



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

**DBE's response to the UN office Special
Rapporteur on the sale and exploitation of
children, including child prostitution, child
pornography and other child sexual abuse
material**

1. What forms of existing societal norms, practices/behaviours (cultural, social, traditional or other) may explicitly or implicitly involve and /or manifest sale and sexual exploitation

Though the country is governed by the Constitution, which promotes equality and non-discrimination, there are instances where culture and tradition still continue to perpetuate societal norms, practices/behaviours that may have a negative impact on children, especially girl children, on how they perceive themselves as lesser equals to boys, and boys upholding toxic masculinity of superiority over the feminine gender. In a number of interventions, from different sectoral levels of communities, capacity and resilience are the cornerstone.

2. How is gender and gender identity incorporated in existing legislative and policy frameworks on the eradication and prevention of the sale and sexual exploitation of children? South Africa's constitution is underpinned by values of human rights where every person is afforded these rights without fear or favour. As such no unfair discrimination directly or indirectly against any person based on their race, gender, sex, pregnancy, marital status, ethnic or social origin, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. Therefore any existing or emerging piece of legislation or policy and tested for compliance against the constitution and, if found to be unconstitutional, processes are instituted to initiate the alignment exercise.
3. Please provide information on relevant legislation or policy on the implementation of integrating gender dimension in the prevention and eradication of sale and sexual exploitation of children, online and offline.

Constitution of the Republic of South Africa, 1996

This is the supreme law of the country. In its Preamble, the Constitution is clear on affording every citizen their human right in a just and fair manner. In that light, Chapter 2 which covers Bill of Rights, the realisation and application of these rights are underpinned under equality and non-discrimination clause.

National Education Policy Act, 1996 (Act No.27 of 1996)

Section 4(c) of NEPA provides for the achievement of equitable education opportunities, the redress of past inequalities and the advancement of the status of women.

South African Schools Act, 1996 (Act No.84 of 1996)

In the preamble, SASA undertakes to combat racism, sexism and all other forms of unfair discrimination and intolerance.

South African Council for Educators Act, 2000 (Act 31 of 2000)

The Act maintains and protect ethical and professional standards for educators. It establishes the Code of Conduct for Educators.

Employment of Educators Act, 1998 (Act 76 of 1998)

The Act intends to provide for the employment of educators by the State, for the regulation of the conditions of service, ***discipline***, retirement and discharge of educators and for matters connected therewith.

Protocol on the Managing & Reporting of Sexual Abuse & Harassment in Schools, 2019, provide schools, districts and provinces with standard operating procedures for addressing allegations, and to specifically detail how schools must respond to reports of sexual abuse and harassment perpetrated against learners, educators and other school staff.

b) what are the existing gaps and challenges in incorporating the gender dimension in legislations, policies and practices? – policies / legislative frameworks are gender sensitive in paper. However, the big challenge is their implementation of their applications. Cultural norms do play a role in delaying the implementation of gender sensitive dimensions. There is also very little guidance to schools on the social inclusion of diverse sexual orientations and gender identities, hence the DBE has now

initiated a process of developing school guidelines for the social inclusion of Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC).

4. Please provide contextual information on any existing good practices, policies or legislation tackling sale and sexual exploitation of children that include a gender that takes into account different gender identities –

All of South African legislation frameworks are against exploitation of children and discrimination in any form including sexual orientation. The Constitution as an overarching framework gives clear guidance on a non-discriminatory frameworks that have to be undertaken. For DBE in particular, there is some work that is being undertaken on the inclusion guidelines of Sexual Orientation Gender Identity & Expression & Sexual Characteristics (SOGIESC).

5. What institutional, regional and national legal frameworks are in place to integrate gender dimension in the prevention, prohibition and protection of children from all forms of sale, sexual abuse and exploitation?

Southern African Development Community (SADC) Protocol on Gender and Development of 2008 – in article 22, the protocol requires that the state parties enact legislative provisions, and adopt and implement policies, strategies, and programmes which define and prohibit sexual harassment in all spheres, and provide deterrent sanctions for perpetrators of sexual harassment.

African Charter on the Rights and Welfare of the Child of 1990 – establishes that every child has a right to education, to develop his or her personality, talents and mental and physical abilities to their fullest potential (Article 11). According to the Charter, should be protected from all forms of torture, inhumane or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse (Article 16).

South African Constitution of 1996 has a chapter dedicated to the Bill of Rights where every citizen may not be unfairly discriminated against anyone one or more of the following grounds including race, gender, sex, pregnancy, marital status, ethic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

SADC Care and Support for Teaching and Learning (CSTL) Framework - provides the over-arching initiation and expansion of care and support activities in and through schools. It is intended to coordinate and harmonise implementation to enable the delivery of a seamless package at school level, with the leadership of the Department of Education (national and provincial). The framework also places the care and support needs of teachers centrally in ensuring optimum teaching and learning. DBE recognises that barriers to education include:

- **Intrinsic barriers:** Located largely within the individual child, such as physical, mental and health related problems.
- **Systemic barriers:** Such as inadequate infrastructure, inappropriate teaching methods or materials, poorly trained teachers, insufficient support for teachers, and policy and curriculum issues.
- **Societal barriers:** Including severe poverty, unemployment, inadequate care-giving arrangements, child labour and violence against children including gender based violence, and HIV and AIDS.

Protocol for the Management & Reporting of Sexual Abuse and Harassment in Schools has been developed to equip the Department at all levels, especially School Management Teams (SMTs) with necessary guidelines to manage and effectively report all incidences of sexual abuse and harassment. It further provides a guide to the management and reporting of sexual abuse and harassment, ensuring an appropriate and timely responses to cases perpetrated against learners and educators. It responds to the need for a standardised response to allegations by learners, whether they are perpetrated by fellow learners, educators or by other persons.

Education White Paper 6 on Inclusive Education (2001) describes the Department of Education's intention to implement inclusive education at all levels in the system. The system will facilitate the inclusion of vulnerable learners and reduce the barriers to learning through targeted support structures and mechanisms that will improve the

retention of learners in the education system, particularly learners who are prone to dropping out.

6. What forms and manifestations do gender dimensions take in the context of the eradication and prevention of the sale and sexual exploitation of children, boys in particular, including online, and which ones are the most prevalent. Please provide information about causes and manifestations of gender dimension, and how it affects the eradication and prevention of sale and sexual exploitation of children.

South Africa participated in a regional study conducted between July 2018 and January 2019, a desktop review and in-depth fieldwork in four SADC Member States; Eswatini, Lesotho, Malawi and South Africa. The study aimed to undertake and understand boys' vulnerabilities with regards to supporting gender equality and female empowerment, as well as to address their own specific social, emotional and development needs, including their access to sexual and reproductive health and rights services. There were 4 major findings which prompted the current strengthening of the promotion of positive masculinity; socio-economic vulnerabilities and gender norms, knowledge and attitudinal vulnerabilities, vulnerabilities around HIV testing and access to care and behavioural vulnerabilities. Such vulnerabilities unearthed the necessity to strengthen existing services, support to parents as well as access to services. In response and in support of the study, DBE began some advocacy work focusing on the promotion of positive masculinity through social media platforms.

7. Please indicate any specific measures aimed at reducing vulnerability of children to sale and sexual exploitation in a gender and disability responsive, as well as age and child sensitive manner.

There are particular topics covered in the *Curriculum under Life Orientation* subject such as Development of Self in Society. Under this topic information on Comprehensive Sexuality Education, emotional changes, maturing personality, depth and control of emotions, feelings of insecurity, changing needs, interests, feelings, beliefs, values and sexual interest, strategies to make responsible decisions regarding

sexuality and lifestyle choices are shared. However, it is important to note that age appropriateness and the development stages of children is always considered when sharing this information.

Jamboree for Future Choices - is a service delivery platform seeking to promote socially cohesive and inclusive schools. The platform addresses barriers related to *social welfare, life skills and career development services* for marginalised groups. Through this platform schooling communities have access to a range of services aimed developing socially inclusive practices focused on addressing the inequities of the past. This “*platform*” augments the deliverable highlighted by the Curriculum and Assessment Policy Statement (CAPS) in its intent of equipping learners, irrespective of their socio-economic background, race, gender, physical ability or intellectual ability, with the knowledge towards skills acquisition, values, self-fulfilment and a meaningful participation in society.

Girls and Boys Education Movement (GBEM) – This the gender empowerment schools programme called Girls and Boys Education Movement. The aim of the programme is to encourage girls and boys to work together as equals and to foster respect for the human dignity and rights of both sexes. The programme is biased towards girls from disadvantaged backgrounds to ensure their retention at school but particular emphasis is put on promoting the uptake of Science, Technology, Economics and Mathematics (STEM) subjects especially among girls.

Care and Support for Teaching and Learning (CSTL) Framework situates the DBE as a lead agency in addressing school-level barriers to education within a larger collaborative and multifaceted response that addresses the multiple barriers to education that vulnerable children face. It offers a comprehensive, coordinated, multi-sectoral response to address the barriers to teaching and learning for learners and educators. Its goal is to realise the education rights of all children through schools becoming inclusive centres of learning, care and support.

8. What measures and safeguards can be put in place to identify the protection needs of vulnerable children in order to prevent, prohibit and protect them from all forms of sale and sexual exploitation, including examples of child friendly, independent, timely and effective reporting and complaints mechanisms made available without discrimination in child friendly spaces at community, national and regional level

The Department understands and supports collaborations with other government departments such as department of Social Development who by their mandate, will submit the country's statistics on the sale of and exploitation of children. Further than that there are national organisations and civil society groups that contributes to the prevention and protection of children. For an example, Childline, Lifeline, South African Police Service Crime Stop & Emergency, Teddy Bear Clinic, Tshwaranang Legal Advocacy Centre, People Opposing Women Abuse etc. On the other hand, Chapter 9 Institutions such as Commission on Gender Equality, South Africa Human Rights Commission, Foundation for Human Rights assists largely with advocacy work around prevention of maltreatment for children.

9. Please indicate any other areas of concern and provide any additional information, which is relevant in the context of gender dimension and eradication of sale and sexual exploitation of children –

in South Africa, the Constitution, which is the fundamental guide in the work that government pursues; prohibits unfair discrimination directly or indirectly against any person based on their race, gender, sex, pregnancy, marital status, ethnic or social origin, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. The challenge is in the realisation, implementation and interpretation of all of the relevant pieces of legislation, prescripts, laws, policies etc

10. In what context do external environment factors exacerbate the prevalence and / or magnitude of sale and sexual exploitation of children. Do the vulnerabilities of the surrounding environment play a significant role in terms of rural/urban; war/conflict zones, different forms of migration, emergency contexts (e.g natural & manmade disaster, climate change, COVI 19) and religious context –

With the advent of COVID 19, one opportunity presented has been more usage of online, virtual and digital interactions. As such, children are also forced to learn using technology-based methods. With this online teaching, comes a responsibility of teaching children digital literacy so they are aware of possibilities of unsafe internet usage. Lack of access and affordability is another presenting challenge especially in a country like South Africa where inequities still largely persist.