

**Submission to the United Nations Committee on the Elimination of Discrimination  
Against Women on the fifth periodic report of South Africa  
80th Session  
September 2021**

We write in advance of the 80th session of the Committee on the Elimination of Discrimination Against Women and its adoption of a list of issues regarding South Africa's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission includes information on access to education during the Covid-19 pandemic, teenage pregnancies, protection of education from attack, and how increased government support to shelters for victims of gender-based violence is even more important now.

**Access to Education during the Covid-19 Pandemic (Article 10)**

As of August 30, 2021, children in South Africa had been affected by 48 weeks of full and partial school closures.<sup>1</sup> Some 500,000 learners have reportedly dropped out of school permanently during the pandemic, according to UNICEF.<sup>2</sup>

The transition to distance learning was difficult for some students, and for many it affected the quality of their learning during school closures. Initially, not all schools moved to on-line options to teach students remotely. One 17-year-old girl described her school's approach at the beginning of the pandemic: "My school did not have any Zoom classes they just basically sent work over to you and you basically had to figure out what to do."<sup>3</sup> When the school realized students were not learning, they began to utilize digital platforms to teach with varying degrees of success. The same student said that she was

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<sup>1</sup> United Nations Educational, Scientific and Cultural Organization, "Duration of School Closures", undated, <https://en.unesco.org/covid19/educationresponse#durationschoolclosures> (accessed September 10, 2021).

<sup>2</sup> "Learners in South Africa up to one school year behind where they should be," UNICEF press release, July 22, 2021, <https://www.unicef.org/press-releases/learners-south-africa-one-school-year-behind-where-they-should-be> (accessed September 9, 2021).

<sup>3</sup> Human Rights Watch interview with Lwandle M., South Africa, June 6, 2020.

“basically...failing” and that she and some of her peers got bad marks.<sup>4</sup> Ultimately, she described that “online schooling is just not for me.”<sup>5</sup> In another testimony, a mother of a 16-year-old girl said that while distance learning had initially been working for her daughter, her daughter eventually “checked out of it.”<sup>6</sup>

The predictable consequence for children excluded from their schools and studies is that their learning slowed and regressed. However, the negative consequences of Covid-19 related lockdowns for children extended beyond the academic aspect of their lives. Many children also felt social isolation, anxiety, stress, sadness, and depression. The interruption of the daily routine of school, and the support of seeing friends there, contributed to these negative psychosocial consequences for many children.<sup>7</sup> A mother of a 15-year-old girl described to Human Rights Watch her daughter’s change in personality during the lockdown: “She's quite anxious about going out...she's not normally an anxious child.”<sup>8</sup>

The South African Depression and Anxiety Group (SADAG) reported an increase in calls to its hotline from teens and adolescents, due to the uncertainty surrounding the pandemic, including uncertainty about their education and future.<sup>9</sup> The group expressed concerns about the mental health effects of the pandemic on youth as even before the pandemic, youth were at risk for depression, anxiety, and suicide.<sup>10</sup> Child government monitors working for the Commissioner of Children for the Western Cape detailed reports from children with feelings of loneliness, stress, and anxiety for being away from their support system in school.<sup>11</sup> Though some schools may have provided academic support while operating remotely, one 17-year-old girl described that this did not include support for

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Human Rights Watch interview with mother, Cape Town, South Africa, June 25, 2020.

<sup>7</sup> Human Rights Watch, “*Years Don’t Wait for Them*” *Increased Inequalities in Children’s Right to Education Due to the Covid-19 Pandemic*, May 2021, [https://www.hrw.org/sites/default/files/media\\_2021/05/global\\_covideducation0521\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/05/global_covideducation0521_web.pdf), p. 98.

<sup>8</sup> Human Rights Watch interview with mother, Cape Town, South Africa, June 25, 2020.

<sup>9</sup> Sipokazi Fokazi, “Impact of Covid-19 on school pupils has been detrimental – experts,” *TimesLive*, September 14, 2021, <https://www.timeslive.co.za/news/south-africa/2021-09-14-impact-of-covid-19-on-school-pupils-has-been-detrimental-experts/> (accessed September 14, 2021).

<sup>10</sup> Ibid.

<sup>11</sup> Children’s Institute, University of Cape Town, “Children and Covid-19 Advocacy Brief: Mental health and wellbeing,” 2021, [http://www.ci.uct.ac.za/sites/default/files/image\\_tool/images/367/Projects/Current\\_Projects/covid-children/pdfs/Advocacy%20Brief\\_Mental\\_health\\_02\\_08.pdf](http://www.ci.uct.ac.za/sites/default/files/image_tool/images/367/Projects/Current_Projects/covid-children/pdfs/Advocacy%20Brief_Mental_health_02_08.pdf) (accessed September 14, 2021).

mental health: “It was basically academic on their side rather than ... trying to figure out what’s the problem... how can I stay calm during this big pandemic?... How can I de-stress myself from school and home and work?”<sup>12</sup>

***Human Rights Watch recommends that the Committee pose the following questions to the government of South Africa:***

- How does the government plan to remedy learning time lost by children due to Covid-19 related school closures, including girls?
- What strategies are being adopted to mitigate the impacts of in-person school closures on children’s learning, with particular regard as to whether there are impacts that fall disproportionately on girls?
- How has the Department of Basic Education monitored and followed up students’ attendance and participation at school and during distance education, including whether girls are more at risk of dropping out or not returning due to the interruption in learning?
- How has the Department ensured regular direct contact between the teachers or other school officials and students?
- How does the Department ensure girls’, including girls with disabilities, attendance in provinces and areas with high incidence of exclusion, drop-out rates and teenage pregnancies?
- How is the Department ensuring ongoing access to adequate mental health support for students?

### **Teenage Pregnancies (Articles 5, 10, 12)**

Adolescent girls and young women face many barriers to their rights to education and sexual and reproductive rights, and thousands experience unwanted pregnancies. South Africa has a high rate of teenage pregnancies: around four percent of girls and women ages 14 to 19 reported being pregnant between 2013 and 2018, according to UN data.<sup>13</sup>

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<sup>12</sup> Human Rights Watch interview with Lwandle M., South Africa, June 6, 2020.

<sup>13</sup> United Nations Population Fund, “South Africa,” undated, <https://www.unfpa.org/data/ZA> (accessed September 9, 2021).

Adolescent girls and young women are also among the key groups most heavily affected by HIV infections.<sup>14</sup>

Between 2017 and the first quarter of 2021, over 512,000 girls and young women ages 10 to 19 delivered children in health facilities and close to 57,000 terminated their pregnancies, according to government data.<sup>15</sup>

Cases of sexual and gender-based violence increased exponentially during the Covid-19 pandemic, leading to a reported increase in sexual exploitation, sexual violence and teenage pregnancies. According to data published by the government, cases of sexual assault and rape almost tripled compared to pre-lockdown rates.<sup>16</sup> In Gauteng province, the Department of Health [registered](#) more than 23,000 pregnancies of girls and young women ages 10 to 19, between April 2020 and March 2021.<sup>17</sup> Nearly 3,000 of these girls terminated their pregnancy, according to the data. Gauteng province registered the lowest rate of teenage pregnancies in this period; provinces like the Northern Cape and the Eastern Cape registered almost twice the rate of deliveries by girls and young women.<sup>18</sup>

South Africa has had a policy on the prevention and management of student pregnancies since 2007, which states that school children who are pregnant shall not be unfairly discriminated against and cannot be expelled.<sup>19</sup> Research by South African nongovernmental organizations (NGOs) indicates that not all schools respect this policy,

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<sup>14</sup> South African National AIDS Council, “Let Our Actions Count - South Africa’s National Strategic Plan for HIV, TB, and STIs 2017 – 2022,” December 2019, <https://sanac.org.za/the-national-strategic-plan/> (accessed September 9, 2021).

<sup>15</sup> See, Department of Basic Education, “Reducing Teenage Pregnancy in South Africa – The Role of the Department of Basic Education in Addressing Learner Pregnancy,” PowerPoint presentation, presented during Portfolio Committee on Basic Education meeting with the Department of Basic Education on “Teenage Pregnancies and Comprehensive Sexuality Education,” September 7, 2021, <https://pmg.org.za/committee-meeting/33580/> (accessed September 9, 2021), “National AGYW Statistics: Teen Pregnancy,” Slide 17.

<sup>16</sup> Ibid., see, “National AGYW Statistics: GBV and Rape,” slides 13, 14.

<sup>17</sup> “Bleak future for young girls with 23,226 reported teenage pregnancies in Gauteng,” August 17, 2021, *Polity*, <https://www.polity.org.za/article/bleak-future-for-young-girls-with-23-226-reported-teenage-pregnancies-in-gauteng-2021-08-17> (accessed September 9, 2021).

<sup>18</sup> Department of Basic Education, “Reducing Teenage Pregnancy in South Africa – The Role of the Department of Basic Education in Addressing Learner Pregnancy,” PowerPoint presentation, slide 27.

<sup>19</sup> Republic of South Africa, Department of Basic Education, “Measures for the Prevention and Management of Learner Pregnancy,” 2007, <https://www.gov.za/af/documents/measures-prevention-and-management-learner-pregnancy> (accessed September 9, 2021), pp. 6–7.

and schools have often discriminated against female students.<sup>20</sup> Some school officials continue to exclude pregnant girls from school or ask them to shift to other schools, in violation of their obligations to respect students’ right to education.<sup>21</sup> According to South Africa’s 2018 General Household Survey, approximately 33 percent of girls do not return to school after falling pregnant.<sup>22</sup>

In 2018, the government initiated a consultation to develop a new policy on management and prevention of student pregnancies.<sup>23</sup> At time of writing in September 2021, the Department of Basic Education announced that the draft policy would be submitted to the Cabinet for approval.<sup>24</sup> In order to be effective, Human Rights Watch recommends that the new policy removes any conditional measures—currently applied through the government’s 2007 policy—that impact on girls’ education or deter them from going back to school. For example, students should not have to wait a conditional period until they can return to school. The new policy should ensure that pregnant students can stay in school while they are medically able to, and that they return to school as soon as they are ready. Schools should also provide basic accommodations for adolescent parents, including: time to

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<sup>20</sup> Equal Education Law Centre and Section 27, “Equal Education Law Centre and Section 27 Submission to the Department of Basic Education in Respect of the Draft “National Policy on the Prevention and Management of Learner Pregnancy in Schools,” April 2018, <https://www.section27.org.za/wp-content/uploads/2018/05/EELC-and-S27-Submissions-on-Draft-Pregnancy-Policy-.pdf> (accessed September 9, 2021).

<sup>21</sup> Lisa Draga, Chandré Stuurman, and Demichelle Petherbridge, “Basic Education Rights Handbook – Education Rights in South Africa – Chapter 8: Pregnancy,” 2017, <http://section27.org.za/wp-content/uploads/2017/02/Chapter-8.pdf> (accessed September 9, 2021).

<sup>22</sup> Parliament of the Republic of South Africa, “Media Statement: Basic Education Committee agrees holistic approach needed to curb teen pregnancies,” September 7, 2021, <https://www.parliament.gov.za/press-releases/media-statement-basic-education-committee-agrees-holistic-approach-needed-to-curb-teen-pregnancies> (accessed September 9, 2021).

<sup>23</sup> Department of Basic Education, “DBE Draft National Policy on the Prevention and Management of Learner Pregnancy in Schools,” 2018, <https://www.education.gov.za/Portals/0/Documents/Policies/Draft%20Pregnancy%20Policy%202018.pdf?ver=2018-06-26-142235-687> (accessed September 9, 2021).

<sup>24</sup> Portfolio Committee on Basic Education virtual meeting with the Department of Basic Education on “Teenage Pregnancies and Comprehensive Sexuality Education,” September 7, 2021, <https://pmg.org.za/committee-meeting/33580/> (accessed September 9, 2021); Oral Presentation by Dr. Granville Whittle, Department of Basic Education, <https://www.youtube.com/watch?v=Sc-WfyR4klo> (accessed September 9, 2021).

breastfeed during breaks, and time off in case a student's child is ill or to comply with other medical or bureaucratic requirements.<sup>25</sup>

The government has committed to teaching comprehensive sexuality education in schools, in alignment with UNESCO's international technical guidance on sexuality education.<sup>26</sup>

***Human Rights Watch recommends that the Committee pose the following questions to the government of South Africa:***

- What steps is South Africa taking to prevent further increases in teenage pregnancies during the Covid-19 pandemic?
- When will the Department of Basic Education adopt and implement its new policy on management and prevention of student pregnancies? How will it ensure that all schools adhere to the policy? How is this policy connected to other departments and agencies charged with delivering adolescent sexual and reproductive health services?
- What steps is the Department of Basic Education taking to ensure all schools teach comprehensive sexuality education and monitor school's adequate and non-stigmatizing teaching of this curriculum?

### **Protection of Education from Attack (Article 10)**

As recognized by this Committee in its General Recommendation No. 30, attacks on students and schools, and the use of schools for military purposes, disproportionately affect girls, who are sometimes the focus of targeted attacks and are more likely to be kept out of school due to security concerns.<sup>27</sup>

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<sup>25</sup> Letter from Human Rights Watch to the Department of Basic Education regarding their draft pregnancy policy, August 16, 2018, <https://www.hrw.org/news/2018/08/15/letter-south-africas-department-basic-education-regarding-their-draftpregnancy>.

<sup>26</sup> Parliament of the Republic of South Africa, "Media Statement: Basic Education Committee agrees holistic approach needed to curb teen pregnancies," September 7, 2021, <https://www.parliament.gov.za/press-releases/media-statement-basic-education-committee-agrees-holistic-approach-needed-curb-teen-pregnancies> (accessed September 9, 2021).

<sup>27</sup> UN Committee on the Elimination of Discrimination against Women, General Recommendation No. 30, Access to Education, Employment and Health, and rural women, U.N. Doc. CEDAW/C/GC/30 (2013), para. 48. See also African Committee on the Rights and Welfare of the Child, General Comment on Article 22: Children in Armed Conflict (2020), para. 78.

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict;<sup>28</sup> the importance of the continuation of education during armed conflict; and the implementation of the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.<sup>29</sup> South Africa endorsed the Safe Schools Declaration in May 2015, contributing to global efforts to protect education and improve compliance with international law.

In October 2020, the African Committee of Experts on the Rights and Welfare of the Child issued a general comment on children and armed conflict in Africa, in which they stated that “all State Parties’ should either ban the use of schools for military purposes, or, at a minimum, enact concrete measures to deter the use of schools for military purposes in accordance with the Safe Schools Declaration’s Guidelines on Protecting Schools and Universities from Military Use during Armed Conflict, including through their legislation, doctrine, military manuals, rules of engagement, operational orders, and other means of dissemination to encourage appropriate practice throughout the chain of command.”<sup>30</sup> In January 2021, the African Union began requiring countries contributing troops to its peace operations to “ensure that schools are not attacked and used for military purposes.”

As of July 2021, South Africa was contributing 923 troops to UN peacekeeping operations in the Democratic Republic of the Congo.<sup>31</sup> The Global Coalition to Protect Education from Attack (GCPEA) provided recommendations to the UN regarding peacekeeping forces to, “refrain from using schools and universities for military purposes, in keeping with the UN Department of Peacekeeping Operations’ 2017 child protection policy and the UN Infantry Battalion Manual, and integrate the Guidelines for Protecting Schools and Universities

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<sup>28</sup> Safe Schools Declaration, May 28, 2015, [https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe\\_schools\\_declaration.pdf](https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf) (accessed July 26, 2021).

<sup>29</sup> Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, [http://protectingeducation.org/sites/default/files/documents/guidelines\\_en.pdf](http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf) (accessed July 26, 2021).

<sup>30</sup> African Committee on the Rights and Welfare of the Child, General Comment on Article 22: Children in Armed Conflict, (2020), para. 59.

<sup>31</sup> United Nations Peacekeeping, “Troop and Police Contributors,” July 2021, <https://peacekeeping.un.org/en/troop-and-police-contributors> (accessed September 16, 2021).

from Military Use during Armed Conflict into operations, as far as is possible and appropriate.”<sup>32</sup>

As part of these recommendations, we wish to emphasize that the 2017 Child Protection Policy of the UN Department of Peace Operations, Department of Field Support, and Department of Political Affairs notes:

United Nations peace operations should refrain from all actions that impede children’s access to education, including the use of school premises. This applies particularly to uniformed personnel. Furthermore ... United Nations peace operations personnel shall at no time and for no amount of time use schools for military purposes.<sup>33</sup>

***Human Rights Watch recommends that the Committee pose the following questions to the government of South Africa:***

- What steps has South Africa taken to implement the commitments in the Safe Schools Declaration?
- Do any South African laws, policies, or trainings provide explicit protection for schools and universities from military use during armed conflict?
- Does pre-deployment training for South African peacekeepers include the ban on using schools in military operations?

### **Increased Support for GBV Shelters (Articles 1, 2)**

The South African government decried and committed to address South Africa’s high rates of gender-based violence (GBV) both during and before the pandemic. But South African GBV experts told Human Rights Watch that despite important planning, including in the [National Strategic Plan](#), the government has still failed to provide necessary funding for GBV shelters and other services.

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<sup>32</sup> The Global Coalition to Protect Education from Attack, “Education Under Attack: 2020,” 2020, [https://protectingeducation.org/wp-content/uploads/eua\\_2020\\_full.pdf](https://protectingeducation.org/wp-content/uploads/eua_2020_full.pdf) (accessed July 28, 2021).

<sup>33</sup> UN Department of Peacekeeping Operations, Department of Field Support and Department of Political Affairs, “Child Protection in UN Peace Operations (Policy),” June 2017.

As noted by the umbrella organization, the [National Shelter Movement](#) as well as the [Commission for Gender Equality](#), the [Heinrich Böll Foundation](#), funding in many provinces has been patchy for many years with different shelters receiving differing support and with support arriving late, causing serious problems for shelters. This problem has continued during the Covid-19 period, leading some shelters to contemplate closure and adding pressure to others already struggling with responding to the pandemic.

Covid-19 and government shutdowns have made it harder both for victims of GBV to access shelters and social workers and other shelter workers to run these crucial services. In Human Rights Watch's recent research with GBV frontline workers and shelter staff as well as other experts in GBV in South Africa, it also became evident that some groups such as sex workers, LGBT people and immigrants, asylum seekers and refugees sometimes faced barriers accessing shelters, either because services are not advertised to them and they feel unwelcome and that they would face additional stigma at the shelter or because shelter staff worry that they are not trained or otherwise set up for this population. Publication of this research is pending.

***Human Rights Watch recommends that the Committee pose the following questions to the government of South Africa:***

- How is the government planning to remedy the problem of slow and patchy disbursement of promised funding for shelters from the Department of Social Development, which has been happening in several provinces despite the government's commitment to help fund GBV sheltering?
- Does the government have plans to identify and tackle barriers of access to GBV shelters that groups such as LGBT people, sex workers and asylum seekers, refugees and undocumented migrants face?