whereupon an election contemplated in Section 39 (1)(a) shall be held. ...

State symbols

Page 1, Chapter 1 Constituent and Formal Provisions,
Section 2 National symbols,
(1) The national flag of the Republic shall be the flag the design of which is determined by the President by proclamation in the Gazette.
(2) The national anthem of the Republic shall be as determined by the President by proclamation in the Gazette.
(3) The coat of arms of the Republic and the seal of the Republic under the previous Constitution shall be the national coat of arms of the Republic and the seal of the Republic under this Constitution.

Page 1, Chapter 1 Constituent and Formal Provisions,
Section 3 Languages,
[Summary] see Cultural heritage.

Page 70, Chapter 15 GENERAL AND TRANSITIONAL PROVISIONS
Section 248 National flag and anthem
(1) The State President may at any time before the commencement of this Constitution or while continuing in office in terms of Section 235 (1)(a), exercise, on the advice of the Transitional Executive Council, the powers conferred upon the President by Section 2 (1) and (2), and if the State President in the exercise of such powers issues a proclamation referred to in that section, such proclamation shall for all purposes be deemed to form part of this Constitution.
(2) This section shall come into operation on the date of promulgation of this Constitution.

Independence/ secession

No specific mention.

Accession/ unification

No specific mention.

Border delimitation	Page 1, Chapter 1 Constituent and Formal Provisions, Section 1 Republic of South Africa, ... (2) The national territory of the Republic shall comprise the areas defined in Part 1 of Schedule 1.
Cross-border provision	No specific mention.

Governance

Political institutions (new or reformed)

Governance→Political institutions (new or reformed)→General references
Page 3, Chapter 3 Fundamental Rights,
Section 7 Application,
(1) This Chapter shall bind all legislative and executive organs of state at all levels of government.
(2) This Chapter shall apply to all law in force and all administrative decisions taken and acts performed during the period of operation of this Constitution.
(3) Juristic persons shall be entitled to the rights contained in this Chapter where, and to the extent that, the nature of the rights permits.
(4)(a) When an infringement of or threat to any right entrenched in this Chapter is alleged, any person referred to in Paragraph (b) shall be entitled to apply to a competent court of law for appropriate relief, which may include a declaration of rights.
(b) The relief referred to in Paragraph (a) may be sought by:
(i) a person acting in his or her own interest;
(ii) an association acting in the interest of its members;
(iii) a person acting on behalf of another person who is not in a position to seek such relief in his or her own name;
(iv) a person acting as a member of or in the interest of a group or class of persons; or
(v) a person acting in the public interest.

Page 8-15, Chapter 4 PARLIAMENT
[Summary] this chapter outlines the structure and functioning of Parliament, Sections: Constitution of Parliament, Legislative Authority of the Republic, Duration of Parliament, Elections, Composition of the National Assembly, Speaker and Deputy Speaker of the National Assembly, Qualification for Membership of the National Assembly, Vacation of Seats, Filling of Vacancies, Oath or Affirmation for members of National Assembly, Sittings of National Assembly, Quorum, Composition of Senate, President and Deputy President of Senate, Qualification for membership of Senate, Vacation of seats by Senators and filling of vacancies, Oath or Affirmation by Senators, Sittings of Senate, Quorom, Powers, privileges and immunities of Parliament and benefits of its members, Penalty for sitting or voting when disqualified by law, Joint sittings of houses, Rules and orders, Ordinary Bills, Money Bills, Bills Affecting Certain Provincial Matters, Bills amending Constitution, Requisite majorities, Assent to Bills, Signature and enrolment of Acts, Rights and duties of President, Public access to Parliament]

Page 17, Chapter 6 The National Executive
Section 76 Head of State,
The President shall be the Head of State.

Page 17-23, Chapter 6 THE NATIONAL EXECUTIVE
[Summary] this chapter outlines the powers and procedures of the Executive - the President and their deputies: Executive authority of the Republic; Head of State; Election of President; Oath or affirmation; Remuneration of President; Tenure of Office of President; Responsibilities of President; Powers and functions of President; Confirmation of executive acts of President; Executive Deputy Presidents; Tenure of Office of Executive Deputy Presidents and filling of vacancies; Acting President; Removal from office of President or Executive Deputy President; Cabinet; Cabinet Procedure; Temporary Assignment of Minister's powers; Transfer of Ministers powers and functions to another Minister; Accountability of Ministers and Cabinet; Votes of no Confidence; Appointment of Deputy Ministers; Cabinet in event of non-participation by Parties]

Page 32-45, Chapter 9 PROVINCIAL GOVERNMENT
[Summary] This chapter establishes the structure, powers and authority of democratically elected governance at a provincial level (as opposed to Chapter 10, Local Government), this includes authorities over local elections (the Electoral Commission)

Elections

Page 2, Chapter 2 Citizenship and Franchise,
Section 6 The franchise,
Every person who is
(a)(i) a South African citizen; or
(ii) not such a citizen but who in terms of an Act of Parliament has been accorded the right to exercise the franchise;
(b) of or over the age of 18 years; and

Page 2-3, Section 6 The franchise,
... (ii)... (c) not subject to any disqualifications as may be prescribed by law, shall be entitled to vote in elections of the National Assembly, a provincial legislature or a local government and in referenda or plebiscites contemplated in this Constitution, in accordance with and subject to the laws regulating such elections, referenda and plebiscites.

Page 8, Chapter 4 PARLIAMENT
Section 39 Elections
(1) Upon a dissolution of Parliament in terms of Section 73 (9) or 93 (1) or (3)(c), the President shall by proclamation in the Gazette:
(a) call an election of the National Assembly, which election shall take place within 90 days after the dissolution of Parliament on a date or dates specified in the proclamation; and
(b) request parties represented in the provincial legislatures to nominate persons as senators for the respective provinces in accordance with Section 48 (1)(b).
(2) An election referred to in Subsection (1)(a) shall be held in accordance with the Electoral Act, 1993.

Page 17, Chapter 5 Adoption of the New Constitution
Section 73 Adoption of new constitutional text

... (9) If the relevant text is not approved in the referendum in accordance with Subsection (8), or if a new constitutional text is not passed in terms of this Chapter within the period of two years referred to in Subsection (1), the President shall dissolve Parliament by proclamation in the Gazette within 14 days after the referendum or the expiry of the said period, whereupon an election contemplated in Section 39 (1)(a) shall be held.

Page 17, Chapter 6 THE NATIONAL EXECUTIVE
Section 77 Election of President
(1)(a) The National Assembly shall at its first sitting after it has been convened in terms of Section 46 (2) elect one of its members as the President.
(b) The National Assembly and the Senate shall thereafter, as often as it again becomes necessary to elect a President, elect at a joint sitting one of the members of the National Assembly as the President.
(2)(a) The Chief Justice, or a judge of the Supreme Court designated by the Chief Justice for this purpose, shall preside over any sitting at which an election referred to in Subsection (1) takes place.
(b) An election referred to in Subsection (1) shall be conducted in accordance with Schedule 5.
(3) The election of a President in terms of Subsection (1)(b) shall take place at a time and on a date fixed by the Chief Justice: Provided that:
(a) if such an election of a President is occasioned by reason of a dissolution of Parliament, it shall take place within 10 days after the Senate was convened after the election of the National Assembly held in pursuance of such dissolution; or
(b) if such an election of a President is occasioned by reason of a vacancy in the office of

Electoral commission

Page 32-34, Chapter 9 Provincial Government
Section 124 Establishment of provinces
[Summary] Section outlines the process of a referendum on the individual provinces, including the responsibilities of the Electoral Commission and the announcement of changes.

Page 70-71, Chapter 15 GENERAL AND TRANSITIONAL PROVISIONS
Section 250 Non-certification of election by Independent Electoral Commission
(1) If in the application of Section 18 of the Independent Electoral Commission Act, 1993, the Independent Electoral Commission declares that it is unable to certify that any election referred to in that section was substantially free and fair, the Commission shall declare that either:
(a) it is able to determine a result based on the votes which could be counted; or
(b) it is unable to determine any result.
(2) If the Independent Electoral Commission declares as contemplated in Subsection (1)(a):
(a) a new election shall be held for the National Assembly and the provincial legislatures or a relevant provincial legislature, as the case may be, mutatis mutandis in accordance with this Constitution and the Electoral Act, 1993, as soon as practicable but in any event not later than 12 months after the date of the election in question: Provided that any reference to the Transitional Executive Council in the said Act shall be deemed to be a reference to Parliament;
(b) Parliament and the provincial legislatures or a provincial legislature, as the case may be, shall be established on the basis of the result determined in terms of Subsection (1)(a): Provided that no provincial legislature shall be established unless the National Assembly is established;
(c) no amendment by a Parliament established on the basis of a declaration in terms of Subsection (1)(a), of this Constitution, the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, the Independent Media Commission Act, 1993, or the Independent Broadcasting Authority Act, 1993, shall be permissible until the election contemplated in Paragraph (a) has been certified as substantially free and fair in terms of the Independent Electoral Commission Act, 1993; and
(d) any provincial legislature established on the basis of a declaration in terms of Subsection (1)(a), shall have no legislative competence save for the enactment of laws necessary for the appropriation of revenue or moneys, or the imposition of taxation within the framework of Section 126, until the election contemplated in Paragraph (a) has been certified as substantially free and fair in terms of the Independent Electoral Commission Act, 1993.
(3) If the Independent Electoral Commission declares as contemplated in Subsection (1)(b):
(a) a new election shall be held for the National Assembly and the provincial legislatures, or a relevant provincial legislature, as the case may be, in accordance with this Constitution and the Electoral Act, 1993, as soon as practicable, but in any event not later than within 10 weeks after the date of the election in question: Provided that a new election for the National Assembly and the provincial legislatures shall be held simultaneously; and
(b) the constitutional arrangements under the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983), the Transitional Executive Council Act, 1993, the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, the Independent Media Commission Act, 1993, and the Independent Broadcasting Authority Act, 1993, shall apply, until the election referred to in Paragraph (a) has been held.
(4) Notwithstanding the provisions of any other law, the Independent Electoral Commission shall continue to exist for the purposes set out in this section and the Commission shall exercise its function contemplated in Section 18 of the Independent Electoral Commission Act, 1993, with reference to an election referred to in this section;

Political parties reform	No specific mention.
Civil society	No specific mention.

Traditional/ religious leaders

Page 47, Chapter 11 Traditional Authorities
Section 181 Recognition of traditional authorities and indigenous law
(1) A traditional authority which observes a system of indigenous law and is recognized by law immediately before the commencement of this Constitution, shall continue as such an authority and continue to exercise and perform the powers and functions vested in it in accordance with the applicable laws and customs, subject to any amendment or repeal of such laws and customs by a competent authority.
(2) Indigenous law shall be subject to regulation by law.

Page 47, Chapter 11 Traditional Authorities
Section 182 Traditional authorities and local government
The traditional leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government referred to in Chapter 10, shall ex officio be entitled to be a member of that local government, and shall be eligible to be elected to any office of such local government.

Page 47, Chapter 11 Traditional Authorities
Section 183 Provincial House of Traditional Leaders
(1)(a) The legislature of each province in which there are traditional authorities and their communities, shall establish a House of Traditional Leaders consisting of representatives elected or nominated by such authorities in the province.
(b) Draft legislation providing, subject to this Chapter, for the establishment, the composition, the election or nomination of representatives, and the powers and functions of a House contemplated in Paragraph (a), and for procedures applicable to the exercise and performance of such powers and functions, and for any other matters incidental to the establishment and functioning of such a House, shall be introduced in a provincial legislature not later than six months after the election of the first Premier of such province in terms of this Constitution.
(c) The traditional authorities resident in a province shall before the introduction of draft legislation referred to in Paragraph (b), be consulted, in a manner determined by resolution of the provincial legislature, to establish their views on the content of such legislation.
(2)(a) A House referred to in Subsection (1)(a), shall be entitled to advise and make proposals to the provincial legislature or government in respect of matters relating to traditional authorities, indigenous law or the traditions and customs of traditional communities within the province.
(b) Any provincial Bill pertaining to traditional authorities, indigenous law or such traditions and customs, or any other matters having a bearing thereon, shall be referred by the Speaker of the provincial legislature to the House for its comments before the Bill is passed by such legislature.
(c) The House shall, within 30 days as from the date of such referral, indicate by written notification to the provincial legislature its support for or opposition to the Bill, together with any comments it wishes to make.
(d) If the House indicates in terms of Paragraph (c) that it is opposed to the Bill, the provincial legislature shall not pass the Bill before a period of 30 days as from the date of receipt by the Speaker of such written notification has lapsed.
(e) If the House fails to indicate within the period prescribed by Paragraph (c) whether it supports or opposes the Bill, the provincial legislature may proceed with the Bill.

Page 48, Chapter 11 Traditional Authorities
Section 184 Council of Traditional Leaders
(1) There is hereby established a Council of Traditional Leaders consisting of a chairperson and 19 representatives elected by traditional authorities in the Republic.
(2) The Chairperson and members of the Council shall be elected by an electoral college constituted by the members of the Houses of Traditional Leaders referred to in Section

Public administration

Page 34, Chapter 9 Provincial Government
Section 126 Legislative competence of provinces
(2)... (c) it is necessary to set minimum standards across the nation for the rendering of public services;

Page 38, Chapter 9 Provincial Government
Section 143 Administration of provincial legislatures
(1) For the purposes of setting up a provisional administration of a provincial legislature, the Transitional Executive Council shall as soon as possible after the commencement of this Constitution appoint for each provincial legislature a provisional secretary, who shall hold office as Secretary until an appointment is made in terms of Subsection (2).
(2) The Executive Council of a province shall after consultation with the Commission on Provincial Government appoint a Secretary and such other staff as may be necessary for the discharge of the work of such legislature.[28][28]
(3) Persons appointed under this section shall be remunerated out of and as a charge on the Provincial Revenue Fund of the province.

Page 44, Chapter 9 Provincial Government
Page 45, Section 171 Remuneration of members of Commission and other persons
Members of the Commission and persons referred to in Section 170 who are not in the employment of the state, shall be paid, from moneys appropriated by Parliament for the purpose, such remuneration and allowances as the Minister responsible for national financial affairs may determine.

Page 44, Chapter 9 Provincial Government
Section 172 Appointment of staff
The Commission may appoint such staff as it may deem necessary for the efficient performance of its functions and administration, and may, in consultation with the Public Service Commission, determine the remuneration and conditions of service of staff members who are not public servants seconded to the service of the Commission.

Page 48, Chapter 12 FINANCE [This chapter outlines the authority of the government to raise and regulate revenue and the establishment of a Financial and Fiscal Commission. Sections: National Revenue Fund; Annual budget; Procurement administration; Guarantees by national government; Special Pensions; Income tax of elected representatives; Establishment and appointment; Independence and impartiality; Powers and functions; Staff and Expenditure; Central Bank; Primary objectives; Powers and functions; Establishment; Objects and functions; Constitution, expertise and impartiality; Meetings of Commission; Committees; Co-option of persons by committees; Remuneration and allowances of members and other persons; Appointment of staff; Regulations; Establishment; Composition and functioning]

Page 53-55, Chapter 13 PUBLIC SERVICE
[Summary] Establishes the Public Service Commission which in turn shall define the roles and regulations of the civil service. Sections: Establishment; Powers and functions; Composition; 212 (undefined - basic establishment of the Public Service); 213 (Basic definition of the provincial legislatures).

Page 60, Chapter 15 GENERAL AND TRANSITIONAL PROVISIONS
Section 230 Repeal of laws
(1) The laws mentioned in Schedule 7 are hereby repealed to the extent set out in the third column of the said Schedule.
(2) Notwithstanding the repeal of Sections 13 and 101 (2) of the previous Constitution, any pension which, but for such repeal, would have been payable shall continue to be payable as if such repeal had not been effected.

Constitution

Governance→Constitution→Constitutional reform/making
Summary: the agreement in its entirety constitutes a new interim constitution

Page 1, Preamble,
We, the people of South Africa declare that:
... and whereas in order to secure the achievement of this goal, elected representatives of all the people of South Africa should be mandated to adopt a new Constitution in accordance with a solemn pact recorded as Constitutional Principles;

Page 1, Preamble,
We, the people of South Africa declare that:
... and whereas it is necessary for such purposes that provision should be made for the promotion of national unity and the restructuring and continued governance of South Africa while an elected Constitutional Assembly draws up a final Constitution;

Page 15-17, [Summary: Chapter 5, outlines the procedure for forming a new constitution which will replace this agreement, it consists of sections on the Constitution-making body; Chairperson and Deputy Chairperson; Rules and Orders; Constitutional principles and certification; Appointment of commissions, committees, and bodies; Adoption of new constitutional text; Amendments relating to this chapter and Schedule 4]

Page 14, Chapter 4 PARLIAMENT
Section 62 Bills amending Constitution
(1) Subject to Subsection (2) and Section 74, a Bill amending this Constitution shall, for its passing by Parliament, be required to be adopted at a joint sitting of the National Assembly and the Senate by a majority of at least two-thirds of the total number of members of both Houses.
(2) No amendment of Sections 126 and 144 shall be of any force and effect unless passed separately by both Houses by a majority of at least two-thirds of all the members in each House: Provided that the boundaries and legislative and executive competences of a province shall not be amended without the consent of a relevant provincial legislature.

Page 42, Chapter 9 Provincial Government
Section 161 Development of provincial constitutional dispensation
... (2) Any recommendations of the Commission to the Constitutional Assembly shall include draft provisions for inclusion in the new constitutional text in so far as they relate to matters falling within the ambit of the Commission's object in terms of Section 164.
(3) The Constitutional Assembly shall deal with such draft provisions in the same manner as it is required in terms of this Constitution to deal with other constitutional proposals.[2028]
(4) Draft provisions recommended by the Commission which are not adopted by the Constitutional Assembly shall lapse, except if the Constitutional Assembly by resolution of a majority of the members present and voting refers the recommended provisions back to the Commission for further consideration.
(5) Draft provisions referred back to the Commission may again be presented to the Constitutional Assembly, provided that if amended in one or more substantive respects, the provisions of this section regarding the acceptance, rejection or referral of the recommendations of the Commission shall apply mutatis mutandis.

Page 44, Chapter 9 Provincial Government
Section 164 Object and functions of Commission
... (2) Advice to the Constitutional Assembly in terms of Subsection (1)(a), shall include recommendations in the form of draft constitutional provisions regarding:[2028]
... (b) the constitutional dispensations of such provinces, including the constitutional structures within such provinces as well as the method of their election and their authority, functions and procedures;

Power sharing

Political power sharing	No specific mention.

Territorial power sharing

Power sharing→Territorial power sharing→Federal or similar sub-divided government
Page 32-45, Chapter 9 PROVINCIAL GOVERNMENT
[Summary] This chapter establishes the structure, powers and authority of democratically elected governance at a provincial level (as opposed to Chapter 10, Local Government), this includes authorities over local elections (the Electoral Commission), oversight of such bodies and the delineation of territory. Sections: Establishment of Provinces; Provincial legislature; Legislative competence of provinces; Composition of provincial legislatures; Elections; Sittings of provincial legislature; Speaker and Deputy Speaker of provincial legislature; Qualification for membership of provincial legislature; Vacation of seats and filling o vacancies; Oath or affirmation by members; Powers, privileges, and immunities of provincial legislatures and benefits of members; Penalty for sitting or voting when disqualified; Rules and orders; Quorom; Requisite majorities; Assent to bills; Signature and enrolment of provincial laws; Public access to provincial legislatures; Executive authority of provinces; Election of premiers; Tenure and removal from office of Premiers; Responsibilities, powers and functions of Premiers; Acting Premiers; Executive Councils; Executive Council procedure; Temporary assignment of powers procedure; Temporary assignment of powers members; Transfer of powers; Accountability of members of Executive Councils; Votes of no confidence; Provinces' share of revenue collected nationally; Levying of taxes by provinces; Raising of loans by provinces; Revenue allocations by national government; Provincial Revenue Funds; Adoption of provincial constitutions; Development of provincial constitutional dispensation; Election of new provincial governments; Establishment of Commission on Provincial Government; Object and functions of Commission; Constitution of Commission; Chairperson and Deputy Chairperson; Vacation of office and filling of vacancies; Meetings of Commission; Committees; Co-option of persons to Committees; Remuneration of members of commission and other persons; Appointment of Staff; Regulations

Page 32-34, Chapter 9 Provincial Government
Section 124 Establishment of provinces
[Summary] Section outlines the process of a referendum on the individual provinces, including the responsibilities of the Electoral Commission and the announcement of changes.

Page 42, Chapter 9 Provincial Government
Section 160 Adoption of provincial constitutions
(1) The provincial legislature shall be entitled to pass a constitution for its province by a resolution of a majority of at least two-thirds of all its members.
(2) A provincial legislature may make such arrangements as it deems appropriate in connection with its proceedings relating to the drafting and consideration of a provincial constitution.
(3) Provided that a provincial constitution may:
(a) provide for legislative and executive structures and procedures different from those provided for in this Constitution in respect of a province; and,
(b) where applicable, provide for the institution, role, authority and status of a traditional monarch in the province, and shall make such provision for the Zulu Monarch in the case of the province of KwaZulu/Natal. (4) The text of a provincial constitution passed by a provincial legislature, or any provision thereof, shall be of no force and effect unless the Constitutional Court has certified that none of its provisions is inconsistent with a provision referred to in Subsection (3)(a), and if the new constitutional text is then already passed, also with a provision of the new constitutional text.
(5) A decision of the Constitutional Court in terms of Subsection (4) certifying that the text of a provincial constitution is not inconsistent with the said provisions, shall be final and binding, and no court of law shall have jurisdiction to enquire into or pronounce upon the validity of such text or any provision thereof.

Economic power sharing	Power sharing→Economic power sharing→Sharing of resources Page 41, Chapter 9 Provincial Government Section 155 Provinces' share of revenue collected nationally (1) A province shall be entitled to an equitable share of revenue collected nationally to enable it to provide services and to exercise and perform its powers and functions.
Military power sharing	No specific mention.

Human rights and equality

Human rights/RoL general

Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

Page 3, Chapter 3 FUNDAMENTAL RIGHTS
Section 10 Human dignity
Every person shall have the right to respect for and protection of his or her dignity.

Bill of rights/similar pages 3-8, Chapter 3 Fundamental Rights Section 7 Application (1) This Chapter shall bind all legislative and executive organs of state at all levels of government. (2) This Chapter shall apply to all law in force and all administrative decisions taken and acts performed during the period of operation of this Constitution. (3) Juristic persons shall be entitled to the rights contained in this Chapter where, and to the extent that, the nature of the rights permits. (4)(a) When an infringement of or threat to any right entrenched in this Chapter is alleged, any person referred to in Paragraph (b) shall be entitled to apply to a competent court of law for appropriate relief, which may include a declaration of rights. (b) The relief referred to in Paragraph (a) may be sought by: (i) a person acting in his or her own interest; (ii) an association acting in the interest of its members; (iii) a person acting on behalf of another person who is not in a position to seek such relief in his or her own name; (iv) a person acting as a member of or in the interest of a group or class of persons; or (v) a person acting in the public interest.

Page 7, Chapter 3 FUNDAMENTAL RIGHTS
Section 33 Limitation
(1) The rights entrenched in this Chapter may be limited by law of general application, provided that such limitation:
(a) shall be permissible only to the extent that it is:
(i) reasonable; and
(ii) justifiable in an open and democratic society based on freedom and equality; and
(b) shall not negate the essential content of the right in question,
and provided further that any limitation to
(aa) a right entrenched in Section 10, 11, 12, 14 (1), 21, 25 or 30 (1)(d) or (e) or (2); or
(bb) a right entrenched in Section 15, 16, 17, 18, 23 or 24, in so far as such right relates to free and fair political activity, shall, in addition to being reasonable as required in Paragraph (a)(i), also be necessary.
(2) Save as provided for in Subsection (1) or any other provision of this Constitution, no law, whether a rule of the common law, customary law or legislation, shall limit any right entrenched in this Chapter.
(3) The entrenchment of the rights in terms of this Chapter shall not be construed as denying the existence of any other rights or freedoms recognized or conferred by common law, customary law, or legislation to the extent that they are not inconsistent with this Chapter.
(4) This Chapter shall not preclude measures designed to prohibit unfair discrimination by bodies and persons other than those bound in terms of Section 7 (1).
(5)(a) The provisions of a law in force at the commencement of this Constitution promoting fair employment practices, orderly and equitable collective bargaining and the regulation of industrial action shall remain of full force and effect until repealed or amended by the legislature.
(b) If a proposed enactment amending or repealing a law referred to in Paragraph (a) deals with a matter in respect of which the National Manpower Commission, referred to inSection 2A of the Labor Relations Act, 1956 (Act 28 of 1956), or any other similar body which may replace the Commission, is competent in terms of a law then in force to consider and make recommendations, such proposed enactment shall not be introduced in Parliament unless the said Commission or such other body has been given an opportunity to consider the proposed enactment and to make recommendations with regard thereto.

Page 7, Chapter 3 Fundamental Rights,
Section 34 State of emergency and suspension
... (4) The rights entrenched in this Chapter may be suspended only in consequence of the declaration of a state of emergency, and only to the extent necessary to restore peace or order.

Treaty incorporation

Page 29, Chapter 8 Public Protector, Human Rights Commissions
Section 116 Powers and functions
... (2) If the Commission is of the opinion that any proposed legislation might be contrary to Chapter 3 or to norms of international human rights law which form part of South African law or to other relevant norms of international law, it shall immediately report that fact to the relevant legislature.

Page 58, Chapter 14 Police and Defence
Section 226 Members of National Defence Force
... (7) A member of the National Defence Force shall be obliged to comply with all lawful orders, but shall be entitled to refuse to execute any order if the execution of such order would constitute an offence or would breach international law on armed conflict binding on the Republic.

Page 58, Chapter 14 Police and Defence
Section 227 Functions of National Defence Force
... (2) The National Defence Force shall:
... (d) not breach international customary law binding on the Republic relating to aggression;
(e) in armed conflict comply with its obligations under international customary law and treaties binding on the Republic; and

Page 60, Chapter 15 GENERAL AND TRANSITIONAL PROVISIONS
Section 231 Continuation of international agreements and status of international law
(1) All rights and obligations under international agreements which immediately before the commencement of this Constitution were vested in or binding on the Republic within the meaning of the previous Constitution, shall be vested in or binding on the Republic under this Constitution, unless provided otherwise by an Act of Parliament.
(2) Parliament shall, subject to this Constitution, be competent to agree to the ratification of or accession to an international agreement negotiated and signed in terms of Section 82 (1)(i).
(3) Where Parliament agrees to the ratification of or accession to an international agreement under Subsection (2), such international agreement shall be binding on the Republic and shall form part of the law of the Republic, provided Parliament expressly so provides and such agreement is not inconsistent with this Constitution.
(4) The rules of customary international law binding on the Republic, shall, unless inconsistent with this Constitution or an Act of Parliament, form part of the law of the Republic.

Civil and political rights

Human rights and equality→Civil and political rights→Life
Page 3, Chapter 3 Fundamental Rights,
Section 9 Life,
Every person shall have the right to life.
Human rights and equality→Civil and political rights→Torture
Page 3, Chapter 3 FUNDAMENTAL RIGHTS
(2) No person shall be subject to torture of any kind, whether physical, mental or emotional, nor shall any person be subject to cruel, inhuman or degrading treatment or punishment.
Human rights and equality→Civil and political rights→Equality
Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

Page 2, Chapter 2 Citizenship and Franchise
Section 5 Citizenship
(1) There shall be a South African citizenship.
(2) South African citizenship and the acquisition, loss and restoration of South African citizenship shall, subject to Section 20 read with Section 33 (1), be regulated by an Act of Parliament.
(3) Every person who is a South African citizen shall, subject to this Constitution, be entitled to enjoy all rights, privileges and benefits of South African citizenship, and shall be subject to all duties, obligations and responsibilities of South African citizenship as are accorded or imposed upon him or her in terms of this Constitution or an Act of Parliament.

Page 3, Chapter 3 FUNDAMENTAL RIGHTS
Section 8 Equality
(1) Every person shall have the right to equality before the law and to equal protection of the law.
(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture or language.
(3)(a) This section shall not preclude measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms.
...(4) Prima facie proof of discrimination on any of the grounds specified in Subsection (2) shall be presumed to be sufficient proof of unfair discrimination as contemplated in that subsection, until the contrary is established.

Page 8, Chapter 3 Fundamental Rights,
Section 35 Interpretation
(1) In interpreting the provisions of this Chapter a court of law shall promote the values which underlie an open and democratic society based on freedom and equality and shall, where applicable, have regard to public international law applicable to the protection of the rights entrenched in this Chapter, and may have regard to comparable foreign case law.

Page 54, Chapter 13 Public Service
Section 212

Socio-economic rights

Human rights and equality→Socio-economic rights→Property
Page 6, Chapter 3 FUNDAMENTAL RIGHTS
Section 28 Property
(1) Every person shall have the right to acquire and hold rights in property and, to the extent that the nature of the rights permits, to dispose of such rights.
(2) No deprivation of any rights in property shall be permitted otherwise than in accordance with a law.
(3) Where any rights in property are expropriated pursuant to a law referred to in Subsection (2), such expropriation shall be permissible for public purposes only and shall be subject to the payment of agreed compensation or, failing agreement, to the payment of such compensation and within such period as may be determined by a court of law as just and equitable, taking into account all relevant factors, including, in the case of the determination of compensation, the use to which the property is being put, the history of its acquisition, its market value, the value of the investments in it by those affected and the interests of those affected.
Human rights and equality→Socio-economic rights→Work
Page 5, Chapter 3 FUNDAMENTAL RIGHTS
Section 26 Economic activity
(1) Every person shall have the right freely to engage in economic activity and to pursue a livelihood anywhere in the national territory.
(2) Subsection (1) shall not preclude measures designed to promote the protection or the improvement of the quality of life, economic growth, human development, social justice, basic conditions of employment, fair labor practices or equal opportunity for all, provided such measures are justifiable in an open and democratic society based on freedom and equality.
Section 27 Labor relations
(1) Every person shall have the right to fair labor practices.
(2) Workers shall have the right to form and join trade unions, and employers shall have the right to form and join employers' organizations.
(3) Workers and employers shall have the right to organize and bargain collectively.
(4) Workers shall have the right to strike for the purpose of collective bargaining.
(5) Employers' recourse to the lock-out for the purpose of collective bargaining shall not be impaired, subject to Section 33 (1).
Human rights and equality→Socio-economic rights→Education
Page 7, Chapter 3 FUNDAMENTAL RIGHTS
Section 32 Education
Every person shall have the right:
(a) to basic education and to equal access to educational institutions;
(b) to instruction in the language of his or her choice where this is reasonably practicable; and
(c) to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race.
Human rights and equality→Socio-economic rights→Adequate standard of living
Page 6, Chapter 3 FUNDAMENTAL RIGHTS
Section 29 Environment
Every person shall have the right to an environment which is not detrimental to his or her health or well-being.
Human rights and equality→Socio-economic rights→Shelter/housing
Page 4, Chapter 3 Fundamental Rights,
Section 19 Residence
Every person shall have the right freely to choose his or her place of residence anywhere in the national territory.

Human rights and equality→Socio-economic rights→Cultural life
Page 1, Chapter 1 Constituent and Formal Provisions

Rights related issues

Citizenship

Rights related issues→Citizenship→Citizens, specific rights
Page 4, Chapter 3 Fundamental Rights,
Section 20 Citizens' rights,
Every citizen shall have the right to enter, remain in and leave the Republic, and no citizen shall without justification be deprived of his or her citizenship.
Rights related issues→Citizenship→Citizen delimitation
Page 2, Chapter 2 Citizenship and Franchise,
Section 5 Citizenship,
(1) There shall be a South African citizenship.
(2) South African citizenship and the acquisition, loss and restoration of South African citizenship shall, subject to Section 20 read with Section 33 (1), be regulated by an Act of Parliament.
(3) Every person who is a South African citizen shall, subject to this Constitution, be entitled to enjoy all rights, privileges and benefits of South African citizenship, and shall be subject to all duties, obligations and responsibilities of South African citizenship as are accorded or imposed upon him or her in terms of this Constitution or an Act of Parliament.
Rights related issues→Citizenship→Citizenship other
Page 10, Chapter 4 Parliament
Section 42 Qualification for membership of National Assembly
(1) No person shall become or remain a member of the National Assembly unless he or she is a South African citizen and is and remains qualified in terms of Section 6 to vote in an election of the National Assembly, or if he or she:
(a) at the time of the first election of the National Assembly held under this Constitution is serving a sentence of imprisonment of more than 12 months without the option of a fine;

Democracy

Page 1, Preamble,
We, the people of South Africa declare that:
Whereas there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

Page 8, Chapter 3 Fundamental Rights,
Section 35 Interpretation
(1) In interpreting the provisions of this Chapter a court of law shall promote the values which underlie an open and democratic society based on freedom and equality and shall, where applicable, have regard to public international law applicable to the protection of the rights entrenched in this Chapter, and may have regard to comparable foreign case law.

Detention procedures

Page 8, Chapter 3 Fundamental Rights,
Section 34 State of emergency and suspension
... (6) Where a person is detained under a state of emergency the detention shall be subject to the following conditions:
(a) An adult family member or friend of the detainee shall be notified of the detention as soon as is reasonably possible;
(b) the names of all detainees and a reference to the measures in terms of which they are being detained shall be published in the Gazette within five days of their detention;
(c) when rights entrenched in Section 11 or 25 have been suspended
(i) the detention of a detainee shall, as soon as it is reasonably possible but not later than 10 days after his or her detention, be reviewed by a court of law, and the court shall order the release of the detainee if it is satisfied that the detention is not necessary to restore peace or order;
(ii) a detainee shall at any stage after the expiry of a period of 10 days after a review in terms of Subparagraph (i) be entitled to apply to a court of law for a further review of his or her detention, and the court shall order the release of the detainee if it is satisfied that the detention is no longer necessary to restore peace or order;
(d) the detainee shall be entitled to appear before the court in person, to be represented by legal counsel, and to make representations against his or her continued detention;
(e) the detainee shall be entitled at all reasonable times to have access to a legal representative of his or her choice;
(f) the detainee shall be entitled at all times to have access to a medical practitioner of his or her choice; and
(g) the state shall for the purpose of a review referred to in Paragraph (c)(i) or (ii) submit written reasons to justify the detention or further detention of the detainee to the court, and shall furnish the detainee with such reasons not later than two days before the review.
(7) If a court of law, having found the grounds for a detainee's detention unjustified, orders his or her release, such a person shall not be detained again on the same grounds unless the state shows good cause to a court of law prior to such re-detention.

Media and communication

Rights related issues→Media and communication→Governance of media
Page 5, Chapter 3 FUNDAMENTAL RIGHTS
Section 23 Access to information
Every person shall have the right of access to all information held by the state or any of its organs at any level of government in so far as such information is required for the exercise or protection of any of his or her rights.
Rights related issues→Media and communication→Media roles
Page 4, Chapter 3 FUNDAMENTAL RIGHTS
Section 15 Freedom of expression
(1) Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media, and the freedom of artistic creativity and scientific research.
(2) All media financed by or under the control of the state shall be regulated in a manner which ensures impartiality and the expression of a diversity of opinion.

Page 71, Chapter 15 General and Transitional Provisions
Section 250 Non-certification of election by Independent Electoral Commission
(2) ... (c) no amendment by a Parliament established on the basis of a declaration in terms of Subsection (1)(a), of this Constitution, the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, the Independent Media Commission Act, 1993, or the Independent Broadcasting Authority Act, 1993, shall be permissible until the election contemplated in Paragraph (a) has been certified as substantially free and fair in terms of the Independent Electoral Commission Act, 1993; and

Page 71, Chapter 15 General and Transitional Provisions
Section 250 Non-certification of election by Independent Electoral Commission
... (3) If the Independent Electoral Commission declares as contemplated in Subsection (1)(b):
... (b) the constitutional arrangements under the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983), the Transitional Executive Council Act, 1993, the Independent Electoral Commission Act, 1993, the Electoral Act, 1993, the Independent Media Commission Act, 1993, and the Independent Broadcasting Authority Act, 1993, shall apply, until the election referred to in Paragraph (a) has been held.
Rights related issues→Media and communication→Other
Page 8, Chapter 3 Fundamental Rights,
Section 34 State of emergency and suspension
... (6) Where a person is detained under a state of emergency the detention shall be subject to the following conditions:[2928]
... (b) the names of all detainees and a reference to the measures in terms of which they are being detained shall be published in the Gazette within five days of their detention;

Page 38, Chapter 9 Provincial Government
Section 142 Public access to provincial legislatures
Sittings of a provincial legislature shall be held in public, and the public, including the media, shall have access
to such sittings: Provided that reasonable measures may be taken to regulate such access, and to provide for the search of and, where appropriate, the refusal of entry or the removal of any person.

Mobility/access No specific mention.

Protection measures

Rights related issues→Protection measures→Protection of civilians
Page 28, Chapter 8 Public Protector, Human Rights Commissions
Section 110 Establishment and appointment
(1) There shall be a Public Protector for the Republic
(2) The President shall, whenever it becomes necessary, appoint as the Public Protector a person:

(3) The first appointment of a person as the Public Protector after the commencement of this Constitution shall
be made within 60 days of the first sitting of the Senate under this Constitution.
(4) The Public Protector shall be a South African citizen who isa fit and proper person to hold such office, and
who:
(a) is a Judge of the Supreme Court of South Africa; or
(b) is qualified to be admitted as an advocate and has, for a cumulative period of at least 10 years after having so
qualified:
(i) practiced as an advocate or an attorney; or
(ii) lectured in law at a university; or
(c) has specialized knowledge of or experience for a period of at least 10 years in the administration of justice,
public administration or public finance.
(5) Unless the new constitutional text provides otherwise, the Public Protector shall hold office for a period of
seven years.
(6) The remuneration and other terms and conditions of employment of the Public Protector shall be as
prescribed by or under an Act of Parliament, and such remuneration shall not be reduced, nor shall such terms
and conditions be adversely altered, during his or her term of office.
(7) The Public Protector shall not perform remunerative work outside his or her official duties.
(8) The Public Protector may be removed from office by the President, but only on the grounds of misbehavior,
incapacity or incompetence, determined by a joint committee of the Houses of Parliament, composed as
provided in Subsection (2)(a), and upon receipt of an address from both the National Assembly and the Senate
requesting such removal.
(9) A Public Protector who is the subject of an investigation by a joint committee in terms of Subsection (8),
may be suspended by the President pending a decision in such investigation.

Summary: see also pages 28-29Section 111 Independence and impartiality; Section 112 Powers and functions; Section 113 Staff and expenditure; Section 114 Provincial public protectors
Rights related issues→Protection measures→Other
Page 34-35, Chapter 9 Provincial Government
Section 126 Legislative competence of provinces
(2)... (d) it is necessary for the determination of national economic policies, the maintenance of economic unity, the protection of the environment, the promotion of inter-provincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labor, or the maintenance of national security; or

Page 50, Chapter 12 Finance

Other	No specific mention.

Rights institutions

NHRI

Rights institutions→NHRI→New or fundamentally revised NHRI
Page 30, Chapter 8 PUBLIC PROTECTOR, HUMAN RIGHTS COMMISSION
Section 115 Establishment and appointments
(1) There shall be a Human Rights Commission, which shall consist of a chairperson and 10 members who are fit and proper persons, South African citizens and broadly representative of the South African community.
(2) The members of the Commission shall be appointed as provided in Subsection (3) and vacancies in the Commission shall be filled accordingly.
(3) The President shall, whenever it becomes necessary, appoint as a member of the Commission a person:
(a) nominated by a joint committee of the Houses of Parliament composed of one member of each party represented in Parliament and willing to participate in the committee; and
(b) approved by the National Assembly and the Senate by a resolution adopted by a majority of at least 75 per cent of the members present and voting at a joint meeting:
Provided that if any nomination is not approved as required in Paragraph (b), the joint committee shall nominate another person.
(4) The first members of the Commission after the commencement of this Constitution, shall be appointed within 60 days of the first sitting of the Senate under this Constitution.
(5) A Chairperson and a Deputy Chairperson of the Commission shall as often as it becomes necessary be elected by the members of the Commission from among their number.

Page 30, Chapter 8 Public Protector, Human Rights Commissions
Section 116 Powers and functions
(1) The Commission shall, in addition to any powers and functions assigned to it by law, be competent and be obliged to:
(a) promote the observance of, respect for and the protection of fundamental rights;
(b) develop an awareness of fundamental rights among all people of the Republic;
(c) 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 fundamental rights within the framework of the law and this Constitution, as well as appropriate measures for the further observance of such rights;
(d) undertake such studies for report on or relating to fundamental rights as it considers advisable in the performance of its functions; and
(e) request any organ of state to supply it with information on any legislative or executive measures adopted by it relating to fundamental rights.
(2) If the Commission is of the opinion that any proposed legislation might be contrary to Chapter 3 or to norms of international human rights law which form part of South African law or to other relevant norms of international law, it shall immediately report that fact to the relevant legislature.
(3) The Commission shall be competent to investigate on its own initiative or on receipt of a complaint, any alleged violation of fundamental rights, and if, after due investigation, the Commission is of the opinion that there is substance in any complaint made to it, it shall, 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 anappropriate forum.

Page 30, Chapter 8 Public Protector, Human Rights Commissions
Section 117 Staff and expenditure
(1) The Commission shall appoint a director, who shall be the chief executive officer of the Commission and who shall be empowered to appoint staff subject to the approval of

Regional or international human rights institutions	No specific mention.

Justice sector reform

Criminal justice and emergency law No specific mention.

State of emergency provisions

Page 7-8, Section 34, State of emergency and suspension

(1) A state of emergency shall be proclaimed prospectively under an Act of Parliament, and shall be declared only where the security of the Republic is threatened by war, invasion, general insurrection or disorder or at a time of national disaster, and if the declaration of a state of emergency is necessary to restore peace or order.

(2) The declaration of a state of emergency and any action taken, including any regulation enacted, in consequence thereof, shall be of force for a period of not more than 21 days, unless it is extended for a period of not longer than three months, or consecutive periods of not longer than three months at a time, by resolution of the National Assembly adopted by a majority of at least two-thirds of all its members.

(3) Any superior court shall be competent to enquire into the validity of a declaration of a state of emergency, any extension thereof, and any action taken, including any regulation enacted, under such declaration.

(4) The rights entrenched in this Chapter may be suspended only in consequence of the declaration of a state of emergency, and only to the extent necessary to restore peace or order.

(5) Neither any law which provides for the declaration of a state of emergency, nor any action taken, including any regulation enacted, in consequence thereof, shall permit or authorize:

(a) the creation of retrospective crimes;

(b) the indemnification of the state or of persons acting under its authority for unlawful actions during the state of emergency; or

(c) the suspension of this section, and Sections 7, 8 (2), 9, 10, 11 (2), 12, 14, 27 (1) and (2), 30 (1)

(d) and (e) and (2) and 33 (1) and (2).

(6) Where a person is detained under a state of emergency the detention shall be subject to the following

conditions:

(a) An adult family member or friend of the detainee shall be notified of the detention as soon as is reasonably possible;

(b) the names of all detainees and a reference to the measures in terms of which they are being detained shall be published in the Gazette within five days of their detention;

(c) when rights entrenched in Section 11 or 25 have been suspended (i) the detention of a detainee shall, as soon as it is reasonably possible but not later than 10 days after his or her detention, be reviewed by a court of law, and the court shall order the release of the detainee if it is satisfied that the detention is not necessary to restore peace or order; (ii) a detainee shall at any stage after the expiry of a period of 10 days after a review in terms of Subparagraph (i) be entitled to apply to a court of law for a further review of his or her detention, and the court shall order the release of the detainee if it is satisfied that the detention is no longer necessary to restore peace or order;

(d) the detainee shall be entitled to appear before the court in person, to be represented by legal counsel, and to make representations against his or her continued detention;

(e) the detainee shall be entitled at all reasonable times to have access to a legal representative of his or her choice;

(f) the detainee shall be entitled at all times to have access to a medical practitioner of his or her choice; and

(g) the state shall for the purpose of a review referred to inParagraph (c)(i) or (ii) submit written reasons to justify the detention or further detention of the detainee to the court, and shall furnish the detainee with such reasons not later than two days before the review.

(7) If a court of law, having found the grounds for a detainee's detention unjustified, orders his or her release, such a person shall not be detained again on the same grounds unless the state shows good cause to a court of law prior to such re-detention.

Judiciary and courts

Page 3, Chapter 3 FUNDAMENTAL RIGHTS
Section 7 Application
... (3) Juristic persons shall be entitled to the rights contained in this Chapter where, and to the extent that, the nature of the rights permits.
(4)(a) When an infringement of or threat to any right entrenched in this Chapter is alleged, any person referred to in Paragraph (b) shall be entitled to apply to a competent court of law for appropriate relief, which may include a declaration of rights.
(b) The relief referred to in Paragraph (a) may be sought by:
(i) a person acting in his or her own interest;
(ii) an association acting in the interest of its members;
(iii) a person acting on behalf of another person who is not in a position to seek such relief in his or her own name;
(iv) a person acting as a member of or in the interest of a group or class of persons; or
(v) a person acting in the public interest.

Page 5, Chapter 3 Fundamental Rights,
Section 22 Access to court
Every person shall have the right to have justiciable disputes settled by a court of law or, where appropriate, another independent and impartial forum.

Page 8, Chapter 3 Fundamental Rights,
Section 34 State of emergency and suspension
[Summary] Section outlines responsibilities and procedures of the court in relation to detainees.

Page 8, Chapter 3 FUNDAMENTAL RIGHTS
Section 35 Interpretation
(1) In interpreting the provisions of this Chapter a court of law shall promote the values which underlie an open and democratic society based on freedom and equality and shall, where applicable, have regard to public international law applicable to the protection of the rights entrenched in this Chapter, and may have regard to comparable foreign case law.
(2) No law which limits any of the rights entrenched in this Chapter, shall be constitutionally invalid solely by reason of the fact that the wording used prima facie exceeds the limits imposed in this Chapter, provided such a law is reasonably capable of a more restricted interpretation which does not exceed such limits, in which event such law shall be construed as having a meaning in accordance with the said more restricted interpretation.
(3) In the interpretation of any law and the application and development of the common law and customary law, a court shall have due regard to the spirit, purport and objects of this Chapter.

Page 16, Chapter 5 Adoption of the New Constitution
Section 71 Constitutional Principles and certification
... (2) The new constitutional text passed by the Constitutional Assembly, or any provision thereof, shall not be of any force and effect unless the Constitutional Court has certified that all the provisions of such text comply with the Constitutional Principles referred to in Subsection (1)(a).[2028]
(3) A decision of the Constitutional Court in terms of Subsection (2) certifying that the provisions of the new constitutional text comply with the Constitutional Principles, shall be final and binding, and no court of law shall have jurisdiction to enquire into or pronounce upon the validity of such text or any provision thereof.[2028]
(4) During the course of the proceedings of the Constitutional Assembly any proposed draft of the constitutional text before the Constitutional Assembly, or any part or

Prisons and detention	No specific mention.

Traditional Laws

Page 4, Chapter 3 Fundamental Rights,
Section 14 Religion, belief, and opinion
... (3) Nothing in this Chapter shall preclude legislation recognizing:
(a) a system of personal and family law adhered to by persons professing a particular religion; and

Page 4, Chapter 3 Fundamental Rights,
Section 14 Religion, belief, and opinion
... (3) Nothing in this Chapter shall preclude legislation recognizing:
... (b) the validity of marriages concluded under a system of religious law subject to specified procedures.

Page 8, Chapter 3 FUNDAMENTAL RIGHTS
Section 35 Interpretation
… (3) In the interpretation of any law and the application and development of the common law and customary law, a court shall have due regard to the spirit, purport and objects of this Chapter.

Page 47, Chapter 11 Traditional Authorities
Section 181 Recognition of traditional authorities and indigenous law
(1) A traditional authority which observes a system of indigenous law and is recognized by law immediately before the commencement of this Constitution, shall continue as such an authority and continue to exercise and perform the powers and functions vested in it in accordance with the applicable laws and customs, subject to any amendment or repeal of such laws and customs by a competent authority.
(2) Indigenous law shall be subject to regulation by law.

Page 47, Chapter 11 Traditional Authorities
Section 182 Traditional authorities and local government
The traditional leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government referred to in Chapter 10, shall ex officio be entitled to be a member of that local government, and shall be eligible to be elected to any office of such local government.

Page 47, Chapter 11 Traditional Authorities
Section 183 Provincial House of Traditional Leaders
... (2)(a) A House referred to in Subsection (1)(a), shall be entitled to advise and make proposals to the provincial legislature or government in respect of matters relating to traditional authorities, indigenous law or the traditions and customs of traditional communities within the province.
(b) Any provincial Bill pertaining to traditional authorities, indigenous law or such traditions and customs, or any other matters having a bearing thereon, shall be referred by the Speaker of the provincial legislature to the House for its comments before the Bill is passed by such legislature.
(c) The House shall, within 30 days as from the date of such referral, indicate by written notification to the provincial legislature its support for or opposition to the Bill, together with any comments it wishes to make.
(d) If the House indicates in terms of Paragraph (c) that it is opposed to the Bill, the provincial legislature shall not pass the Bill before a period of 30 days as from the date of receipt by the Speaker of such written notification has lapsed.
(e) If the House fails to indicate within the period prescribed by Paragraph (c) whether it supports or opposes the Bill, the provincial legislature may proceed with the Bill.

Page 48, Chapter 11 Traditional Authorities
Section 184 Council of Traditional Leaders

Socio-economic reconstruction

Development or socio-economic reconstruction	Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development Page 46, Chapter 10 Local Government Section 175 Powers and functions of local government (3) A local government shall, to the extent determined in any applicable law, make provision for access by all persons residing within its area of jurisdiction to water, sanitation, transportation facilities, electricity, primary health services, education, housing and security within a safe and healthy environment, provided that such services and amenities can be rendered in a sustainable manner and are financially and physically practicable.
National economic plan	No specific mention.
Natural resources	No specific mention.
International funds	No specific mention.
Business	Page 34-35, Chapter 9 Provincial Government Section 126 Legislative competence of provinces (2)... (d) it is necessary for the determination of national economic policies, the maintenance of economic unity, the protection of the environment, the promotion of inter-provincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labor, or the maintenance of national security; or Page 41, Chapter 9 Provincial Government Section 156 Levying of taxes by provinces ... (2) A provincial legislature shall not be entitled to levy taxes detrimentally affecting national economic policies, inter-provincial commerce or the national mobility of goods, services, capital and labor. Page 56, Chapter 14 Police and Defence Section 218 Responsibilities of National Commissioner (1) Subject to Section 214 and the directions of the Minister referred to in Section 216 (1), the National Commissioner shall be responsible for: ... (j) such functions relating to border control and the import and export of goods as may be assigned to the Service by law;

Taxation

Socio-economic reconstruction→Taxation→Power to tax
Page 41, Chapter 9 Provincial Government
Section 155 Provinces' share of revenue collected nationally
(1) A province shall be entitled to an equitable share of revenue collected nationally to enable it to provide services and to exercise and perform its powers and functions.
(2) The equitable share of revenue referred to in Subsection (1) shall consist of:
(a) a percentage, as fixed by an Act of Parliament, of income tax on individuals which is collected within the province;
(b) a percentage, as fixed by an Act of Parliament, of value-added tax or other sales tax which is collected within the province; and
(c) other conditional or unconditional allocations out of national revenue to a province.
(3) The percentages referred to in Subsection (2)(a) and (b) shall be fixed reasonably after taking into account the national interest and recommendations of the Financial and Fiscal Commission.
(4) Allocations referred to in Subsection (2)(c) shall be determined in accordance with an Act of Parliament, with due regard to the national interest and after taking into account:
(a) the provision that has to be made for interest and other payments in respect of the national debt; and
(b) the different fiscal capacities, including the revenues derived from sources referred to in Subsection (2)(a) and (b), fiscalperformances, efficiency of utilization of revenue, needs and economic disparities within and between provinces, as well as the developmental needs, administrative responsibilities and other legitimate interests of the provinces, and any other objective criteria identified by the Financial and Fiscal Commission; and
(c) the legitimate needs and interests of the national government; and (d) the recommendations of the Financial and Fiscal Commission.

Page 41, Chapter 9 PROVINCIAL GOVERNMENT
Section 156 Levying of taxes by provinces
(1) A province may levy taxes, surcharges or levies other than of a kind referred to in Section 155 (2)(a) or (b), provided that:
(a) it is authorized to do so by an Act of Parliament passed after recommendations of the Financial and Fiscal Commission on the draft text of any such Act have been submitted to and considered by Parliament; and
(b) there is no discrimination against non-residents of that province who are South African citizens.
(2) A provincial legislature shall not be entitled to levy taxes detrimentally affecting national economic policies, inter-provincial commerce or the national mobility of goods, services, capital and labor.
(3) A provincial legislature shall be competent to enact legislation authorizing the imposition of user charges: Provided that:
(a) the criteria to be taken into account in raising such charges may be regulated by an Act of Parliament passed after recommendations of the Financial and Fiscal Commission relating to the draft text of any such Act have been submitted to and considered by Parliament; and
(b) they do not discriminate against non-residents of that province who are South African citizens.

Page 48, Chapter 12 Finance
Section 185 National Revenue Fund
(1) There is hereby established a National Revenue Fund, into which shall be paid all revenues, as may be defined by an Act of Parliament, raised or received by the national government, and from which appropriations shall be made by Parliament in accordance with this Constitution or any applicable Act of Parliament, and subject to the charges imposed thereby

Banks

Socio-economic reconstruction→Banks→Central bank
Page 51, Chapter 12 Finance
Section 195 Central Bank
The South African Reserve Bank, established and regulated by an Act of Parliament, shall be the central bank of the Republic.

Page 51, Chapter 12 Finance
Section 196 Primary objectives
(1) The primary objectives of the South African Reserve Bank shall be to protect the internal and external value of the currency in the interest of balanced and sustainable economic growth in the Republic.
(2) The South African Reserve Bank shall, in the pursuit of its primary objectives referred to in Subsection (1), exercise its powers and perform its functions independently, subject only to an Act of Parliament referred to in Section 197: Provided that there shall be regular consultation between the South African Reserve Bank and the Minister responsible for national financial matters.

Page 51, Chapter 12 Finance
Section 197 Powers and functions
The powers and functions of the South African Reserve Bank shall be those customarily exercised and performed by central banks, which powers and functions shall be determined by an Act of Parliament and shall be exercised or performed subject to such conditions as may be prescribed by or under such Act.

Land, property and environment

Land reform/rights

Land, property and environment→Land reform/rights→Property return and restitution
Page 3, Chapter 3 FUNDAMENTAL RIGHTS
(b) Every person or community dispossessed of rights in land before the commencement of this Constitution under any law which would have been inconsistent with Subsection (2) had that subsection been in operation at the time of the dispossession, shall be entitled to claim restitution of such rights subject to and in accordance with Sections 121, 122 and 123.

Page 31, Chapter 8 PUBLIC PROTECTOR, HUMAN RIGHTS COMMISSION
Section 121 Claims
[relates to past provisions and land restitution. See Past provisions.]

Pastoralist/ nomadism rights

No specific mention.

Cultural heritage

Land, property and environment→Cultural heritage→Intangible
Page 1-2, Chapter 1 Constituent and Formal Provisions,
Section 3 Languages,
[Summary] Section outlines policy regarding languages on the national and regional level as well as promotes the use of official and non-official languages.

Page 2, Chapter 1 Constituent and Formal Provisions,
Section 3 Languages,
(9) ...(e) the fostering of respect for languages spoken in the Republic other than the official languages, and the encouragement of their use in appropriate circumstances; and

Page 2, Chapter 1 Constituent and Formal Provisions,
Section 3 Languages,
(9) ...(f) the non-diminution of rights relating to language and the status of languages existing at the commencement of this Constitution.

Page 2, Chapter 1 Constituent and Formal Provisions,
Section 3 Languages,
(10)(a) Provision shall be made by an Act of Parliament for the establishment by the Senate of an independent Pan South African Language Board to promote respect for the principles referred to in Subsection (9) and to further the development of the official South African languages.
(b) The Pan South African Language Board shall be consulted, and be given the opportunity to make recommendations, in relation to any proposed legislation contemplated in this section.
(c) The Pan South African Language Board shall be responsible for promoting respect for and the development of German, Greek, Gujerati, Hindi, Portuguese, Tamil, Telegu, Urdu and other languages used by communities in South Africa, as well as Arabic, Hebrew and Sanskrit and other languages used for religious purposes.

Page 6, Chapter 3 FUNDAMENTAL RIGHTS
Section 31 Language and culture
Every person shall have the right to use the language and to participate in the cultural life of his or her choice.

Page 44, Chapter 9 Provincial Government
Section 164 Object and functions of Commission
... (3) In carrying out its functions the Commission shall, inter alia, take into consideration:
... (k) cultural and language realities.

Environment	Page 7, Chapter 3 Fundamental Rights, Section 34 State of emergency and suspension (1) A state of emergency shall be proclaimed prospectively under an Act of Parliament, and shall be declared only where the security of the Republic is threatened by war, invasion, general insurrection or disorder or at a time of national disaster, and if the declaration of a state of emergency is necessary to restore peace or order. Page 34-35, Chapter 9 Provincial Government Section 126 Legislative competence of provinces (2)... (d) it is necessary for the determination of national economic policies, the maintenance of economic unity, the protection of the environment, the promotion of inter-provincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labor, or the maintenance of national security; or
Water or riparian rights or access	No specific mention.

Security sector

Security Guarantees

Page 64, Chapter 15 GENERAL AND TRANSITIONAL PROVISIONS
Section 236 Transitional arrangements: Public administration
(1) A public service, department of state (including a police force), administration, military force as defined in Section 224 (2)(a) or (b) or other institution (excluding any local government) which immediately before the commencement of this Constitution performed governmental functions under the control of an authority referred to in Section 235 (1)(a), (b) or (c), shall, subject to Subsection (7), continue to function as such in accordance with the laws applicable to it until it is, as the case may be, abolished or incorporated or integrated into any appropriate institution or is rationalized as contemplated in any other Chapter, consolidated with any other institution or otherwise rationalized as contemplated in Section 237, as the case may be: Provided that a military force referred to in this subsection shall not be employed for service referred to in Section 227 (1)(a), (b) or (e) otherwise than by the President and shall only be used for such service by the authority referred to in Section 225 in accordance with Section 227 (2).
[...] (7)(a) At the commencement of this Constitution the South African Police existing in terms of the Police Act, 1958 (Act 7 of 1958), and all other police forces established by law shall be deemed to constitute the South African Police Service referred to in Section 214, and any reference to the South African Police or any such force in the said Act or law shall be deemed to be a reference to the said Service.
(b) Any reference in any law to the South African Police or any other police force (excluding a municipal police service) shall, unless the context indicates otherwise, be construed as a reference to the said South African Police Service.
(8)(a) The National Defence Force referred to in Section 224 shall, subject to this Constitution and any Act of Parliament, mutatis mutandis be governed by the Defence Act, 1957 (Act 44 of 1957).
(b) Any reference in any law to a defence force referred to in Section 224 (2)(a) or (b), shall be deemed to be a reference to the National Defence Force.
(c) If the number of the members of the National Defence Force exceeds the personnel strength determined in respect of the force design and structure for the Force, any member of the Force who, due to integration, consolidation and rationalization of the National Defence Force is not accommodated in such force design and structure, shall be dealt with in accordance with a law.
(d) The continuance of membership of members of the National Defence Force referred to in Section 224 (2)(c) shall be subject to such members entering into an agreement for temporary or permanent appointment with the National Defence Force within a reasonable time: Provided that such agreements shall be in accordance with normal employment policies and terms and conditions of service.
Section 237 Rationalization of public administration
(1)(a) All institutions referred to in Section 236 (1), excluding military forces referred to in Section 224 (2), shall as soon as is possible after the commencement of this Constitution be rationalized with a view to establishing within the public servicecontemplated in Section 212 (1):
(i) an effective administration at the national level of government to deal with matters within the jurisdiction of the national government referred to in Section 235 (5)(a); and
(ii) an effective administration for each province to deal with matters within the jurisdiction of each provincial government referred to in Section 235 (5)(b).
(b) All military forces referred to in Section 224 (2) shall be rationalized for the purposes of the National Defence Force.

Ceasefire	No specific mention.

Police

Page 55, Chapter 14 POLICE AND DEFENCE
Section 214 Establishment
(1) There shall be established and regulated by an Act of Parliament a South African Police Service, which shall be structured at both national and provincial levels and shall function under the direction of the national government as well as the various provincial governments.
(2) The Act of Parliament referred to in Subsection (1) shall:
(a) subject to Sections 216, 217 and 218, provide for the appointment of a Commissioner of the South African Police Service (hereinafter in this Chapter called the `National Commissioner') and a Commissioner for each province (hereinafter in this Chapter called a `Provincial Commissioner');
(b) provide for the establishment and maintenance of uniform standards of policing at all levels regarding:
(i) the exercise of police powers;
(ii) the recruitment, appointment, promotion and transfer of members of the Service;
(iii) suspension, dismissal, disciplinary and grievance procedures;
(iv) the training, conduct and conditions of service of members of the Service;
(v) the general management, control, maintenance and provisioning of the Service;
(vi) returns, registers, records, documents, forms and correspondence; and
(vii) generally, all matters which are necessary or expedient for the achievement of the purposes of this Constitution.

Page 55, Chapter 14 POLICE AND DEFENCE
Section 215 Powers and functions
The powers and functions of the Service shall be:
(a) the prevention of crime;
(b) the investigation of any offence or alleged offence;
(c) the maintenance of law and order; and
(d) the preservation of the internal security of the Republic.

Page 56, Chapter 14 POLICE AND DEFENCE
Section 216 Minister and National Commissioner
(1) The President shall, subject to this Constitution, charge a Minister with responsibility for the Service.
(2)(a) The President shall, subject to Section 236 (1) and (2), appoint the National Commissioner.
(b) The National Commissioner shall exercise executive command of the Service, subject to Section 219 (1) and the directions of the Minister referred to in Subsection (1).
(3) The President may, if the National Commissioner has lost the confidence of the Cabinet, institute appropriate proceedings against the Commissioner in accordance with a law.

Page 56, Chapter 14 POLICE AND DEFENCE
Section 217 Powers of provinces
(1) The Premier of a province shall charge a member of the Executive Council of the province with responsibility for the performance by the Service in or in regard to that province of the functions set out in Section 219 (1).
(2) The member of the Executive Council referred to in Subsection (1):
(a) shall approve or veto the appointment of the relevant Provincial Commissioner in terms of Section 218 (1)(b); and
(b) may, if the Provincial Commissioner has lost the confidence of the Executive Council, institute appropriate proceedings against the said Commissioner in accordance with a law.

(3) A provincial legislature may pass laws not inconsistent with national legislation regarding the functions of the Service set out in Section 219 (1).

Armed forces

Page 18, Chapter 6 The National Executive
Section 82 Powers and functions of President
... (4)(a) The President shall be the Commander-in-Chief of the National Defence Force.
(b) The President may:
(i) with the approval of Parliament, declare a state of national defence;
(ii) employ the National Defence Force in accordance with and subject to Sections 227 and 228; and
(iii) confer upon members of the National Defence Force permanent commissions and cancel such commissions.

Page 48, Chapter 12 Finance
Section 189 Special pensions
(1) Provision shall be made by an Act of Parliament for the payment of special pensions by the national government to:
(a) persons who have made sacrifices or who have served the public interest in the establishment of a democratic constitutional order, including members of any armed or military force not established by or under any law and which is under the authority and control of, or associated with and promotes the objectives of, a political organization; or
(b) dependents of such persons.
(2) The Act of Parliament referred to in Subsection (1) shall prescribe the qualifications of a beneficiary of a special pension referred to in Subsection (1), the conditions for the granting thereof and the manner of the determination of the amount of such pension, taking into account all relevant factors, including, inter alia, any other remuneration or pension received by such beneficiary.

Page 34-35, Chapter 9 Provincial Government
Section 126 Legislative competence of provinces
(2)... (d) it is necessary for the determination of national economic policies, the maintenance of economic unity, the protection of the environment, the promotion of inter-provincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labor, or the maintenance of national security; or

Page 58, Chapter 14 POLICE AND DEFENCE
Section 224 Establishment of National Defence Force
(1) The National Defence Force is hereby established as the only defence force for the Republic.
(2) The National Defence Force shall at its establishment consist of all members of:
(a) the South African Defence Force;
(b) any defence force of any area forming part of the national territory; and
(c) any armed force as defined in Section 1 of the Transitional Executive Council Act, 1993 (Act 151 of 1993), and whose names, at the commencement of this Constitution, are included in a certified personnel register referred to in Section 16 (3) or (9) of the said Act:
Provided that this subsection shall not apply to members of any such defence or armed force if the political organization under whose authority and control it stands or with which it is associated and whose objectives it promotes did not take part in the first election of the National Assembly and the provincial legislatures under this Constitution.
(3) Save for the National Defence Force, no other armed force or military force or armed organization or service may be established in or for the Republic other than:
(a) as provided for in this Constitution;
(b) a force established by or under an Act of Parliament for the protection of public property or the environment; or
(c) a service established by or under law for the protection of persons or property.

Page 58, Chapter 14 Police and Defence

DDR	No specific mention.
Intelligence services	No specific mention.
Parastatal/rebel and opposition group forces	No specific mention.
Withdrawal of foreign forces	No specific mention.

Corruption

Page 29, Chapter 8 Public Protector, Human Rights Commissions
Section 112 Powers and functions
(1) The Public Protector shall, in addition to any powers and functions assigned to him or her by any law, be competent:
(a) to investigate, on his or her own initiative or on receipt of a complaint, any alleged:
... (iii) improper or dishonest act, or omission or corruption, with respect to public money;
(iv) improper or unlawful enrichment, or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as a result of an act or omission in the public administration or in connection with the affairs of government at any level or of a person performing a public function; or

Page 39, Chapter 9 Provincial Government
Section 149 Executive Councils
... (9) No member of the Executive Council shall use his or her position as such, or directly or indirectly use information entrusted confidentially to him or her in such capacity, to enrich himself or herself or any other person.

Page 48, Chapter 12 Finance
Section 187 Procurement administration
(1) The procurement of goods and services for any level of government shall be regulated by an Act of Parliament and provincial laws, which shall make provision for the appointment of independent and impartial tender boards to deal with such procurements.
(2) The tendering system referred to in Subsection (1) shall be fair, public and competitive, and tender boards shall on request give reasons for their decisions to interested parties.
(3) No organ of state and no member of any organ of state or any other person shall improperly interfere with the decisions and operations of the tender boards.
(4) All decisions of any tender board shall be recorded.

Page 48, Chapter 12 Finance
Section 191 Establishment and appointment
(1) There shall be an Auditor-General for the Republic.
(2) The President shall whenever it becomes necessary appoint as Auditor-General a person:
(a) nominated by a joint committee of the Houses of Parliament, composed of one member of each party represented in Parliament and willing to participate in the committee; and
(b) approved by the National Assembly and the Senate by resolution adopted, without debate, by a majority of at least two-thirds of the members present and voting at a joint meeting: Provided that if any nomination is not approved as required in Paragraph (b), the joint committee shall nominate another person.
(3) The Auditor-General shall be a South African citizen who is a fit and proper person to hold such office and who shall be appointed with due regard to his or her specialized knowledge of or experience in auditing, state finances and public administration.
(4) Unless the new constitutional text provides otherwise, the Auditor-General shall be appointed for a period of not less than five years and not more than ten years and shall not thereafter be eligible for re-appointment.
(5) If the Auditor-General is absent or unable to exercise and perform his or her powers and functions, or if the office of Auditor-General is vacant, the highest ranking member of the Auditor-General's staff shall act as Auditor-General until the vacancy is filled, and shall for that purpose have all the powers and functions of the Auditor-General.
(6) The remuneration and other conditions of service of the Auditor-General shall be as prescribed by or under an Act of Parliament, and such remuneration and the other

Crime/organised crime	No specific mention.
Drugs	No specific mention.
Terrorism	No specific mention.

Transitional justice

Transitional justice general	No specific mention.
Amnesty/pardon	Transitional justice→Amnesty/pardon→Amnesty/pardon proper Page 71, [Chapter 16] NATIONAL UNITY AND RECONCILIATION [...] In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offenses associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 Oct 1990 and before 6 Dec 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed. Transitional justice→Amnesty/pardon→Power to amnesty Page 10, Chapter 4 Parliament Section 42 Qualification for membership of National Assembly … (b) at any time after the promulgation of this Constitution is convicted of an offence in the Republic, or outside the Republic if the conduct constituting such offence would have constituted an offence in the Republic, and for which he or she has been sentenced to imprisonment of more than 12 months without the option of a fine, unless he or she has received a pardon;
Courts	No specific mention.
Mechanism	No specific mention.
Prisoner release	No specific mention.
Vetting	No specific mention.
Victims	No specific mention.
Missing persons	No specific mention.

Reparations

Transitional justice→Reparations→Material reparations
Page 3, Chapter 3 Fundamental Rights,
Section 8 Equality,
... (3)... (b) Every person or community dispossessed of rights in land before the commencement of this Constitution under any law which would have been inconsistent with Subsection (2) had that subsection been in operation at the time of the dispossession, shall be entitled to claim restitution of such rights subject to and in accordance with Sections 121, 122 and 123.

Page 31, Chapter 8 Public Protector, Human Rights Commissions
Section 121 Claims
(1) An Act of Parliament shall provide for matters relating to the restitution of land rights, as envisaged in this section and in Sections 122 and 123.
(2) A person or a community shall be entitled to claim restitution of a right in land from the state if:
(a) such person or community was dispossessed of such right at any time after a date to be fixed by the Act referred to in Subsection (1); and
(b) such dispossession was effected under or for the purpose of furthering the object of a law which would have been inconsistent with the prohibition of racial discrimination contained in Section 8 (2), had that section been in operation at the time of such dispossession.
(3) The date fixed by virtue of Subsection (2)(a) shall not be a date earlier than 19 June 1913.
(4)(a) The provisions of this section shall not apply to any rights in land expropriated under the Expropriation Act, 1975 (Act 63 of 1975), or any other law incorporating by reference that Act, or the provisions of that Act with regard to compensation, if just and equitable compensation as contemplated in Section 123 (4) was paid in respect of such expropriation.
(b) In this section `Expropriation Act, 1975' shall include any expropriation law repealed by that Act.
(5) No claim under this section shall be lodged before the passing of the Act contemplated in Subsection (1).
(6) Any claims under Subsection (2) shall be subject to such conditions, limitations and exclusions as may be prescribed by such Act, and shall not be justiciable by a court of law unless the claim has been dealt with in terms of Section 122 by the Commission established by that section.

Page 31, Chapter 8 Public Protector, Human Rights Commissions
Section 122 Commission
(1) The Act contemplated in Section 121 (1) shall establish a Commission on Restitution of Land Rights, which shall be competent to:
(a) investigate the merits of any claims;
(b) mediate and settle disputes arising from such claims;
(c) draw up reports on unsettled claims for submission as evidence to a court of law and to present any other relevant evidence to the court; and
(d) exercise and perform any such other powers and functions as may be provided for in the said Act.
(2) The procedures to be followed for dealing with claims in terms of this section shall be as prescribed by or under the said Act.

Page 31, Chapter 8 Public Protector, Human Rights Commissions
Section 123 Court orders
(1) Where a claim contemplated in Section 121 (2) is lodged with a court of law and the land in question is:
(a) in the possession of the state and the state certifies that the restoration of the right in

Reconciliation	Page 71, [Chapter 16] NATIONAL UNITY AND RECONCILIATION This Constitution provides a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of color, race, class, belief or sex. The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimization. In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offenses associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 Oct 1990 and before 6 Dec 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed. With this Constitution and these commitments we, the people of South Africa, open a new chapter in the history of our country. Nkosi sikelel' iAfrika. God sen Suid-Afrika. Morena boloka sechaba sa heso. May God bless our country. Mudzimu fhatutshedza Afrika. Hosi katekisa Afrika.

Implementation

UN signatory	No specific mention.
Other international signatory	No specific mention.
Referendum for agreement	No specific mention.
International mission/force/ similar	No specific mention.
Enforcement mechanism	No specific mention.
