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**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 2718**

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**(INTERNAL QUESTION PAPER 43 OF 2016)**

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**Adv A de W Alberts (FF Plus) to ask the Minister of Justice and Correctional Services:†**

1. Whether the Government, seen against the background of its constitutional obligations in respect of human rights, intends signing and ratifying the Optional Protocol to the International Convention on Economic, Social and Cultural Rights; if not, why not; if so, by what date will this be done;
2. whether the Government, seen against the background of its constitutional obligations regarding human rights, intends to institute local legislation supportive of the treaty itself as well as the optional protocol; if not, why not; if so, by what date will this take place?

**NW3170E**

**REPLY:**

South Africa has ratified the ICESCR and in terms of section 231(4) of the Constitution is required to enact legislation to implement the International Convention on Economic, Social and Cultural Rights (ICESCR). Chapter 2 of South Africa’s Constitution is based on the ICESCR which promotes and protects socio-economic and cultural rights. Socio-economic and cultural rights are also promoted in myriad pieces of legislation which give effect to the obligation contained in the Constitution (towards socio-economic and cultural rights). There is therefore no additional legislation required to implement the tenets of the ICESCR.

South Africa is yet to ratify the Optional Protocol to the ICESCR, so no obligation to enact legislation to domesticate the option protocol exists. Once the Optional Protocol is ratified section 231 (4) of the Constitution requires that the treaty be domesticated through the enactment of national legislation.