**SUBMISSION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE IMPACT OF THE COVID-19 PANDEMIC ON THE REALIZATION OF THE EQUAL ENJOYMENT OF THE RIGHT TO EDUCATION BY EVERY GIRL**

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**About the Legal Resources Centre**

1. The Legal Resources Centre (LRC) is a public interest law clinic that uses the law as an instrument for justice for poor and marginalised persons. The LRC pursues equality, access to justice, and the recognition of constitutional rights for all through creative and effective solutions. To this end, we provide legal advice and legal representation that empowers our clients, take on strategic and impact litigation, and participate in multi-pronged advocacy and law reform.
2. **Introduction**
3. The LRC welcomes the opportunity to provide feedback on the questions posed by the Office of the UN High Commissioner for Human Rights which relates to the challenges and barriers faced by girl learners during the Covid-19 pandemic. The LRC work focuses on the barriers faced by girl learners in accessing education.
4. **Input on questions**
5. *The most important challenges and barriers that girls have been facing in the context of the COVID-19 pandemic in relation to the elements of the right to education, and at each level of education:*

*Impact in relation to the elements of the right to education: availability, accessibility, acceptability, adaptability*

1. It should be noted at the outset that all learners’ right to education has been impacted by COVID-19. However, because the South African education system still suffers from the inequalities created during apartheid which is further compounded by the failure of the Department of Basic Education (DBE) to address existing shortcomings, the impact is disproportional on black learners who live in rural areas. Thus, the current data does not yet reflect a clear disproportional impact on the right to education of girl learners. Nonetheless, certain inferences can be made from what has been reported.
2. The national lockdown saw the closure of schools to physical learning in March 2020, with gradual reopening from June 2020. With the third wave in June 2021, schools once again closed their doors to learning. Due to the “two world contexts” of the South African education system, learners who live in urban areas, especially those in affluent areas, were able to move to online learning, allowing them to move forward with an adjusted curriculum.
3. Although remote and online learning have become central tenets of education to limit the spread of the virus and provide continuity of education to learners, disparities in access to the internet and other resources have meant that these are not a practical choice for most learners. Higher-income households are better placed to sustain online learning.
4. South African public schools can either be fee paying or no-fee paying. Whereas a no fee-paying school does not require parents or guardians to pay for schooling, a fee-paying school charges school fees, determined in consultation with parents and the School Governing Body. No-fee paying schools are fully subsidized by government and are situated in peri-urban and rural areas – areas previously assigned to black people through Apartheid’s spatial planning. Around three-quarters of learners in fee-paying schools have an internet connection at home, with half also having access to a computer. In comparison, only half of learners in no-fee schools have internet access at home, and only one out of five have access to a computer. Learners who attend no-fee schools are also less likely to have a desk, books and a separate learning space at home or parents with post-secondary school education to facilitate online learning. Thus, the disparity between access to education for rich and poor during the pandemic becomes immense.[[1]](#footnote-2)
5. Given the barriers to accessing online learning, the contact learning time lost since March 2020 has meant that the last two decades of learning gains in South Africa have been compromised.[[2]](#footnote-3) In July 2021, the National Income Dynamics Study – Coronavirus Rapid Mobile Survey (NIDS-CRAM) published their findings on how COVID-19 has impacted basic education in South Africa. According to the research, as much as a year of learning may have been lost by foundation and intermediate phase learners since March 2020.
6. Beyond contact learning time lost, an estimated 650 000 to 750 000 learners have dropped out of school since the start of lockdown, approximately three times more than the annual average. Learners that do attend school have been reported to attend school less often. This is both a result of rotational school attendance and parents not sending their children to school over a fear of the virus.[[3]](#footnote-4)
7. The impact of school dropout on literacy levels remains to be seen. However, the effect on National Senior Certificate (NSC) results (the school leaving examinations) are starting to come to light. The overall NSC pass rate has decreased from 81.3% in 2019, to 76.2% in 2020 and 76.4% in 2021.[[4]](#footnote-5)
8. It is clear that dropout rates have increased as a result of measures to mitigate the impact of COVID-19. As yet, there does not seem to be an indication that it affects girls more than boys. However, as will be discussed in more detail below, there has been a concerning increase in learner pregnancies during the pandemic, which has been the primary reason for girls not finishing education even before COVID-19.

*Impact on each level of education*

1. In terms of early childhood development (ECD) and pre-primary education, Statistics South Africa (STATSSA), reported in December 2021 that the percentage of children attending Grade R, pre-school, crèche, educare centres and nursery schools combined decreased from 36,8% in 2019 to 24,2% in 2020. Over the same one-year period, “the percentage of children that remained at home with a parent, guardian, other adults or other children increased from 57,8% to 67,2%".[[5]](#footnote-6) The data, unfortunately, does not distinguish between boy and girl learners, making it difficult to determine whether there has been a gendered impact at this level.
2. At the primary and secondary education level, the COVID-19 pandemic and the accompanying closure of schools and rotational school attendance can be linked to increased teenage pregnancy rates and mental health issues.
3. In South Africa, pregnancy is the primary push factor for girls dropping out of school. The continued closure of schools due to COVID-19 and the loss of the social protection that going to school provides has resulted in a spike in teenage pregnancies since March 2020. Statistics South Africa reported almost 34 000 teenage pregnancies during 2020, with 660 of those being girls under the age of 13.[[6]](#footnote-7) In August 2021, the Gauteng Health Department reported that it has recorded more than 23 000 teenage pregnancies – pregnancies of girls between the ages of 10 and 19 – between April 2020 and March 2021, with 934 of those being pregnancies of girls between the ages of 10 and 14.[[7]](#footnote-8)
4. The data is particularly alarming because, in general, 30% of girls between the ages of 10 and 19 fall pregnant in South Africa, with 1 out of 3 of these girls not returning to school.[[8]](#footnote-9)
5. Viewed in the context that by March 2021, three times the annual average of learners have dropped out of school since March 2020, there is reason for concern over the impact of lockdown on teenage pregnancies and the inevitable dropout rate of many of these girl learners. Although it is not possible to fully measure the effect of the pandemic on teenage pregnancies and the resulting dropouts yet, the information available paints a stark picture of the detrimental impact on the right to education of girl learners, as well as their right to be protected from statutory rape or statutory sexual assault.
6. Globally, concern has also been expressed over the impact of COVID-19 on the mental health of learners.[[9]](#footnote-10) In South Africa, a 2019 study reported that the average age of onset of mental illness is 15, and that most symptoms show between 13 and 17.[[10]](#footnote-11) Moreover, South African women have been reported to “experience some of the highest rates of depression and anxiety globally”.[[11]](#footnote-12) The #LearninginCovidtimes study, conducted by the Western Cape Commission for Children, has found that the mental health of children has worsened significantly during the pandemic. Due to the reported disproportionate impact of mental health concerns on women in South Africa, it is anticipated that girl learners too are impacted despite limited data having been made available in this regard. The #LearninginCovidtimes study has shown that it is girl learners who speak out about how continuing school closures and rotational learners have impacted their mental health to the extent of limiting their ability to benefit fully from education.[[12]](#footnote-13)
7. *Concrete measures taken to respond challenges and barriers faced by girls indicated above, at each level of education and in relation to the four elements of the right to education, as a part of the short-term responses to, and mid- and longer-term recovery efforts from the COVID-19 pandemic.*
8. In November 2021, the DBE announced that it will implement the Teenage Pregnancy Policy from January 2022. Although the Policy has been in the works since 2012, the announcement to finally implement the policy only came after outcry over the increase in teenage pregnancies from the start of the pandemic. The Policy seeks to ensure that girls who fall pregnant can return to school as soon as possible after giving birth, and that schools provide educational support to these learners throughout their pregnancies.[[13]](#footnote-14)
9. Beyond the adoption of the Teenage Pregnancy Policy, there have been no concrete measures taken to respond to the barriers that face girl learners specifically. The measures taken to ensure that learning continues throughout the pandemic has been focused on all learners, and primarily at the primary, secondary, and tertiary education levels. In this regard, the DBE has made learning programmes available through radio stations and television channels, and also published resources online for use while schools closed during the height of the pandemic.[[14]](#footnote-15) As was made clear in relation to the discussion on internet access above, the accessibility of education during the pandemic seems to have been more divided along t racial and location lines rather than gender.
10. **Conclusion**
11. We trust that you will find this submission useful. Should you have any comments or questions, please do not hesitate to contact Amy-Leigh Payne at [amyleigh@lrc.org.za](mailto:amyleigh@lrc.org.za).

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