



## women, children & people with disabilities

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Department:  
Women, Children and People with Disabilities  
**REPUBLIC OF SOUTH AFRICA**

### **THE UN CONVENTION ON THE RIGHTS OF THE CHILD**

**South Africa's Combined Second, Third and Forth Periodic State Party  
Report to the Committee on the Rights of the Child  
(Reporting period: 1998 - June 2012)**

## **CONVENTION ON THE RIGHTS OF THE CHILD**

### **Combined Second, Third and Forth Periodic State Party Report to the Committee on the Rights of the Child**

**South Africa**

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**Note:** This document contains information collated from a variety of sources, including national and provincial consultations. Information in this report needs to be validated by the respective government clusters prior to submission to Cabinet. Thus, this report is not to be cited or used as an information source.

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## Acronyms

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ANA	Annual National Assessments
CDG	Care Dependency Grant
CGE	Commission on Gender Equality
COP	Child online protection
CSG	Child Support Grant
DAC	Department of Arts and Culture
DBE	Department of Basic Education
DOH	Department of Health
DHA	Department of Home Affairs
DHET	Department of Higher Education and Training
DOJCD	Department of Justice and Constitutional Development
DPME	Department of Performance, Monitoring and Evaluation
DORD	Department of Rural Development
DOSR	Department of Sport and Recreation
DWCPD	Department of Women, Children and People with Disabilities
ECD	Early Childhood Development
ECE	Early childhood education
FET	Further Education and Training
FPB	Film and Publications Board
GDP	Gross Domestic Product
GET	General Education and Training
HR	Human Resource
ICC	Infrastructural Coordination Committee
ICTs	Information and Communication Technologies
LiEP	Language in Education Policy
M & E	Monitoring and Evaluation
NEEDU	National Education Evaluation and Development Unit
NELDS	National Early Learning and Development Standards
NPA	National Prosecuting Authority
NPAC	National Programme of Action for Children
NPACSC	National Programme of Action Steering Committee
NPR	National Population Register
OPAC	Optional Protocol on the Involvement of Children in Armed Conflict
OPSC	Optional Protocol on the Sale of Children
ORC	Office on the Rights of the Child
PDOU	Planning and Delivery Oversight Unit
PMTCT	Prevention of Mother to Child Transmission
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association

SALRC South African Law Reform Commission  
UNICEF United Nations Children's Fund

## Introduction

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1. The Government of South Africa is pleased to present to the Committee on the Rights of the Child South Africa's combined Second, Third and Fourth Report under the Convention on the Rights of the Child (UNCRC). South Africa ratified the UNCRC on 16 June 1995, presented its first report in 1998 and received the Committee's concluding observations in 2000. South Africa has also ratified two Optional Protocols to the Convention. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2003 and the Optional Protocol on the Involvement of Children in Armed Conflict in 2009 and is pleased to present both initial reports together with this combined periodic report. This report provides information on measures that have been taken between 1998 and 2012 to ensure fulfillment of South Africa's obligations to children as articulated in the UNCRC.
2. One of the main achievements during this reporting period was the establishment of the Department of Women, Children and People with Disabilities (DWCPD) in 2009 to improve the coordination of policies and monitoring mechanisms for children. The Convention's implementation in the nine Provinces of South Africa is coordinated and monitored by Offices on the Rights of the Child located in the offices of Premiers. Through the Government Wide Monitoring and Evaluation Framework, a National Plan of Action for Children and a national set of child rights and wellbeing indicators, the government of South Africa promotes and coordinates and monitors the mainstreaming of children's rights in all its policies and programmes.
3. South Africa has made remarkable progress to accelerate the implementation of the Convention since its first report. Using a poverty line equivalent to \$2 a day, child poverty in South Africa has dropped by about 19 percentage points between 2003 and 2010. This drop in child poverty can be mainly accounted for by progressive child centered policies, in particular the expansion of the social assistance programmes. Many vulnerable families and children were therefore assisted to avoid substantial decline in their living standards during the global economic downturn of 2008-2009.
4. The Department of Health and UNAIDS data show substantial progress in preventing mother-to-child transmission of HIV since the 2004. The number of HIV positive pregnant women receiving anti-retrovirals increased from an estimated 32, 500 in 2004 to 250,100 in 2010. This resulted in a substantial drop in new child infections during this period. Progress has also been made over the past decade in the implementation of the national PMTCT programme that has enabled South Africa to reduce mother-to-child transmission of HIV to an estimated 2.7% at six weeks after birth.
5. Despite the significant improvements made, and while South Africa remain relentless in its efforts to address the rights and wellbeing of children significant challenges remain. Improved investments are being made in the areas of health, education, and the protection of vulnerable children. The child protection system is an area of grave concern. The number of children in need of care and protection remains unacceptably high. Government is seriously addressing the compounding realities of the inadequate

numbers of child protection workers, better funding arrangements with service providers in the non-government sector and accelerating the enhancement of child welfare information and monitoring systems.

6. Civil society and the SA Human Rights Commission play an important role in the implementation of the Convention. Non-government organizations have indicated that they will separately report to the Committee on the implementation of the Convention from their perspective. The Government looks forward to their positive contribution in the dialogue with the Committee.

7. The content and structure of the report are informed by the Articles of the Convention, the Committee's reporting guidelines and General Comments that have a bearing on each topic. The report takes cognizance of the UN Committee's Concluding Observations on the last country report submitted in 1998 and addresses these directly where relevant.

8. Given the extended period under review and with consideration of the stipulated page restrictions, the body of the report focuses on high level developments only. Statistical information is provided in Annexures 1A-1H and supplementary narrative is included in Annexures 2A-2N.

9. The report draws primarily on information provided by various Government Departments and obtained from Government reports, policies, strategies and plans. Input was also obtained through a series of provincial consultations with Government and civil society stakeholders held in July and August 2012.

10. The government of South Africa acknowledge with appreciation the technical support received from UNICEF South Africa during the preparation of this report.

11. The report highlights the significant progress that has been made since 1998 in bringing South Africa's legislative framework in line with international obligations. It also recognises areas requiring further attention, particularly in the area of policy implementation.

## **II. Common Core document**

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ANNEXURE: Department of Justice and Constitutional Development and DIRC: To be completed.

### III. Treaty-specific report

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#### Part 1: General measures of implementation

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##### 1.1 Ratification, reservations or declarations relating to the Convention, other international and regional instruments and Optional Protocols

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12. Since the submission of the last report the State has ratified a number of International and Regional Conventions and Optional Protocols (see Common Core for comprehensive list). Of particular note is its ratification of:

- The Optional Protocol on the Sale of Children (OPSC) on 30 June 2003; and
- The Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) in 2009.
- African Charter on the Rights and Welfare of the Child 7 January 2000.
- The International Covenant on Economic, Social and Cultural Rights has not yet been ratified as per the Committee's **concluding observation No. 11**. The ratification process is in progress.

##### 1.2 Measures taken to bring domestic legislation and practice into full conformity with the Convention and its Optional Protocols

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13. The State has, in compliance with the Committee's **concluding observation number 10**, continued its efforts in the area of legal reform to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention. Acting through the South African Law Reform Commission (SALRC), the legislature and the judiciary, the State has reviewed and, where relevant, revised a number of laws which has resulted in their closer alignment with the Convention and the OPSC and OPAC. These revisions are dealt with in detail in the substantive components of this report. The following list provides an overview of some of the significant and systemic review processes and outcomes.

14. During the course of the last ten years, the SALRC has reviewed at least seven legal frameworks that impact on children's rights. These included the child justice framework, the Child Care Act (1983), customary law, the laws governing sexual offences, child trafficking, and family law. A detailed list of the relevant reviews is documented in annexure 2A.

15. In addition, the judiciary has played an active role in reviewing the adequacy and the promotion of laws that are compliant with the Convention and Optional Protocols. Notable rulings are listed in annexure 2B.

16. As a result of the various law reform processes, the current legal framework is more closely aligned with the provisions of the Convention and its Optional Protocols. Whilst a more comprehensive statement of compliance is documented in the remainder of the report, the following list provides a synopsis of key areas of harmonization since submission of the last State report:

- (a) The Children's Act (2005) (as amended) has aligned the age of a child with the Convention. It provides a comprehensive legal framework for the protection of children from all forms of abuse, neglect and exploitation and responds to South Africa's international obligations under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
- (b) A number of provisions introduced by the Children's Act (2005) are of particular relevance to the Committee's **concluding request No. 10** that the State continues revising customary laws to comply with the Convention. These include the outlawing and/or regulation, in terms of the Children's Act (2005), of harmful customary practices such as virginity testing and male circumcision in the case of children that are younger than 16 years.
- (c) The Sexual Offences Act (2007) increased the age at which children are capable of, and may consent to sexual intercourse to 16 years, and in so doing equalised the situation for boys and girls.
- (d) In terms of the Children's Act (2005) and the Child Justice Act (2008), all organs of state are now expressly required to make decisions based on the best interests of the child, which is also safeguarded in section 28(2) of the South African Constitution.
- (e) Children's right to be heard has found formal recognition in, inter alia, the Children's Act (2005) and the Child Justice Act (2008).
- (f) The Children's Act (2005) brings South African child care and protection legislation for disabled children in line with the Convention.
- (g) Similarly, the Children's Act (2005) and the Child Justice Act (2008) expressly require the prioritization of action and resources for vulnerable children.
- (h) The Child Justice Act (2008) has introduced a number of changes, including for example, increasing the minimum age of criminal capacity from 7 to 10 years and the introduction of a rebuttable presumption of criminal incapacity in the case of children between the ages of 10 and 14 years which more closely aligns the law with article 40 of the Convention.
- (i) The Defence Act (2002) aligned the law with the provisions of the OPAC when it changed the minimum age for recruitment into the Defense Force from 17 to 18 years.
- (j) The universalization of a formal pre-primary year (Grade R) through the public school system in terms of White Paper 5 on Early Childhood Development (2001) has made early childhood education in the year prior to the start of formal schooling universally available.
- (k) The introduction of pro-poor education policies such as "no-fee" schools in the poorest three quintiles and school fee waivers for poor learners in fee-paying schools through the National Norms and Standards for Public School Funding (1998, as amended) and the Exemption of Parents from the Payment of School Fees regulations (1998, as amended) has made primary and secondary education free for more children.
- (l) The introduction of Education White Paper 6: Special Needs Education – Building an Inclusive Education and Training System (2001) provides the legal framework for the equalisation of educational opportunities for children with disabilities and other special needs.

17. The State has developed a revised National Plan of Action for Children (NPAC) which is integrated within the broader national developmental context as well as a monitoring and evaluation framework to assess the implementation thereof.

18. As was reported in the 1998 report, a NPAC was developed under the leadership of the multi-sectoral National Programme of Action for Children Steering Committee (NPASC). Subsequently the organisational arrangements for the coordination, implementation and monitoring of the NPAC were strengthened and more closely aligned with the national development planning processes and priorities. The NPASC was initially replaced with the Office on the Rights of the Child (ORC), and in 2009 the ORC was replaced with a dedicated Ministry and Department for Women, Children and People with Disabilities (DWCPD). Its mandate is to promote, coordinate and monitor the mainstreaming of the rights of women, children and people with disabilities into all national, provincial and local government policies and programmes.

19. The DWCPD has initiated a process of drafting a revised National Plan of Action for Children (NPAC) 2012 – 2017 which establishes a “mechanism that enhances coordination, collaboration and mainstreaming of children’s rights by providing a holistic framework for the integrated programming, organization and implementation of inter-sectoral programmes for the betterment of the situation of children in South Africa.” It is informed by the principles and provisions of the Convention and is linked with the Government’s development priorities, plans and prescribed outcomes so as to secure the integral positioning of children on the national development agenda. It sets clear and achievable children’s rights-based goals within each of the national priority development areas and requires all stakeholders to mainstream the realisation and resourcing of the targeted children’s rights within their own sectoral / departmental policies, plans, programmes and budgets.

20. The DWCPD is vested with the authority to coordinate, monitor implementation and report on the Convention, its Optional Protocols, and the NPAC.

21. Responsibility for the coordination, implementation, monitoring and reporting on the NPAC, and the Convention and its Optional Protocols, is housed within the DWCPD.

22. Cabinet is responsible, through the Government Wide Monitoring and Evaluation System, for ensuring the effective translation of the NPAC into national sectoral policies and programmes. Each Ministry must ensure that children’s rights indicators and the targets set in the monitoring and evaluation strategy of the NPAC are mainstreamed in his or her department. The provincial Premiers and the Mayors of all municipalities will be responsible for ensuring the implementation of the NPAC at provincial and local levels.

23. A National Interdepartmental Committee has been established under the leadership of the DWCPD to monitor and report on the implementation of the NPAC. It will consist of representatives from all government departments and will facilitate participation by civil society.

24. Provincial Steering Committees will develop Provincial Plans of Action for Children (PPAC). At municipal level, Municipalities will develop Local Plans of Action for Children (LPAC) coordinated by municipal managers. This arrangement will address the Committee's **concluding requests No. 12 and 16 that the activities** of the NPASC be established in rural areas and at community level and that measures be taken to promote capacity-building among community-based organisations and to ensure their inclusion in the coordination, promotion and implementation of the Convention. A number of the provinces have already made progress in developing provincial plans and processes.

25. The DWCPD has developed a monitoring and evaluation (M & E) framework to measure progress towards realisation of children's rights. The framework includes a national set of key indicators to measure progress in the realisation of rights guaranteed by the Convention for all children, as well as for especially vulnerable groups of children. It forms an integral part of the Government Wide M&E system. The shape and integration of the DWCPD's M & E framework within the broader national M & E framework responds to **concluding request No. 14** that the State should develop a data collection system capable of the systemic and comprehensive collection of disaggregated data covering all areas of the Convention for all children up to the age of 18 years with a specific emphasis on children that are especially vulnerable.

26. The proposed integrated multi-sectoral and multi-level institutional framework for the development, implementation, coordination and monitoring and evaluation of the NPAC will, in response to **concluding observation No. 12**, strengthen coordination between the ministries and departments responsible for the implementation of the Convention.

27. Budgets for the implementation of the Convention and its Optional Protocols are provided for through the DWCPD's budget and the budgets of the different government departments responsible for children's programmes.

28. The DWCPD's budget has doubled since 2009 (R4,5 billion) to R10,1 billion in 2012/13. However, it must be noted that the budget remains small by comparison to other budgets and this creates some challenges for the effective fulfillment of the Department's role.

29. Departmental budgets are not structured according to the NPAC, but according to the broader national development plan of action and outcomes within which children's rights are integrated. It is clear from the comparative table below (information provided by relevant Departments), that departmental budgets which impact on the well-being of children have increased substantially over the last decade. Overall, the budgets allocated by the National Treasury for the realisation of children's rights increased from R6, 1 billion in 2008/9 to R21, 3 billion in 2014/15 at an annual average rate of 23%. Of particular note is the growth in the budgets for education, health, and basic services and housing. These have, and continue in 2012, to be the largest categories of State expenditure. This growth is indicative of the high priority placed on the realisation of the economic, social and cultural rights of children in accordance with the Committee's **concluding request No. 15** that the State prioritise budgetary allocations to ensure implementation of the economic, social and cultural rights of children to the maximum extent of available resources.



## Departmental budgets for 2001/02 and 2012/13 (SA RAND)

Department / Programme Budget	2001/2002	2012/13
Education budget (including basic education and higher education)	147,2 billion	207 billion
Health	34,4 billion	121 billion
Water and Sanitation	4,2 billion	32,1 billion
Social Development	31,6 billion	157,9 billion
Justice and Constitutional Development	17 billion (2008)	196,6 billion
Department WCPD	4,5 billion (2008)	10,1 billion

See statistical annexure 1A for more information on programme budgets.

30. Despite the growth in the budgets, the State recognises that the allocated resources are not sufficient to adequately meet demand for services in terms of laws such as the Children's Act (2005), the Child Justice Act (2008), and the Sexual Offences Act (2007). However, systems are in place to ensure that resources are progressively increased through the National Treasury's three year funding cycle which makes provision for the motivation of increased funding based on clearly defined programme objectives, and for the prioritised allocation of funds for the realisation of the rights of especially vulnerable groups. Please refer to Parts 5, 6, 7 and 8 for further discussions on the budgets in relation to these laws.

31. International assistance and development aid has been received for the implementation of the Convention.

(a) The State receives technical and financial support for the implementation of the Convention from the UN family, including UNICEF, UNAIDS, UNFPA and the UNDP. In addition, support is received from international aid and development agencies such as the IDC, USAID, Save the Children and others.

(b) There is scope for growth in the level of technical and financial assistance provided by UN agencies in South Africa, especially in respect of capacity development of officials and programmes targeting vulnerable groups. The standard five year support programmes do not allow sufficient time for stakeholder engagement, planning and implementation.

32. A national human rights institution has been established in the form of the South African Human Rights Commission (SAHRC).

(a) The SAHRC has the authority to receive, investigate and resolve complaints about rights abuses from children. Children can lodge their complaints directly with the SAHRC, or they can be lodged by others acting on their behalf. The SAHRC has a Commissioner dedicated to attend to the rights of children and is finalising the process it started, in response to the Committee's **concluding request No. 13**, to establish clear child-friendly procedures to register and address complaints from

children. The Commission has used these powers to address matters ranging from the unlawful expulsion of children from schools, hate speech at schools, poor school infrastructure, abuse of disabled learners, protection of the right to use home language at school, and numerous others.

(b) In addition, the SAHRC is authorised to conduct investigations into alleged rights abuses which impact on broader communities. It has exercised these powers to monitor and restore the enjoyment of children's rights. For example, it has conducted inquiries and produced reports on (a) the deaths of infants at the Mthatha hospital in the Eastern Cape (2011); (b) the realisation of economic and social rights in 1998, 1999, 2000, 2002, 2006, and 2009; (c) initiation practices at educational institutions (2001); (d) Child sexual offences (2002); (e) school based violence (2006); (f) the right to basic education (2006). The Commission is currently developing a Charter of Basic Education Rights to promote and assess the realisation of the right to education for children in South Africa; (g) violence against non-nationals (2010); and (h) access to water and sanitation (2012).

(c) It is noted, in response to the Committee's **concluding request No. 13** for increased allocation of human and financial resources to the Commission that the SAHRC's budget increased to R100 million in 2011.

33. Additional independent institutions with powers to receive complaints about human rights abuses include the Public Protector, the Public Service Commission, and the Gender Equality Commission. These are described in more detail in the common core document.
34. The principles and provisions of the Convention and its Optional Protocols have been made known to adults and children through the following interventions:
- (a) The DWCPD has conducted consultations and raised awareness on the UNCRC, the ACRWC and the NPAC and its monitoring framework with national, provincial and local level stakeholders including children. In so doing it has responded to the **concluding request No. 16** that the State take measures to ensure that the Convention is widely known and understood by adults and children in rural and urban areas.
- (b) Various implementing departments and non-governmental organisations have engaged in advocacy, communications campaigns and training for children, families and service providers about the rights of children, the services they provide and how to access them. The inclusion of these communications and training programmes within the various departmental agendas has allowed for a systemic and integrated approach to awareness-raising, training and sensitization of all stakeholders, including traditional community leaders and professionals working with children as called for by the Committee in its **concluding observation No. 16**. See annexure 2C for a comprehensive statement of communication and training interventions by for example, the Departments of Justice and Constitutional Development (DOJCD) and Basic Education (DBE), the Film and Publication Board and others.
- (c) There has been cooperation with civil society, children and the youth in the planning, monitoring and implementation of the Convention and associated laws. The relationship between government and civil society in this regard is robust and constructive.

35. Laws such as the Children’s Act (2005) and the Child Justice Act (2008) have been shaped through constructive engagement with a diverse range of civil society stakeholders acting through a structures such as the Child Care and Protection Forum, the Children’s Bill working group, Child Justice Alliance and others.

36. Civil society plays a central role in the implementation of services to children supporting the provisions of the Convention. Registered NPOs are subsidised by the various departments to fulfill their statutory commitments to children. A key challenge revolves around the limited funding that is made available for these activities. Various measures are in place to improve the resourcing of services provided by civil society, including the development of a new Policy on Financial Awards to Service Providers (2011) which aims to ensure the adequate resourcing of comprehensive social services to protect the poor and vulnerable.

37. Civil society’s advocacy, awareness-raising, and training interventions have been important in fulfilling the State’s obligations to ensure knowledge of the Convention and its Protocols. Often government departments are hard-pressed to fulfill these roles because of budget constraints and the pressure to prioritise expenditure on delivery of services.

38. The new NPAC and the supporting M&E framework have been developed through a consultative process which has included both civil society and children. Moreover, the institutional arrangements that will be established for implementation and monitoring purposes will include representation from civil society organisations. These matters are dealt with more extensively earlier in this part of the report under the issue of development, coordination and implementation of a comprehensive plan of action for children.

### 1.3 The regulation of business activities that impact on children

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39. The State regulates the conduct of a number of private entities in sectors ranging from health, to the media and the environmental sectors, so as to ensure that the rights of children are not compromised. A selection of regulatory measures are listed in annexure 2D.

## Part 2: Definition of the child

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### 2.1 The age of majority

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40. The Constitution defines a child as any person under the age of 18. The Children's Act (2005) provides that a child is anyone younger than 18 years, and that a child becomes a major when he or she turns 18 years. See statistical annexure 1B for more information on the child population.

41. The protection of children's socio-economic and protection rights afforded by S 28 of the Bill of Rights (South African Constitution) and the Children's Act (2005) extends to all children as defined.

### 2.2 The age of marriage

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42. The age at which children may lawfully enter into marriage remains largely unchanged since the last report. In terms of the common law, the Children's Act (2005), the Marriages Act (1961), and the Recognition of Customary Marriages Act (1998), the minimum age for marriage without consent is 18 years. The Children's Act (2005) prohibits all marriages (both civil and customary marriages) of children below the minimum age for a valid marriage which is 12 years for girls and 14 years for boys.

43. Children under the age of 18 may marry, subject to their age, their consenting thereto and the consent of either their parents or the Minister of Home Affairs. The position is different for boys and girls depending on their ages, and is different in the case of civil versus customary marriages.

44. In terms of the Marriages Act, girls aged 15 – 17 may enter a civil marriage provided they consent thereto, and provided they have their parents or legal guardian's consent. Girls aged 12 – 14 may marry with the consent of the girl, her parents' or guardians' consent, and the consent of the Minister of Home Affairs.

45. The situation for boys is different. Boys aged 14 to 17 years may enter a civil marriage subject to the boy's, their parents' or guardians' consent and the consent of the Minister of Home Affairs.

46. In the case of customary marriages, girls aged 12 – 17 years may marry provided the girl, her parents and the Minister of Home Affairs or an officer in the public service authorised by the Minister consent to the marriage.

47. Boys aged 14 to 17 may conclude a customary marriage provided the boy, his parents and the Minister of Home Affairs or an officer in the public service authorised by the Minister consent to the marriage.

48. In 2008, a total of 524 children concluded civil marriages, 509 were girls and 15 were boys. The majority were older than 16. See table 9 in statistical annexure 1B for more information. The DWCPD will be conducting public hearings to improve compliance with the prescribed minimum age of marriage.

### 2.3 Age of contracting, litigating and other acts linked to legal capacity

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49. Upon attaining the age of 18 or upon marriage, a child acquires legal capacity to contract and to litigate in his or her own name. The general rule is that children younger than 18 years require the assistance of their parents, guardians or legal representatives to contract or litigate.

### 2.4 Age of sexual consent

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50. In terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act (2007) (hereinafter referred to as the Sexual Offences Act), the age at which children may consent to sex is 16 years and above. However, the Act criminalizes acts of consensual sexual penetration with a child aged 12 years or older, but under the age of 16 years. . As such, the Act answers **concluding request No. 17** to increase the legal minimum age for sexual consent for both boys and girls and ensure non-discrimination against girls in this regard.

51. In terms of the Sexual Offences Act (2007) it is an offence for a person to have sex with a child who is younger than 16 years of age. The primary aim of the law is to protect children from sexual exploitation by adults. It therefore criminalises all cases of adult-child sexual activity with children younger than 16 years, notwithstanding their consent, in view of their inherent vulnerability to sexual exploitation by adults. The Act draws no distinction between the age of boys and girls, but does distinguish between children between the ages of 12 and 16 and those younger than 12. Children between the age of 12 and 16 are technically regarded as capable, but not mature enough to consent to sex, whereas children younger than 12 years are regarded as incapable of consenting to sex. The Act criminalises both cases of sexual intercourse, however the nature of the crime differs. In the case of children between the age of 12 and 16, the offence is statutory rape, whereas in the case of children younger than 12, the crime is rape or sexual violation which carries the possibility of more severe sentencing.

52. The Act not only criminalises sexual activity by an adult with a child below the prescribed minimum age, it also has the effect of criminalizing consenting sexual activity between a child between the ages of 16 and 18 with another child aged between 12 and 16 as well as consenting sex between two children aged between 12 and 16 years. In its review of sexual offences legislation which preceded the drafting of the Sexual Offences Act, the SALRC recognised that the proposed law reforms could result in the prosecution of sexual experimentation between consenting children between the ages of 12 and 16 years. The SALRC confirmed that it had “no desire to have these consensual acts between peers criminalised.” To avoid the prosecution of all cases of sexual experimentation, the Act grants wide discretionary prosecution powers in cases of peer sexual activity and prescribes, standardizes and limits how the prosecutorial discretion should be exercised.

53. A court case has been lodged challenging the constitutional validity of the relevant provisions of the Act. The applicants argue that the Act, notwithstanding the in-built protections, unlawfully criminalises consensual sex between children. As at the date of writing this report, no judgment had been delivered. Should the court find that the relevant sections of the Sexual Offences Act unconstitutional, the matter will have to be referred to the Constitutional Court for confirmation (*The Teddy Bear Clinic for Abused Children*

and *RAPCAN v The Minister of Justice and Constitutional Development and the National Director of Public Prosecutions*, 2010).

## 2.5 Ages impacting on customary law

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54. A number of age-related provisions introduced by the Children's Act (2005) are of particular relevance to the Committee's **concluding request No. 10** that the State outlaw customary laws that do not comply with the Convention. Section 12 of the Act limits the age at which girls and boys may participate in customary practices. It prohibits virginity testing and male circumcision in the case of children younger than 16 years. In the case of boys under the age of 16 years, they may be circumcised for religious purposes or medical reasons. In both cases, all children, regardless of their age, have the right to refuse to be subjected to these customs. In addition, section 12(2) prohibits the arrangement of marriages or engagement of children below the minimum age for a valid marriage.

55. Despite intensive consultation with traditional leaders and communities during the development of these provisions in the Act, the provincial consultations reported that there is widespread disregard of these limitations. Many under-age boys are circumcised and girls under the age of 16 years are subjected to virginity testing. There was also a general consensus that the provisions for child marriages require further review.

## 2.6 Alcohol and gambling

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56. The Liquor Act (2003) and the National Gambling Act (2004) prohibit the sale of alcohol to anyone under the age of 18 years and prohibits all children from gambling.

## 2.7 Minimum child labour age

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57. Whilst the Basic Conditions of Employment Act (1997) protected children younger than 15 against child labour at the date of the last State report, in 2010 revised Regulations (Government Gazette Notice No 7, 15 January 2010) introduced additional protection for children aged 15 – 18 against harmful or hazardous employment. Please refer to Part 8 Special Protection Measures for further details. Moreover, no children may be employed to sell or supply alcohol and may not be employed in the South African Police Service (The Liquor Act (2003) and the Department of Safety and Security Regulations to the Police Service Act (1964).

58. Whilst the law is clear in terms of minimum labour ages, a number of challenges were noted during the provincial consultations in provinces such as Mpumalanga, Northern Cape and the Free State where low levels of knowledge and insufficient implementation resources contribute to disregard of the minimum age limits.

## 2.8 Minimum age for recruitment into the defence force and gun ownership

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59. The Defence Act (2002) changed the minimum age for recruitment into the defence force from 17 to 18 years and in so doing have aligned the law with the provisions of the OPAC. The age at which one can apply for a firearm license has increased from 16 to 21 years in terms of the Firearms Control Act (2000).

## 2.9 Minimum age for consenting to medical treatment and health care

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60. The Children's Act has reduced the age of consent to medical treatment to the age of 12, provided that the child is of sufficient maturity and has the necessary mental capacity to understand the associated risks and benefits. Specific provision is made for children aged 12 years and older to be able to access condoms and contraceptives, subject to the provision of medical advice and a medical examination in the case of contraceptives.

61. The 12 year age-limit does not apply in the case of a child's right to secure a termination of pregnancy. The Choice on Termination of Pregnancy Act (1996) read together with the Children's Act affords all girls, regardless of their age, the right to obtain a termination of pregnancy without parental consent. However, the High Court has ruled that the child must be able to provide her informed consent. In cases where the child is unable to do so, no termination of pregnancy can take place (*Christian Lawyers Association v Minister of Health and Others (Reproductive Health Alliance as Amicus Curiae)* 2005 (1) SA 509 (T)).

62. Children aged 12 and even younger may consent to an HIV test. However, only if counselling is provided and if the child is of sufficient maturity to understand the implications of their decision. Likewise a child aged 12 or younger may consent to the disclosure of his or her status.

## 2.10 Age of criminal capacity and sentencing

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63. The Child Justice Act (2008) introduces a number of changes to relevant age provisions so as to increase the protection afforded to children within the criminal justice system. In so doing, it more closely aligns the law with the Convention.

64. The Act raises the age of criminal capacity from 7 to 10 years, and makes provision for a rebuttable presumption of criminal incapacity between the ages of 10 and 14 years. Whilst this development does not entirely address the Committee's **concluding request No. 17** that the State increase the minimum age of criminal responsibility to 12 years, the Child Justice Act (2008) does require the review of the prescribed minimum age provision after five years of commencement of the Act.

65. In addition, the Act prohibits the detention of children under the age of 14 in prison and requires that other forms of detention only be used as a measure of last resort. At the same time, children older than 14 may only be imprisoned where their offence is serious. Children aged 15 and younger may not be imprisoned for more than 25 years and no child may be imprisoned for life (*Centre for Child Law v Minister for Justice and Constitutional Development and Others*, 2009 (11) BCLR 1105 (CC)).

### 3.1 Non-discrimination (article 2):

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66. The Committee concluded its review of South Africa's 1998 report with a general expression of concern in **concluding comment No. 9** about the vast economic and social disparities that continue to exist between the various segments of society which adversely affect the full implementation of the Convention. It expressed further concern (**concluding observation No. 18**) that insufficient measures had been adopted to address these inequities, especially in so far as they relate to ensuring equitable access to services such as education, health and other social services for certain vulnerable groups of children. The Committee thus requested that the State take special measures to ensure implementation of the principle of non-discrimination and equal access to rights, services and benefits for Black children, girls, children with disabilities, child labourers, children living in rural areas, children working and/or living on the streets, children in the juvenile justice system, and refugee children.

67. Statistical annexure 1B provides information on the proportion children within each income quintile. Since 1998 there has been a considerable improvement in the lives of vulnerable children, their access to their rights, services and benefits, and a reduction in their poverty levels and inequality. The number and proportion of children living in poverty has decreased from 73% in 2003 to 60% in 2009 (Statistics South Africa, 2010). There has been a decline in the number of children experiencing hunger and malnutrition. In 2002, 34, 7% of children reported having gone hungry. This dropped to 18,6% in 2010 (Statistics South Africa, 2011). Between 2002 and 2009, the number of 7 – 14 year olds attending school increased from 96 to 99% (Statistics South Africa, 2011). The number of children with disabilities attending school increased by more than 20% between 2002 and 2010 and 56% of children attending school do not pay school fees (Statistics South Africa, 2012). In addition, the percentage of children living in formal housing increased by 6% between 2002 and 2010; the percentage of children with access to piped water increased from 54,7% to 61,8% in the same period; access to sanitation increased by 10% to 49,5% in 2010; and access to electricity increased from 70 to 83% between 2002 and 2010 (Statistics South Africa, 2011).

68. These improvements were brought about by the numerous progressive social and economic policies introduced by the State over the last decade. Of particular note in this regard is its social security policy, notably its child support grant (CSG). Please refer to Part 6 paragraph 53, for further details of this program. The CSG has had a significant impact on the wellbeing of vulnerable children. A recent study found that the CSG promotes early childhood development, reduces stunting, improves school retention and better school outcomes, increases access to health care, lowers the risk of child labour (especially for girls), and contributes to lower risky adolescent behaviour for the most vulnerable children. Moreover, it found that it reduced poverty and vulnerability and as such, promoted long-term development by "helping to break the inter-generational transmission of poverty" (DSD, SASSA and UNICEF, 2012).

69. Despite the progress that has been made, South African has nonetheless continued to battle with high levels of child inequality, poverty, unemployment, poor educational outcomes and a high (but



reducing) infant mortality rate, especially among marginalised and vulnerable children, including Black children, children in rural areas, children with disabilities and others.

70. The State has recognised and responded to the exclusion of vulnerable children through the development of a number of policies, laws and programmes which (1) prohibit discrimination against all children, and (2) which require pro-active targeted actions prioritizing the allocation of resources, the development of infrastructure, and the delivery of services for especially targeted vulnerable groups of children. These measures include the following:

71. Laws, policies and programmes prohibiting and preventing discrimination include:

(a) The Promotion of Equality and Prevention of Unfair Discrimination (PEPUD) Act No. 4 of 2000 prohibits unfair discrimination on all of the constitutionally protected grounds and establishes specially designated equality courts to improve access to justice for the adjudication of equality matters in the remotest regions. The PEPUD Act (2000) expressly prohibits a number of discriminatory practices that impact on children.

(b) The Children's Act No. 38 of 2005 (as amended) asserts that non-discrimination must guide the implementation of all legislation applicable to children.

(c) Discrimination is expressly prohibited in the education sector through, inter alia, the South African Schools Act No. 84 of 1996, the Admission Policy for Ordinary Schools, (1996) and Education White Paper 6: Special needs education (2001). These laws are discussed in more detail in Part 7 of the report.

(d) The National Health Act No. 61 of 2003 and the Mental Health Care Act No. 17 of 2002 expressly prohibit discrimination on the grounds of race, poverty, health status, gender and other legally prescribed grounds.

(e) In addition to the legal prohibition of discrimination, the State has sought to prevent discrimination through a number of advocacy interventions which aim to change harmful underlying attitudes and beliefs. For example, the annual multi-sectoral Child Protection Week and the 365 and the 16 Days of Activism against Women and Child Abuse campaigns involve messaging related to harmful and discriminatory attitudes to girls and children.

(f) Pre- and in-service training for professionals and other service providers who work with children includes education on their duty not to discriminate against children. For example, the DBE has developed a rights-based training manual (Values in Education: A manual in Constitutional Values and School Governance for School Governing Bodies and representative Councils of Learners in South African Public Schools) which aims to eliminate the subtle forms of discrimination and exclusion that often plague school governance.

72. Measures requiring the pro-active targeting and prioritisation of especially vulnerable groups of children have been developed against the backdrop of a broader national pro-equity developmental agenda. Redressing past inequities has been the primary national developmental priority for the past decade and is, alongside the reduction of poverty, the primary goal of the most recent National Development Plan 2030: Our Future – make it work. The State has developed a national programme of

action to realise these goals and has sought to ensure the prioritisation of children, especially highly vulnerable groups of children within the national agenda through the establishment and mandating of the DWCPD to drive the children's equity agenda within the broader national development framework.

73. In reply to the Committee's **concluding observation number 18**, the State has, against the national development backdrop, developed numerous sectoral policies and programmes that target and prioritise funding and delivery of services to especially vulnerable groups of children so as to ensure meaningful equality in their lives. Some of the key measures which are discussed in detail in the substantive parts of this report include:

74. Pro-poor policies and resource allocations that benefit black children living in poverty: Various policies and programmes are in place to ensure that children in poverty receive preferential support. Programmes such as the CSG (discussed in Part 6), the pro-poor education funding policies and the no-fee school policy (discussed in Part 7), the free health care policy (discussed in Part 6), the housing subsidy (discussed in Part 6), the free basic water and electricity policies (Part 6), the school feeding programme (Part 7), the early childhood education subsidy (Parts 6 and 7), and the prioritisation, in terms of the Children's Act (2005) of child protection services to families unable to secure children's basic needs, all target children living in poverty. Given the poverty-focused targeting mechanisms for access to these benefits and the substantially higher levels of poverty among Black children, these programmes serve to benefit more Black children than other population groups.

75. **Children in rural areas:** Many of the children living in higher levels of poverty also live in rural communities that are marked by under development and poor infrastructure. These factors have contributed to a legacy of poor access to services and services of a poorer quality. Thus, whilst the take up of some services such as the CSG and no-fee schools is high in rural provinces, access to, and the quality of services such as health care, education, early childhood education and subsidies, and birth registration has remained persistently lower in these areas. For example, children in the Eastern Cape and Limpopo provinces have lower access to water, sanitation, quality educational infrastructure and basic services at school than the national average (Statistics South Africa, 2011 and 2012).

76. A number of measures have been taken to address rural barriers that drive *de facto* discrimination in the enjoyment of children's rights. These include (a) the Department of Rural Development's (DORD) Comprehensive Rural Development Strategy which targets development of infrastructure and services in rural areas to improve the living conditions of children; (b) the Department of Home Affairs' (DHA) rural campaigns such as their stakeholder forums (discussed in Part 4 of the report); (c) the Department of Health's (DOH) re-engineering of the Primary Health Care system and expanded community health services (discussed in Part 6); (d) the Department of Basic Education's (DBE) establishment of a Ministerial Committee on Rural Education (2003) and its subsequent rural education and infrastructure improvement strategy (discussed in Part 7), and numerous others. The process of review and redress of barriers in rural areas is ongoing. For example, the DSD hosted an ECD conference in 2012 at which the lack of access to ECD services and subsidies by rural children was highlighted and is now receiving attention in the revised ECD plan of action in development (discussed in Parts 6 and 7).

77. **Children with disabilities:** Numerous policies and programmes have been developed for children with disabilities. Some of these include (a) the Children's Act (2005) requirements (discussed in Part 6 of the report) that all interventions take into account the specific needs of children with disabilities and the preferential allocation of resources to meet the needs of children with disabilities; (b) health policies which provide free health care and assistive devices to children with disabilities (discussed in Part 6); (c) the CDG for children with severe disabilities (discussed in Part 6); and (d) an inclusive education policy (discussed in Parts 6 and 7).

78. The State recognises that there are a number of gaps in the current policy framework. For example, there is a need for an inclusive ECD policy for young children with disabilities which will secure early identification, prevention, and remediation of disabilities in the first years of life. For further discussion on these and other challenges and the emerging responses, please refer to parts 6 and 7 of the report.

79. **Child labourers:** Since its last report the State has strengthened the protection for this vulnerable group through (a) additional protection against hazardous employment; (b) recognition that children involved in work may be in need of statutory care and protection; and (c) the development of the multi-sectoral Child Labour Programme of Action. These policies and related implementation challenges are discussed in Part 8 of the report.

80. **Girl children:** Various measures have been put in place to address the underlying causes that disadvantage girls' enjoyment of their rights. These include (a) measures to reduce the impact of onerous domestic responsibilities on girls (discussed in Part 8); (b) policies that address gender-based drivers of educational exclusion (discussed in Parts 7 and 8); and (c) the National Strategic Plan for HIV and AIDS (2012) which aims to address the causes of the heightened vulnerability of girls to HIV and AIDS (discussed in more detail in Part 6 of the report).

81. **Children working and/or living on the streets:** Through the Children's Act (2005) and the National Strategy for Children Living and Working on the Streets, the State aims to address the factors that drive children from their homes, and to provide care and protection where they are found on the streets (discussed in more detail in Part 8 of the report).

82. **Children in conflict with the law:** Children in conflict with the law are now protected through the dedicated Child Justice Act No. 75 of 2008. Further details of the Act and related interventions are described in Part 8 of the report.

83. **Refugee children:** The rights of refugee children are protected by the South African Refugees Act No. 30 of 1998. The Department of Home Affairs (DHA) has developed a working partnership with international and local agencies to ensure these children enjoy access to these rights. A more detailed discussion is provided in Part 8 of the report.

84. **Children affected by HIV and AIDS and young children:** In addition to the vulnerable groups highlighted in the Committee's concluding comments, the State has developed special measures for other vulnerable groups of children, including those affected by HIV and AIDS and very young children. The relevant measures are discussed in parts 5, 6, 7 and 8 of the report.

85. There have been a number of common challenges which impact on the ability of, especially vulnerable children, to access their rights, services and benefits. These include:

86. Provincial and district-level variations in the allocation of resources to implement national policies and programmes and in the quality of the services frustrate access to services and benefits for the most marginalised children. The problem is especially acute at municipal level, and especially so in rural areas coinciding with the former homelands where infrastructure backlogs compound access and quality difficulties.

87. Insufficient coordination between different levels of government and between different departments has impeded the implementation of a number of the targeted pro-vulnerable policies and programmes.

88. Remedying the problems of access and quality for the most marginalised children has been problematised by inadequate data collection systems. Until recently, these have not secured the routine collection of appropriately disaggregated, credible and relevant information to allow for effective monitoring of progress and planning of responses to remaining gaps in services for especially vulnerable children.

89. The State has responded to these challenges by implementing a host of structural interventions to ensure the alignment and equalisation of commitments, funding and outcomes for vulnerable children at all provincial and local levels. These have included the development and strengthening of coordination mechanisms, the development of national norms and standards, and the development of a stronger and more integrated monitoring and evaluation framework.

90. Coordination challenges have been addressed through the creation of the DWCPD which is expressly tasked with coordination and monitoring of policies and programmes for vulnerable children. (This innovation is discussed in detail in Part 1 of the report). In addition, numerous coordinating structures have been established in the health, child protection, education, and child justice domains with the aim of securing better coordination and cooperation in the planning, budgeting, implementation and monitoring of services.

91. Other structural interventions include the development of national norms and standards, through for example, the Children's Act (2005), to secure comparable quality of services across provinces and districts.

92. There has been a move towards the centralisation of planning, budgeting, implementation and monitoring of core equity issues in South Africa. For example, monitoring has been centralised within the Department of Performance, Monitoring and Evaluation (DPME) and all national, provincial and local monitoring and evaluation (M&E) systems are required to mirror and contribute to a national development

plan and assess progress against the national M & E system. Departments responsible for children are equally obliged to develop nationally aligned plans and M & E systems, and as such children' data is required to be collected that reflects progress against national equity priorities at all levels of government. The latter falls within the mandate of DWCPD, specifically, the national children's rights and wellbeing M & E framework. In consequence, data collection will be better coordinated. (Discussed in more detail in part1 of the report).

93. Infrastructure development has also been prioritised and centralised within the Presidential Infrastructure Committee to address the infrastructure backlogs that drive inequity in under-serviced areas. The plans in question prioritise infrastructural development and improved capacitation of local implementers in rural areas and municipalities most severely affected by historical backlogs.

### 3.2 The best interests of the child (article 3):

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94. Section 28 (2) of the Constitution of the Republic of South Africa, the Children's Act (2005) and the Child Justice Act (2008) compel all State actors to ensure that all their decisions and actions take into account and prioritise the best interests of the child. The Children's Act (2005) also provides detailed guidance to all State actors on factors to be taken into consideration in determining the best interests of the child.

95. The Children's Act (2005) and the Child Justice Act (2008) institutionalize the requirement in General Comment No. 11 that all decision-makers take into account the cultural, linguistic and religious rights of indigenous children when considering the best interests of the child. The measures in the Acts designed to promote the best interests of the child are culturally sensitive and promote customary practices. In the context of child justice, dispute resolution, restorative and non-custodial sentencing options have their roots in customary dispute resolution and disciplinary processes. Likewise, the community-based interventions contained in the Children's Act (2005), like drop-in centres and family-based prevention and early intervention services have their roots in the customary practice of collective communal care for children. In addition, traditional leaders and family councils – traditional mediation and adjudicators – are acknowledged as legitimate role players and custodians of child protection and child justice in terms of the Child Justice and Children's Acts.

96. Numerous measures have been taken by different departments to promote knowledge, understanding and application of the best interest's principle. For example, the South African Judicial Education Institute has provided training to all judicial officers on the application of the best interests of the child principle. For further examples of departmental initiatives to promote implementation of the best interests of the child, please see annexure 2E.

97. There are a significant number of cases where the judiciary has used the best interest standard to decide cases in favour of children. For example, in the case of *Matiso V Road Accident Fund* 2001 (3) SA 1142 (T), the court recognised a customary adoption for the purpose of recognising a dependent's claim,

on the grounds that this was in the best interests of the child. Additional cases are discussed in parts 1, 4 and 7 of the report.

98. There have been a number of challenges to maintaining the best interests of the child. A notable case in point is the apparent conflict between the labour rights of educators and health professionals and children's rights to education and health care, survival and development that emerged during the labour strikes that took place in the last few years.

(a) The DBE has responded to these challenges through the implementation of measures such as the Strike Management Plan to balance the constitutionally protected right to strike and children's right to education and to have their best interests taken into account. The Department is also planning to implement the ILO Declaration on Fundamental Principles and Rights at Work which makes provision for the exclusion of certain limited categories of workers to ensure the basic safety of the population and essential functioning of the state.

(b) The Department of Health has also taken measures such as establishing a call centre during strikes as a way of keeping the public informed as to which facilities were operational on a daily basis.

### 3.3 The right to life, survival and development (article 6):

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99. The State has taken a number of measures to ensure the right to life, survival and development for every child in South Africa. These include (a) significant improvements in the monitoring of child births and deaths through a decade-long process of transformation of the vital registration system (discussed in more detail in Part 4 of this report); (b) substantially improved special protection measures for the most vulnerable children (discussed in Part 8 of the report); (c) an extensive review of the legal framework for the care and protection of all children, with an emphasis on prevention and early intervention services to address the factors that place children at risk (discussed in Part 5 of the report); (d) greater provision for early childhood care and development in recognition of the profound impact of early stimulation, nurturing and nutrition on the child's long term developmental potential (discussed in Parts 6 and 7 of the report); (e) a greater focus on children within health policies and legislation, and on the health of pregnant women to ensure their wellbeing and to improve outcomes for the unborn child (discussed in detail in Part 6 of the report); (f) the expanded provision of social security (discussed in Part 6 of the report); and (g) the promotion of the right to survival and development in the Child Justice Act (2008) which emphasises diversion of children away from the criminal justice system in view of the recognition that entry into the system is most often counterproductive to the child's survival and development (discussed in Part 8 of the report).

100. More specifically, and in response to the specific issues raised in the Committee's guidelines, the State has taken the measures to:

(a) Guarantee that capital punishment is not imposed on children. In line with the constitutional recognition of the right of everyone to life, capital punishment in South Africa was abolished on 6 June 1995.

- (b) Register deaths and extrajudicial killings of children. These measures are discussed in some detail in Part 4 of the report, under the subject of improved protection against torture and abuse of incarcerated children.
- (c) Prevent suicide and eradicate infanticide. Recent research shows that 9.5% of all teen deaths in South Africa are due to suicide. The National Youth Risk Survey found alarmingly high rates of depression in school teens, and over 20% reported that they had considered suicide in the last month. Maternal mortality data also indicate high rates of suicide in women who are under-20 and in their first pregnancy. Efforts to address this issue are complicated by the fact that suicide is not openly spoken about and is often shrouded in misconceptions. As such, the State's first line of defense is raising awareness amongst vulnerable populations of the rights, risks and services that are relevant to children at-risk of suicide.

### 3.4 Respect for the views of the child (article 12):

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101. The State has recognised and committed to the principle of respect for the views of the child. It is noteworthy that the Children's Act (2005) is nationally and internationally unique in that it is the only law that expressly recognises the right of children to participate. Section 10 provides that "Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration." The right is promoted and protected through the imposition of a dual obligation on all decision-makers to listen to children's views on the issue at hand and to give their opinion due consideration.

102. The State has enacted a number of laws giving effect to the obligation to take children's views into account in the education, health, family, and judicial settings. Table 14 in statistical annexure 1B provides information on the number of children that have been heard under judicial and administrative proceedings.

103. Various departments have implemented practical initiatives to facilitate the realisation of the prescribed obligations. Through these laws and programmes (which are comprehensively listed in annexure 2E), the State has continued, as required in terms of **concluding observation number 22**, to encourage respect for the views of the child within schools, families and social institutions, and the care and judicial systems, and to promote public awareness of the participatory rights of children. The Committee's attention is specifically drawn to the DBE's response to **concluding observation No. 22** that teachers be trained to enable students to express their views at provincial and local level. The Department has responded to this request through its curriculum policy which expects that learners will acquire the competence to express their views, both in writing and verbally, by the time they exit the school system. The issue is therefore integrated into the training of Language subject teachers.

4.1 Birth registration, name and nationality and preservation of identity (articles 7 and 8)

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104. The State has taken a number of measures to protect and promote children's rights to birth registration, name and nationality and the preservation of identity. At the start of the decade these rights were frustrated for many children, especially those living in poverty, children living in rural areas, and children affected by HIV and AIDS.

105. The Department of Home Affairs (DHA) has made progress in addressing barriers and as a result, the rate of early birth registration has increased significantly over the last ten years. In 2003, 68% of births were registered within one year. This increased to 83% in 2010 and jumped a further 4% to 87% by 2011. The number of births registered within the prescribed thirty days increased to reach 45% in 2010, and has increased further to 51% in 2011. The numbers of very late birth registrations have dropped by more than 50% between 2010 and 2011. Please refer to annexure 1D tables 16-19 for further detailed and provincial statistics.

106. These improvements have come about as a result of a "Turnaround Strategy" implemented by the DHA in 2007 which introduced the following reforms and interventions:

- (a) Organisational forms included (a) the restructuring of the organisation so as to align it more closely with the realisation of its key mandates; (b) a revised Human Resource (HR) strategy to equalise the historically uneven capacity and quality of services across the provinces; and (c) an integrated staff training and development programme to build competencies that are essential to service delivery.
- (b) The DHA has also implemented a multi-faceted strategy which includes outreach services and advocacy and communication campaigns to address the historically low levels of knowledge and access to services in especially rural, low-literate under-resourced communities. These interventions include (a) a number of infrastructural interventions and service delivery innovations aimed at expanding the quality and availability of Home Affairs' services in marginalised communities including the integration of birth registration services at 248 health facilities; (b) the National Population Registration Campaign; and (c) multi-sectoral stakeholder forums and other forms of community-based outreach initiatives. A comprehensive list of interventions is documented in annexure 2F.

107. The DHA has also strengthened the governing legal framework through a number of legislative changes, including the following:

- (a) The Births and Deaths Registration Act (1992) was amended in 2010 to provide mechanisms for the registration of the births of orphans, abandoned children and adopted children in line with the recently enacted Children's Act (2005) as amended.
- (b) The revision also introduced a process for the provision of a birth certificate to children born in South Africa to asylum seekers or refugees.



(c) Two measures that strengthened the right of children in South Africa to a name, nationality and preservation thereof was an amendment to the South Africa Citizenship Act (1995) and the introduction of measures for the alteration of the name of a child that has undergone a gender reassignment. The South African Citizenship Act (2005) was amended in 2010 to clarify issues related to citizenship by birth, descent, naturalization, and the amendments realigned relevant provisions with the Children's Act (2005). In addition, the Alteration of Sex Description and Sex Status Act (2003) and the Children's Act (2005) allow a child who has undergone a gender reassignment to preserve his or her identity by applying to have the birth register changed.

#### 4.2 The rights to freedom of expression and the right to seek, receive and impart information (article 13):

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108. Various policies, laws and programmes give effect to these rights which enjoy constitutional protection, including the following:

- (a) The protection afforded by section 10 of the Children's Act (2005) which was previously discussed in Part 3, paragraph 17 also guarantees the rights of children to freedom of expression.
- (b) The Promotion of Access to Information Act (2000) establishes procedures for gaining access to publicly and privately-held information which are available to children as well as adults.
- (c) In the school context the right to freedom of expression manifests in different ways. Children at schools have the right of freedom to speak, to publish material in school publications, and to wear culturally and religious symbolic items, dress and hairstyles. School governing bodies are required, in terms of the South African Schools Act (1996), to develop a code of conduct which balances the rights of other learners and educators against the individual child's right to freedom of expression. This means that dress codes and similar restrictions on expression may be permissible, depending on the relative importance of the motivation underlying the individual child's expression or conduct. Thus in the case of *Danille Antonie v Governing Body, The Settlers High School & Head of Western Cape Education Department* (2002 (4) SA 738 (CPD)) a prohibition against a learner wearing Rastafarian dreadlocks was found to constitute an unlawful limitation of her right to freedom of expression, linked as it was with her religious beliefs which were deemed important.
- (d) The right to freedom of expression is limited by the Promotion of Equality and Prevention of Unfair Discrimination Act (2000). Section 10 prohibits hate speech.
- (e) Section 13 The Children's Act (2005) provides that every child has the right to access to information on health promotion and the prevention and treatment of ill health, disease, sexuality and reproduction; to information about his or her health status; and to have access to information about the causes and treatment of his or her health status. Moreover, the Act prescribes that information that is provided to children must be relevant and in an accessible format, giving due consideration to the needs of children with disabilities. The Department of Health has implemented a number of interventions to realise this right, including awareness-raising campaigns, training on HIV counselling and testing campaigns, Child Health Weeks, School Health Weeks, Nutrition Weeks, participation in the Child Protection Weeks, Health Awareness month, and Youth Friendly services.
- (f) The Child Justice Act (2008) and South African Police Services National Instruction 2 /2010: Children in Conflict with the Law, require that children suspected of committing a crime receive

information in plain language in their home language about the child justice system and the processes that will be followed and why they are being dealt with as they are.

109. In addition to the legislative protection of the right to information, various departmental communication initiatives have realised this right in practice through the publication of child-friendly and accessible information on children's rights. Please refer to annexure 2G for a comprehensive statement of departmental child-friendly communication publications and campaigns in realisation of children's rights to information.

110. The State has recognised and sought to address infrastructural and other challenges that have limited enjoyment of the right to information, especially in predominantly rural areas and areas of high poverty.

111. Historical backlogs have resulted in insufficient public libraries and access to the internet, especially in marginalised areas. In 2011, 79% of schools had no library. Whilst 21% had a library, only 7% of these were stocked. In 2011, 77% of schools had no computer centres (Department of Basic Education, 2011d). Table 20 in statistical annexure 1D provides information on the proportion of schools in each province equipped with information technology and communications.

112. The DBE is committed to improving library and communication technology provisioning, use and inequity at schools. The Department's national Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and accompanying guidelines provide guidance to provinces and schools as to the minimum numbers and standards for libraries, science laboratory facilities, and computer rooms. In terms of the policy, the Department has committed to the prioritisation of the delivery of these support spaces in schools in the poorest quintiles. The Department has also developed National Guidelines for School Library and Information Services (DBE, 2012) for provincial departments of education and schools. In addition, the Department's White Paper on e-Education (Government Gazette No. 26762, September 2004) provides a holistic framework for the development, by the DBE, of a national framework to ensure the optimal availability and use of Information and Communication Technologies (ICTs) in education. The policy is equity-focused and aims to ensure equal ICT access and competence at all schools by addressing infrastructural, cultural and capacity challenges.

(a) At present, all schools must have a Whole School Library Developmental Plan spelling out their plans for providing a comprehensive Library and Information Service for learners and educators (National Guidelines for School Library and Information Services, 2012).

113. The Department of Communications has engaged in a programme of action to increase the number of public libraries in rural communities, and to ensure internet access at all public libraries.

### 4.3 Freedom of thought, conscience and religion (article 14):

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114. This right is dealt with in Part 7 of the report, under the discussion about linguistic, cultural and religious freedom.

### 4.4 Freedom of association and of peaceful assembly (article 15):

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115. Section 17 of the Constitution guarantees the rights of everyone, including children to the right to peaceful assembly, and section 18 guarantees the right to freedom of association.

116. The South African Schools Act (1996) affords school governing bodies of public schools the power to determine the school's language policy and other admission criteria for a school. This gives them a significant power to exercise a community's right to freedom of association in the school context.

Legislation and the courts have however limited the freedom of governing bodies in a number of ways.

(a) Section 5(3)(b) of the South African Schools Act (1996) provides that no school admission policy may exclude a learner on the grounds that his or her parent will not subscribe to the schools mission statement.

(b) The same Act, read together with section 9(4) of the Promotion of Equality and the Prevention of Unfair Discrimination Act (2000), prohibits the use of this power to exclude children on any of the constitutionally prohibited grounds of discrimination such as race. Moreover, where the right to education of a previously disadvantaged learner is in competition with the right to freedom of association, our courts have been unanimous in giving preference to the former. Thus where a learner has no alternative option (given the lack of alternative available schools), but to attend a public school with an exclusive language policy, the language policy will have to yield, as will the right to freedom of association.

### 4.5 Protection of privacy and protection of the image (article 16):

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117. This right, which enjoys constitutional protection, is promoted and protected through a number of policies and laws, including the following:

(a) The privacy of a child's health status is guaranteed by the Children's Act. Section 13 (1)(d) provides that every child has the right to confidentiality regarding his or her health status, as well as the health status of a parent, care-giver or family member, except when such confidentiality is not in the best interest of the child. In addition, section 133 (1) prohibits the disclosure of a child's HIV status without the child's consent if the child is older than 12 years, or without the child's parent's consent where the child is younger than 12 years.

(b) In the school setting, Section 8A South African Schools Act's (1996) permits a principal to search any group of learners or their property if he or she has a reasonable suspicion that the child may be in possession of a dangerous object or illegal drugs. This power is however subject to the duty to consider all relevant factors including whether such a search will be in the best interests of the child, whether the safety and health of other learners may be affected, and whether there is reasonable evidence of illegal activity.

(c) The Children's Act (2005) protects the privacy of girls that have undergone virginity testing. In terms of section 12(6) the results of a virginity test may not be disclosed without the consent of the child, and in terms of section 12(7) her body may not be marked as an indication of her having undergone the test.

(d) Within the justice system, various measures are in place to protect the privacy and identity of the child. The Child Justice Act (2008) prohibits the media or any other persons from attending court proceedings involving a child, unless they apply to the court for special permission to attend (section 63(5)). Recently the court was approached for such permission in the case of *Media 24 Limited and Others v the National Prosecuting Authority and Others in re: S V Mahlangu and Another* (2011 (2) SACR 321). The court confirmed that the decision as to whether to grant permission or not requires a balancing of the competing rights of the child and the public interest to receive information and freedom of speech. Likewise, the Children's Act (2005) provides that proceedings in children's courts must be held in camera. In addition, the media may not disclose the identity of children that are party to divorce proceedings (*Johncom Media Investments Limited v M and Others* 2009 (4) SA 7 (CC)). The Code of Conduct for Broadcasting Service Licensees (2009) requires all broadcasters to be mindful of children's privacy when reporting on all matters, including court proceedings.

(e) The Child Justice Act (2008) allows for the discretionary protection of the privacy of children convicted of crimes through the expungement of their criminal records. It allows for parents of the child or the child him- or herself to apply to court for the expungement of their record after 5 – 10 years in the case of less serious crimes. This right does not extend to serious crimes such as rape or murder.

#### 4.6 Access to information from a diversity of sources and protection from material harmful to the child's well-being (article 17):

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118. Children's right of access to information was dealt with extensively under previous headings. This section will deal with the right of children to be protected from material that is harmful to their well-being.

119. The media in South Africa are subject to State and self-regulation so as to prevent the production and/or publication or distribution of media content that is harmful to children. The regulation ranges from a total prohibition, as in the case of child pornography, to restricting the sale and availability of publications to either all children, or children below a certain age.

120. The Films and Publications Act (2004) prohibits the production or distribution of child pornography. It is administered by the Film and Publication Board which is mandated to, inter alia, balance the right to freedom of expression and the right to protection from exposure to harmful and inappropriate materials.

121. In addition, the media are subject to the Broadcasting Code of Conduct for Broadcasting Service Licensees (2009) which is adjudicated by the Complaints and Compliance Committee (CCC) of ICASA. The code of conduct prohibits the broadcasting of child pornography or other harmful sexual content, it regulates the hours within which material that is harmful to children may be broadcast, and it requires broadcasters to be mindful of the potentially harmful content of children's programming.

122. The Department of Communications' Children Empowerment Directorate is a party to the Child Online Protection (COP) initiative. COP is an international collaborative network for action to promote the online protection of children by providing guidance on safe online behaviour.

123. The DBE's Guidelines on e-safety make provision for the development, by school committees, of an Acceptable Use Policy for ICT and information to protect children against access to harmful information.

#### 4.7 The right not to be subjected to torture or other cruel, inhuman or degrading punishment including corporal punishment (articles 37(1) and 28):

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124. South Africa ratified Convention against Torture and other Cruel, inhumane and Degrading Treatment or Punishment in 1998 and it entered into effect in 1999.

125. Section 12 of the Constitution of the Republic of South Africa guarantees the right of all people, including children, to be free from all forms of violence from either public or private sources, not to be tortured in any way, and not to be treated or punished in a cruel, inhuman or degrading way. Section 28 (1)(d) specifically protects all children from maltreatment, neglect, abuse or degradation. This guarantee is given effect through a number of laws which outlaw corporal punishment in the public domain, as well as cruel, inhuman or degrading punishment.

126. As reported in the previous State report, corporal punishment has been abolished in all areas of public life, the justice system and in schools as a form of sentencing and as a form of discipline. The legislative framework has since been strengthened in terms of the Children's Act (2005) which prohibits corporal punishment of children in conflict with the law that are detained. In addition, it prohibits corporal punishment in all other alternate care settings, including foster care settings and early childhood development programmes.

127. The prohibition of corporal punishment in schools was challenged in the Constitutional Court (*Christian Education South Africa v Minister of Education* 2000 (4) SA 757 (CC)) on the grounds that it breached the right to religious freedom. The Constitutional Court rejected this claim and upheld the prohibition on the grounds that corporal punishment infringes children's rights to equality, human dignity, freedom and security of the person, and to be protected from maltreatment, neglect, abuse or degradation.

128. The prohibition in the South African Schools Act (1996) of cruel and degrading treatment has been strengthened with the prohibition, in terms of the Regulations to Prohibit Initiation Practices in Schools (2002), of initiation practices in schools.

129. In addition to outlawing corporal punishment, the South African Schools Act (1996) obliges all schools, acting through their school governing bodies, to develop a code of conduct which is promotive of positive discipline. In 2000, the former Department of Education (DOE) published "Alternatives to Corporal

Punishment: A practical guide for educators” which provides guidelines for drafting the prescribed code of conduct.

130. Whilst policies prohibiting and regulating corporal punishment abound, implementation remains a challenge. The prevalence of corporal punishment has increased in schools in the last few years. In 2011, 17,2%, compared to 16,8% in 2009 of learners experienced corporal punishment at schools. The increases have been largest in the Eastern Cape where it jumped from 25,5% to 30,2%, and in Limpopo where it jumped from 14,6% to 19,3% (Statistics South Africa, 2012). See statistical annexure 1D for further information.

131. The Department of Basic Education has taken measures to reduce the increasing levels of corporal punishment in schools. The School Management Teams and School Governing Bodies in nine high priority areas have received training on positive discipline and classroom management. Plans are in development for provinces to support “hot-spot” schools where there is a clear need for positive discipline interventions.

132. The DSD has sought, through numerous advocacy and awareness-raising campaigns, to promote the use of positive discipline rather than corporal punishment. For example, the 2012 Child Protection Week was dedicated to positive discipline and positive discipline components have been incorporated into the Department’s parenting and community capacitation programmes.

133. Whilst corporal punishment is outlawed in public life, it is still permitted in the family. The common law position is that parents have the right to reasonably chastise their children. The DSD is currently in the process of revising the Children’s Act, and will during that process revisit the issue of banning corporal punishment in the home.

#### 4.8 Measures to promote physical and psychological recovery and social reintegration of child victims (article 39):

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134. In addition to the prohibition against corporal punishment in the penal setting, numerous measures have been taken to protect children from other forms of cruel, inhuman or degrading treatment while in custody. These measures address the Committee’s **closing request No. 21** that greater efforts be made to prevent police brutality and to ensure that child victims receive adequate treatment to facilitate their recovery and social integration.

135. The State has recognised that entry into the criminal justice system is counterproductive in most instances and one of the primary causes of children’s recidivism. This is one of the many reasons behind the enactment of the Child Justice Act. It aims to minimize the child’s contact with the criminal justice system, to divert as many children as possible from the criminal justice system, to use detention as a measure of last resort and for the shortest appropriate period of time, to minimise the risk of harm to the child in custody, and to maximise the rehabilitative potential of the chosen sentencing option.

136. The Child Justice Act (2008) recognizes the right of the child not to be detained, except as a measure of last resort and only for the shortest appropriate period of time. However, where it is unavoidable, the Act (section 28) makes provision for the protection of children in detention in police custody. This section requires that the child must be detained separately from adults and girls from boys, permitted visits from parents and other persons and must have access to appropriate health care, and adequate food and water.

137. In terms of the Act, children may also, in certain circumstances, be placed in a child and youth care centre or in prison. However, the Act provides that only a child who is 14 years or older and who is alleged to have committed a very serious offence that may be placed in prison. As a measure of protection, a child who is placed in prison must be brought back to court that ordered the detention every fourteen days for the court to reconsider the order of placement. The court must reconsider whether the placement remains necessary or appropriate in every appearance of a child in court. The court must enquire into the treatment of the child and the conditions the child is kept under and may order an inspection or investigation if there is any suspicion that the child is not treated properly.

138. The Act also contains provisions to ensure that the obligations imposed on police officials are complied with. Section 97(9) makes provision for steps to be taken against any functionary who fails to comply with any duty imposed on him or her in terms of the Act.

139. The South African Police Services National Instruction 2 /2010 Children in Conflict with the Law (Government Gazette No 33508, 2 September 2010) was developed in terms of the Child Justice Act (2008) and came into effect in 2010. The National Instruction provides guidance to the police on how they must treat children suspected of having committed a crime so as to protect their rights, to act in their best interest, and so as to promote future positive behaviour.

140. The Child Justice Act (2008) permits a court to use different forms or a combination of non-custodial sentencing to achieve the aim of rehabilitating a child in conflict with the law. These include community-based sentences, restorative justice sentences, fines, correctional supervision, suspended sentences, compulsory residence in a child and youth care centre, and imprisonment. Please refer to Part 8 of the report dealing with special protection measures for children in conflict with the law for further information.

141. Further information on recovery and social integration of victims is provided in Part 8.

### 5.1 Family environment and parental guidance in a manner consistent with the evolving capacities of the child (article 5):

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142. There is growing emphasis on the importance of families within the South African policy context. In line with the Committee's recommendations in **concluding observation 22**, a situational analysis of South African families was conducted in 2004 to identify key challenges facing families. The DSD is currently planning research into the effectiveness of social services to families.

143. Policy / legislative developments over the period under review, with respect to article 5, include the following:

(a) The Children's Act (2005): The prioritisation of families is reflected in the Act's first objective which is to "promote the preservation and strengthening of families". The Act calls on the national Minister of Social Development to develop a comprehensive national strategy aimed at securing the provision of prevention and early intervention programmes to families, parents, care-givers and children, in consultation with other Ministries. It states that prevention and early intervention programmes must involve and promote the participation of families, parents, caregivers and children in identifying and seeking solutions to their problems.

(b) In recognition of the need for greater emphasis on support to families, the DSD drafted a Green Paper on Families (2011). This paper includes proposals on how to support and promote family life and outlines the roles of various ministries in family-focused policy and planning. The DSD has also finalised an integrated plan for services to families, an integrated parenting framework, and a monitoring and evaluation framework for services to families. To aid policy implementation, the DSD has established a dedicated Families Directorate within the Department.

144. **Concluding observation 22** calls for efforts "to reduce and prevent the increasing number of child-headed households and to introduce adequate support mechanisms for existing child-headed families". Statistical analyses of national survey data over the period 2000 to 2007 revealed that the proportion of child only households is relatively small and this figure is not increasing as initially thought (see tables 46 and 47 in statistical annexure 10). Almost two-thirds (61,6%) of child-headed households are living in formal houses as opposed to informal structures and other less adequate housing. This observation supports the finding that many child headed households are created for a limited period of time only and often continue to be supported by an adult family member (Statistics South Africa, 2011).

(a) The Children's Act (2005) includes special provisions for children living in child-headed households. It stipulates that such households be officially 'recognised', that they function under the supportive supervision of a designated adult and that they may not be excluded from grants, subsidies or other state relief and assistance programmes. In 2010, the DSD drafted a Strategy for Statutory Services for Child Headed households to protect the rights of children living without adult carers and to ensure optimal functioning of such households. The Social Assistance Act (2004) also



makes provision for CHH by allowing for children of 16 years and older to access social grants on behalf of themselves and their younger siblings.

(b) Other policies and strategies that recognise the special needs of child-headed households include the HIV and AIDS and STI National Strategic Plan 2012-2016 and its predecessor (the NSP 2007-2011), the National Policy Framework for Orphans and Other Children made Vulnerable by HIV and AIDS (2005) and the accompanying National Plan of Action, all of which involve multiple departments and aim to promote intersectoral collaboration in service delivery.

(c) In order to support implementation of these provisions, the DSD has undertaken media campaigns and community dialogues on CHH and has partnered with the National Association of Child and Youth Care Workers (NACCW) to scale up community services to child-headed households, amongst others, through the Isibindi model. The Department is also training social service practitioners and is in the process of establishing the panels responsible for the formal 'recognition' of a household as child-headed. Services to CHH are informed by a situational analysis of CHH commissioned by the DSD in 2008.

## 5.2 Parents' common responsibilities, assistance to parents and the provision of childcare services (article 18)

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145. In line with article 18 of the UNCRC, SA legislation recognises that both biological parents have common and primary responsibilities for their child. Chapter 3 of the Children's Act (2005) deals with termination, extension, suspension or restriction of parental responsibilities and rights, for mothers and fathers (married and unmarried) and makes provision for parenting plans for co-holders of parental rights and responsibilities, as well as other protection measures in the event of rights violations. The rights of unmarried fathers came under review in the case of *S v J and Another 2011 (3) SA 126 (SCA)*<sup>8</sup> (Centre for Child Law, 2011). The court found that the biological father's automatic parental responsibilities and rights should be recognized, and exercised subject to a consideration of the child's best interests.

146. While recognizing that primary responsibility for child rearing lies with the child's parents or legal guardians, South African legislation and case law defines a role for the state in supporting and assisting parents to fulfill this primary duty, and puts in place provisions for the establishment of institutions, facilities and services for the care of children. These services are defined in the Children's Act (2005) and include partial care facilities, such as early childhood development centres and school after-care services, to provide for the safe care of children when not with their parents or caregivers. The Act requires the registration of such facilities and sets minimum norms and standards for service quality and health and safety requirements. Progress in ECD registration and reach is documented in the statistical annexure 1E and 1G (see Tables 23, 55 and 56).

147. The DSD undertook work between 2009 and 2011 to review prevention and early intervention services for children and families and to identify sustainable best practice models. These models informed draft guidelines on the principles and core elements for the design and development of PEIP.

148. An ECD Diagnostic Review commissioned in 2011 by the Department for Performance Monitoring and Evaluation in the Presidency highlights the need for greater emphasis on promoting good parenting and on preventive interventions for parents at risk.

### 5.3 Separation from parents (article 9):

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149. The Children's Act (2005) emphasizes that the best interests of the child must be the determining factor in any decision regarding the separation of a child from his or her family and the Act requires a court order for the removal of a child. SA law also makes provision for children to participate in court proceedings and allows for the participation of all other interested parties. The Act respects the right of the child who is separated from her family to maintain regular contact with her parent(s) where this is in the child's best interests.

### 5.4 Family reunification (article 10):

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150. The Children's Act (2005) emphasizes the importance of family reunification wherever possible and in the best interests of the child. The Act requires that a child be placed in alternative care for as short a period as possible, and that effort is made for the reunification of the child and parent or care giver with the assistance of a designated social worker.

151. The national norms and standards for child protection require that family reunification and reintegration services provide for family development, family skills training, family group conferencing and mentorship.

153. The provisions of the Children's Act (2005) are binding outside of the Republic and therefore apply to international reunification. The Department of Home Affairs plays a role in the family reunification of asylum seekers and refugees in collaboration with the UNHCR and Red Cross.

### 5.5 Recovery of maintenance for the child (article 27):

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154. South African legislation includes measures to secure the recovery of maintenance for a child from the parent or other person having financial responsibility for the child, both within the State Party and from abroad. The South African Maintenance Act (1998) reinforces the common law duty of parents to support their children. The Children's Act (2005) reinforces this obligation. Where there are co-holders of parental rights and responsibilities, the Act includes maintenance arrangements as a consideration in the development of parenting plans.

155. In terms of jurisdiction, a children's court may issue a provisional contribution order against a respondent resident in any country within the meaning of the Reciprocal Enforcement of Maintenance Orders Act (1963), or the Reciprocal Enforcement of Maintenance Orders (Countries in Africa) Act (1989).

156. In an effort to support implementation of the Maintenance Act, the DOJCD launched Operation Isondlo in December 1999. This programme addresses the Committee's recommendation **(in concluding observation 23)** that South Africa take more effective measures to ensure compliance with maintenance orders. Through Operation Isondlo, the department created and filled a number of posts to strengthen the capacity of courts to handle maintenance orders, address backlogs and to remove the onus on the complainant to trace defaulters. This additional capacity has led to an estimated 65% reduction of the cycle times in the hearing of maintenance matters.

157. To improve tracing of maintenance defaulters, the DOJCD established an Information Support Service for Maintenance Investigators (in 2004) and introduced civil enforcement of maintenance orders, such as attachments of salaries, civil execution and attachments of debts. A multilingual awareness campaign was also launched, targeting both urban and rural communities, to raise public awareness about how to access maintenance.

### 5.7 Children deprived of a family environment (article 20)

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158. In line with the **guidelines for the alternative care of children annexed to General Assembly resolution 64/142 of 18 December 2009**, South Africa has developed comprehensive child welfare and protection policies which include provision for a range of alternative care options, for emergency, short term and long term care. Policies emphasise that removal of the child from the family should be a last resort and that separation should ideally be temporary. If it becomes necessary to remove a child from his/her family, preference is given to placing the child in a family-like alternative. Alternative care options in South Africa include adoption, foster care, child and youth care centres and temporary safe care.

159. Placement in alternative care is done via a children's court and must include a documented permanency plan which takes into account the child's age and developmental needs and is aimed at achieving stability in the child's life. An order placing a child in alternative care lapses two years after the date on which it was made or any shorter period specified in the order. A children's court can extend an order for a maximum period of two years at a time depending on the individual circumstances of each child.

160. Recognising, as per General Comment 7, that early placement in family-based or family-like care is particularly important for very young children, the Act requires that any very young child who has been orphaned or abandoned must be made available for adoption in the prescribed manner and within a prescribed period except when this is not in the best interests of the child.

161. In line with the **Guidelines for the alternative care of children annexed to General Assembly resolution 64/142 of 18 December 2009**, SA has established a regulatory framework for the admission of a child to an alternative care setting, the registration and management of alternative care institutions, and the training of individuals involved in the provision of alternative care. All child and youth care centers must be registered with the provincial DSD and must be managed in accordance with the criteria of the Children's Act (2005), including compliance with a quality assurance process involving internal and

independent assessors. Minimum qualification requirements have also been prescribed for child and youth care workers.

162. The DSD is currently conducting an audit of all unregistered child and youth care centers nationally in order to assist them to comply with the prescribed norms and standards and enable them to become registered. It is also in the process of improving its data management systems to strengthen their database of all facilities working with children.

163. In response to the last country report, the Committee expressed its concern (**concluding observation 25**) about an insufficient number of alternative care facilities in previously disadvantaged communities. In the 2011/12 financial year, there were 355 alternative care facilities (253 children's homes, 42 places of temporary safe care and 60 shelters for street children) in SA accommodating 21 047 children, while bed capacity in those facilities was 24 495. While this suggests that current capacity is able to meet the demand for residential care, it is not clear to what extent the necessary capacity is available in areas of greatest need. Close to half of children (45%) are admitted to registered child and youth care centers because of abandonment or neglect.

164. In line with **concluding observation 25**, SA has instituted training for social and welfare workers on alternative care. Ongoing capacity building is being undertaken in all provinces.

165. In an effort to accommodate more children in family-like environments as closely aligned as possible to the child's ethnic, religious, cultural and linguistic background, the Children's Act (2005) expands provision for foster care. It defines three types of foster care placements: (1) with a person who is not a family member of the child (traditional foster care), (2) with a family member who is not the parent or guardian of the child (related foster care), and (3) in a registered cluster foster care scheme (a house-mother with a maximum of six children). Foster parents are entitled to financial support in the form of the Foster Child Grant. The number of children receiving the Foster Child Grant in South Africa has increased dramatically in the period under review from just over 215,000 in 2004, to 510,298 in 2010. The value of the foster grant has also increased over this period, from R530 per child per month in 2004 to R740 per month in 2011.

166. The rapid increase in foster care placements has unfortunately created an enormous administrative burden on social workers and courts, resulting in large backlogs and lapsed foster care orders. In 2011, there were about 84 000 reported cases of foster care waiting to be finalized and between April 2009 and March 2011, over 110,000 foster care orders lapsed resulting in the loss of the grant to these foster parents. The provincial consultations highlighted this as a key concern amongst participants. A recent court judgment on this matter called for a comprehensive legal solution to be found to prevent qualifying families from losing their grants and to address the underlying problems by the end of 2014. In the meantime there is a moratorium on future lapsing and the court called for the reinstatement of all foster care grants and foster care orders that have lapsed since April 2009. Significant efforts have been made to successfully address these backlogs through national and provincial foster care project plans. Activities include the

establishment of provincial task teams, the allocation of dedicated staff, the provision of capital resources, staff training, regular feedback meetings, and improved intersectoral collaboration.

167. Many foster care placements are with relatives who are caring for children who have been orphaned. The High Court recently ruled that any caregiver with a legal duty of support in relation to the child is no longer eligible for the foster child grant. The implications of this ruling for relatives fostering children are unclear.

168. Within South Africa, no child should be without the support and protection of a legal guardian or other recognized responsible adult or competent public body at any time. The High Court is the upper guardian of all minors within South Africa. On the death of one parent, the surviving parent becomes the sole guardian. In all other instances, a guardian is only appointed by will or by the High Court.

169. In the case of unaccompanied or separated foreign children, Section 28 of the Constitution places a duty on the State to protect and provide for these children in the same way as any other child. No unaccompanied foreign children can be deported without first being the subject of a Children's Court enquiry.

## 5.8 Periodic review of placement (article 25)

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170. In line with **concluding observation 25** regarding periodic review of foster care placements, SA law requires that a Court order for foster care be reviewed every two years, although the Children's Act (2005) does make provision for extended orders where appropriate to create stability in the child's life.

Notwithstanding the duration of the order however, the Act stipulates that a social service provider must visit a child in foster care at least once every two years to monitor and evaluate the placement. In addition to ongoing monitoring, guidelines for the alternative care of children stipulate that special preparation, support and counseling services for foster carers should be developed and made available to foster parents at regular intervals, before, during and after the placement to ensure the realization of the best interests of the child.

171. With regards other forms of alternative care, the law requires that care plans, permanency plans and individual development plans for children placed in alternative care are reviewed every six months to determine whether there is a need for a change of programme.

172. Despite the emphasis on 'short term' placement in residential care, the DSD recognises that some children remain in care for too long. In order to address this the DSD developed an Alternative Care Strategy (2008) which involves assessment of all children who have been in long term residential or foster care to determine the possibility of their adoption. The strategy also aims to develop and implement independent living programmes for older children living in residential care settings who cannot be placed in families.

## 5.9 Adoption, national and intercountry (article 21)

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173 In line with the recommendations of the Committee in **concluding observation 26 and General Comment 7**, South Africa acceded to the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoptions during December 2003. The country has also strengthened its legislative framework for both domestic and inter-country adoptions, in chapters 15 and 16 of the Children's Act respectively. The Children's Act (2005) and Regulations detail procedures to be followed at all stages of the adoption process, require specific accreditation of those involved in adoptions, and establish a register on Adoptable Children and Prospective Adoptive Parents for matching and placement purposes.

174. The DSD has also developed an adoption policy framework and strategy aimed at promoting adoption services within the country particularly in the context of a considerable (and growing) number of orphans and vulnerable children. In line with the Hague Convention in respect of inter-country adoptions, the strategy prioritises placement of children within the country, before considering international placement options.

175. Adoption service providers in all nine provinces have been trained on the Children's Act (2005), Practice Guidelines on Inter-country Adoptions and International Social Services and Guidelines on Separated and Unaccompanied Minors. This training will be rolled out to other stakeholders.

176. While legislation is in place to enable adoption, the number of legal adoptions in South Africa is low when compared with the number of available children who need permanent homes. The total number of registered adoptions during the period 2001 to 2010 fluctuates at around 2,200 per year, of which roughly 10% constitute international adoptions. See table 26 in statistical annexure 1E for further information. Provincial consultations pointed to the lack of an adoption grant as a factor prohibiting legal adoptions within poorer communities

177. While legal adoption figures are low, informal care arrangements are common and an estimated 1 in 4 children in South Africa are resident with someone other than a biological parent (Meintjes & Hall, 2010). Some of these children are adopted through customary practices, although the number of such adoptions is unknown. Customary adoptions are public events which, in effect see the transfer of customary parental rights and responsibilities in respect of a child from one family (or family member) to another. Unlike placements recognised and governed by the Children's Act, customary adoptions are not subject to judicial or legislative regulation and they are devoid of any official monitoring of the well-being of the child.

178. In the case of international adoptions, the South African International Social Services (ISS) unit works with other International Social Service offices to facilitate casework between countries.

## 5.10 Illicit transfer and non-return (article 11):

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179. In order to combat the illicit transfer and non-return of children abroad, SA acceded to the Hague Convention on the Civil Aspects of International Child Abduction [October 1980] in 1996 and has

subsequently incorporated it into South African law through the Children's Act (2005). The designated Central Authority for purposes of the practical operation of the Convention nationally, is the Chief Family Advocate with the assistance of the Family Advocates' offices nationally. The abduction and/or wrongful retention of children as well as prevention of parental contact with a child that is being retained from a contracting state is dealt with through non-litigious mediation where circumstances permit, or through litigation in the High Court of S.A. The 1980 Convention is currently enforceable between South Africa and forty six (46) contracting States.

#### 5.11 Abuse and neglect including physical and psychological recovery (articles 29 and 39):

180. In **concluding observation 27** the Committee noted concerns about the high incidence of domestic violence, ill-treatment and abuse of children in South Africa, including sexual abuse within the family. Crimes against children continue to pose a serious challenge for Government.

181. According to SAPS Annual Report 2010/2011, an average of over 54,000 children *per year* were reported to be victims of violent crime over the five year period between 2006/07 and 2010/11 and it is widely acknowledged that rates of reporting are low. Within both SAPS and DSD records, sexual abuse is the single largest category of abuse against children accounting for almost half of all reported cases of abuse per annum. SAPS crime statistics show that of the 28,128 sexual abuse cases against children reported in 2010/2011, 61% of offences were committed against children younger than 15 years of age and 25% involved young children aged 0-10 years.

182. South Africa has a child homicide rate of 5.5/100 000 population with a distinct gender pattern – rates are highest among young girls aged 0-4 years and teenage boys aged 15-17 years. A recent retrospective mortuary based survey collecting data on child homicides for 2009 found that nearly half (44.5%) of all child homicides were due to child abuse and neglect, and one third of these were due to abandonment within the first week of birth. Most children were killed by a person known to them and nearly half of all girl homicides were perpetrated by mothers. Rape or sexual assault was suspected in 25% of homicides of girls (Medical Research Council, 2012). The high incidence of violence against children is compounded by low rates of offender conviction.

183. Since 1998 the government has made tremendous strides in ensuring that the legal framework for the care and protection of children is aligned with the Constitution and international norms that are binding on SA. Legislation is based on an Integrated Service Delivery Model and promotes a developmental approach. Within the legislative framework, efforts have been made to address the needs of particularly vulnerable groups, including children with disabilities.

184. Section 28 (1)(d) of the Constitution places a duty on the State to pro-actively prevent the abuse of children and to put in place legal provision for the protection of children. Numerous other laws, policies and strategies have been developed to support the realization of this constitutional right. Many of these have come into effect since the last country report. Important developments include the following:

- (a) The Children's Act (2005) provides an expanded range of protective measures for children, including mandatory reporting of physical and sexual abuse and deliberate neglect. Provincial consultations however pointed to reluctance on the part of responsible adults (such as teachers) to report suspected abuse because of a lack of confidentiality and a fear for their own safety. The Act introduces a Child Protection Register (CPR). Part A of the register records instances of abuse or deliberate neglect inflicted on specific children in order to protect these children from further abuse or neglect. Part B of the Register records the names of persons who are unsuitable to work with children. Provincial consultations pointed to challenges with the management of the registers which need to be addressed to ensure their effectiveness.
- (b) The Act places obligation for service delivery on more than one Government Department. As such, a National Policy Framework was developed to promote cooperation and collaboration between relevant role players (including government departments and civil society organizations).
- (c) The Sexual Offences Act (2007) repeals or amends numerous other Acts to bring all legal aspects relating to sexual offences in line with a single statute. It includes definitions of key terms, deals with issues of consent, introduces compulsory HIV testing for alleged sexual offenders, provides for a national register of sexual offenders, details obligations to report, provides guidance on sentencing and includes special provision for children with disabilities. The Act also creates a range of new offences to protect children from sexual abuse, such as sexual exploitation of children, child sex tourism and grooming.
- (d) The Domestic Violence Act (1998) provides for protection orders against perpetrators of domestic violence. The Act provides a wide definition of domestic violence to include acts of physical abuse; sexual abuse; emotional, verbal and psychological abuse; economic abuse; intimidation; harassment; stalking; damage to property. To ensure the immediate protection of the victims, the Act allows courts to grant Interim Protection Orders against abusers in their absence. The Act further allows applications for protection order to be brought outside court hours to ensure greater access to justice and security by the victims. It also allows children to apply for a protection order against abusers, with or without assistance of the parent or guardian.
- (e) The Child Protection Strategic Plan 2010-2014 interprets provisions of the relevant Acts and outlines strategic goals of the department in relation to child protection for the period 2010 to 2014, including a costing plan.
- (f) The updated National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation (2004) and accompanying norms and standards help standardize and monitor service access and quality across the social welfare sector.
- (g) The DOH Sexual Assault Care Policy (2005), and the accompanying Clinical Management Guidelines have been developed and implemented nationally, to guide health care responses to sexual abuse. The guidelines (which are currently being updated) emphasize both the medical and psychological management of rape survivors as well as the medico-legal responsibilities of health professionals.
- (h) Although post-rape health services have been substantially improved over the last decade, not all hospitals and police stations are equipped with the necessary rape kits and many health professionals providing care have not been adequately trained in this area, particularly in relation to



services for children. Continued efforts are needed to ensure that services meet the needs of child rape survivors, and to address the under- and late reporting of child sexual abuse.

185. See annexure 20 for a list of structures and programmes that have been put in place to support implementation of the above.

186. In terms of court proceedings, section 42 of the Children's Act (2005) establishes every Magistrate's Court as a Children's Court and there are currently 384 Children's Courts in South Africa. In line with **concluding observation 27** SA law includes several measures to safeguard the child participating in court proceedings and puts in place systems to promote child-friendly judicial procedures. As an example, the Children's Act (2005) limits attendance at court hearings involving children and prohibits the publishing of information which may reveal the name or identity of a child who is a party in or a witness to the proceedings. The Act requires that courts apply appropriate questioning techniques for children in general and in particular for children with disabilities, traumatised children, and very young children and make use of suitably qualified or trained interpreters (see Part 3, respect for the views of the child for more information). Efforts are also underway to ensure that court processes are accessible to people with disabilities, including voice-activated lifts, improved wheelchair access, improving the availability of sign-language interpreters and the development of information booklets in braille.

187. There are also several initiatives aimed at training and capacity building of social service practitioners to protect children from abuse and neglect. These include the training of child protection professionals during 2010/2011, the development of an accredited training programme (the Thogomelo Project) which aims to train 500 community caregivers and supervisors per year between 2008 and 2013. In September 2011, a 5-year project (the Khusela Project) was initiated by the national DSD and Pact/USAID to develop a conceptual framework that would guide the structuring and practice of training for 'social work professionals' in child protection. DSD, in partnership with UNICEF, is also developing a Risk Assessment Tool for social workers to ensure that children at risk are appropriately assessed and that relevant services are rendered to them and their families. The Risk Assessment Tool will be incorporated into the review of the Children's Act (2005) process and form part of the Regulations.

188. In **concluding observation 27**, the Committee recommended that South Africa undertake studies to understand the scope and nature of child abuse and exploitation to inform efforts to prevent and combat these practices. For many of the categories of children in need of care and protection there remains a paucity of up-to-date, systematic and accessible data. Unfortunately these data gaps hamper an accurate analysis of the extent to which the full spectrum of protective rights are being realised. In particular, there is no accurate incidence or prevalence data on child abuse.

189. There are also challenges with monitoring budget adequacy and expenditure efficiencies in key service areas for children. Budget information that is available however highlights insufficient funding to support full implementation of critical pieces of legislation, including the Domestic Violence Act (1998), the Children's Act (2005) and the Sexual Offences Act (2007). There is also insufficient budget to cover full service costs for non-governmental organisations assisting in the delivery of legally mandated services to

children and families. In 2011, MINMEC approved a new financing policy for NPOs, to be implemented incrementally, starting in the current financial year.

190. **Corporal punishment:** South Africa has taken important steps towards the eradication of corporal punishment of children (see Part 4 for more information). In line with **concluding observation 28**, corporal punishment is prohibited in care institutions such as children’s homes, schools of industry and reform schools. The Children’s Act (2005) promotes the approach of positive discipline at child and youth care centres and expressly prohibits certain behaviour management actions such as physical punishment (including smacking), verbal, emotional or physical harm or deprivation of basic rights and needs such as food and clothing. The Children’s Act (2005) Regulations also prohibits any form of physical violence or punishment, or humiliating or degrading forms of discipline of children in foster care or cluster foster care. Efforts to prohibit by law the use of corporal punishment in the family have to date not been successful. The draft National Plan of Action for Children 2012-2017 aims to address this.

191. **Strengthening social service capacity:** A key issue impacting delivery of services to support family and alternative care for children is the shortage of suitably qualified social service practitioners. This skills gap has been acknowledged and efforts are in place to address this:

(a) “Social work” is now recognized as a scarce skill in South Africa. R256 million has been allocated in the 2012/2013 financial year to the expansion of the Social Work Scholarship Programme and the DSD plans to engage veteran social workers to assist in the mentoring of newly qualified social workers in order to improve service quality.

(b) In addition to strengthening social work capacity, there is recognition of the need to broaden the spectrum of social service practitioners that are legally able to assist in child care and protection services. The Children’s Act (2005) makes provision for some child protection functions to be performed by ‘social service professionals’ other than social workers. The DSD is also in the process of recruiting and orientating the first contingent of child and youth care workers to be involved in the rollout of the Isibindi model, as part of the 10 000 target to be trained over the MTEF.

### 6.1 Children with disabilities:

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*Policy and programme developments for children with disabilities are noted within each of the relevant sections of this report. In an effort to avoid repetition, this section only deals with provisions that are not mentioned elsewhere.*

192. In **concluding observation 32**, the UN Committee expressed concern regarding inadequate legal protection, programmes, facilities and services for children with disabilities in SA. While SA does not have centralized disability legislation, several laws and government strategies have been developed during the reporting period that make reference to disability.

(a) The Primary Health Care Policy (2000) was adopted by National government as the vehicle for providing accessible and equitable health care services, including for people with disabilities.

(b) The National Rehabilitation Policy (2000) was introduced to help meet basic service standards across all provinces. The principles of development, empowerment and social integration of people with disabilities are seen as the backbone for the document.

(c) The Mental Health Care Act (No. 17 of 2002) provides for children who have severe or profound intellectual disabilities.

(d) In line with article 23(3) of the UNCRC, the provision of free health care to children and pregnant and lactating women was extended in July 2003 to include disabled people in identified categories through the Free Health Care for All Persons with Disabilities Policy (2003), including the provision of assistive devices. A policy on the Standardization of Provision of Assistive Devices in SA was published to ensure that all provinces have a uniform system for the provision and maintenance of assistive devices.

(e) The Children's Act (2005) as amended brings South African child care and protection legislation for disabled children in line with the UNCRC and the UNCRPD. In line with article 23, the Act states that in any matter concerning a child with a disability, consideration must be given to enabling the child's participation and providing the child with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community.

(f) In 2007, South Africa ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) as well as the Optional Protocol without reservation. The Ministry of Women, Children and Persons with disabilities was established in 2009 as a direct response to the ratification of the CRPD with the aim of accelerating the transformation agenda for women, children and persons with disabilities.

(g) In 2009, the DSD drafted the Integrated National Strategy on Support Services to Children with Disabilities. The Strategy is intended to guide the development and implementation of all Government frameworks on Children with Disabilities, to align budgets, address service access barriers and improve service quality. The Strategy has five strategic focus areas: survival and well-being, childhood development, protection, participation and resource mobilization.

193. Financial support to caregivers of children with disability is available in the form of a means tested care dependency grant (CDG). This is a monthly non-contributory cash transfer of R1140 (as of April 2011) to caregivers of children over the age of 1 year with severe disabilities or disabling chronic illnesses who require permanent home care. There has been a consistent increase in access to the CDG over the past six years, from 86,000 beneficiaries in 2005 to 116,000 in 2012, and provincial spread of CDG uptake is consistent with the distribution of children (See table 32 in the statistical annexure 1F).

194. Efforts have been made to strengthen early identification programmes to help prevent disabilities and to improve child outcomes (**as per concluding observation 32**). The development of Policy Guidelines for the Management and Prevention of Genetic Disorders, Birth Defects and Disabilities (2001) provides for the decentralisation of training of health workers, expansion of the sentinel sites for birth defect monitoring and improved collaboration. Services for prevention of disability include the Expanded Programme on Immunisation and antenatal and postnatal services. The DOH is currently strengthening its Early Childhood Intervention (ECI) programme and Early Hearing Detection and Intervention forms a key component of the service.

195. Children with HIV are at high risk of developmental delay and developmental screening can be an entry point to HIV diagnosis. The National HIV/AIDS and STI Strategic Plan for South Africa (2007-2011) made provision for early detection of disability through 6-monthly screening of all children under the age of 5 years. Progress with this indicator was however never reported because of a lack of available data. Improvements in early identification of disability (and monitoring thereof) are expected with the introduction of the new Road-to-Health booklet. The booklet addresses developmental screening and makes provision for referral to the next level of care if the child has not achieved milestones.

196. Despite strong political commitment to address inequities and discrimination for people with disabilities, a large gap still exists between policy and practice. Factors that have contributed to poor policy implementation include capacity constraints at programmatic level, confusion over disability definitions, procedural bottlenecks and lack of resources. Provincial consultation identified specifically the lack of, or long waiting period for, assistive devices for children with disabilities, especially in rural areas, the lack of braille and sign language services, lack of access to public transport and the need for parenting support programmes for caregivers of children with disabilities.

## 6.2 Child survival and development:

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197. Child health outcomes and the distribution and pattern of morbidity and mortality in SA continue to be shaped by persistent inequalities, with higher mortality rates in rural settings, amongst Africans and in the poorest quintiles. In **concluding observation 29**, the Committee recommends that SA increase efforts to reduce the incidence of maternal, child and infant mortality. Trends in infant, child and maternal mortality are shown in tables 35 and 38 of the statistical annexure 1F. Figures for 2003 represent an increase in child mortality since 1990, but 2008 and 2011 figures show definite signs of reduction during the review period. Despite this progress, mortality rates remain a long way off the 2015 MDG targets (DOH, 2012). Maternal mortality rates in 2009 were 300/100,000 with a MDG target of 38/100,000 by 2015. In 2011 the

infant Mortality rate was 30/1000 and the under five mortality was 42/1000 live births, with an MDG target of 20 per 1000 by 2015.

198. Efforts have been made during the period under review to strengthen data on infant, child and maternal mortality. These include the Child Healthcare Problem Identification Programme, a mortality audit tool for children that was introduced in 2001 and is now in use in every province (<http://www.childpip.org.za/>). Findings from the programme feed into a national report - the Saving Children Report. Between 2005 and 2009 the tool identified the leading causes of child deaths in hospitalized children as acute respiratory tract infections (including pneumocystis pneumonia), sepsis, diarrhoeal disease, tuberculosis and meningitis with these conditions accounting for 80% of deaths. Most deaths (63%) occurred in children less than one year of age and 34% occurred during the first 24 hours of admission. Sixty five percent of children who died were malnourished, with 35% having severe malnutrition (MRC and CDC, 2011).

199. The Child Healthcare Problem Identification Programme, together with the Perinatal Problem Identification Programme have identified ways to reduce child deaths by addressing avoidable health systems and patient-related factors. These include improved clinical management, better administration of health services and community actions. A Ministerial Committee on Perinatal Mortality (NaPeMMCo) was also appointed in 2008 to improve the quality of data on perinatal deaths and to identify and address deficiencies in the quality of care which mothers and their newborn babies receive.

200. Injuries are another common cause of childhood mortality and account for a growing proportion of deaths as children get older – 50% of deaths in boys aged 15-17 years are injury-related (Statistics SA, 2009). The leading causes of fatal injuries include road traffic accidents, drowning, burns and firearm injuries.

201. According to the National Committee for the Confidential Enquiries into Maternal Deaths, non-pregnancy related infections (mainly deaths in HIV infected pregnant women complicated by tuberculosis and pneumonia) accounted for 40.5% of maternal deaths between 2008 and 2010. Improving the quality of maternal care and addressing HIV infection are therefore the most important interventions for reducing maternal mortality.

202. The DOH's Strategic Plan for Maternal, Newborn, Child and Women's Health (MNCWH) and Nutrition in South Africa (2012-2016) identifies priority interventions for reducing maternal and child deaths in SA, with services clustered around five packages: (1) maternal health, (2) newborn health, (3) child health, (4) women's health and (5) community interventions. Efforts to reduce maternal and child mortality rates will focus on ensuring that every woman, mother and child receive these services as part of comprehensive service packages at community, PHC and hospital levels. The strategy reiterates the importance of the Integrated Management of Childhood Illnesses (IMCI) programme for children under five years. The South African version of IMCI has been updated to include new developments in case management in response to leading causes of death in children. IMCI aims to ensure that 60% of health care providers in all PHC

facilities are trained in IMCI. During 2010/11 this target had been met in 66% of PHC facilities (Department of Health, 2012).

203. In May 2012 the Minister of Health launched a national Campaign on Accelerated Reduction of Maternal Mortality in Africa (CARMMA). CARMMA aims to accelerate the implementation of activities to stem maternal and child mortality and to meet MDG targets.

### 6.3 Health and health services, in particular primary health care:

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204. Since 1994, free health care has been available to pregnant women and children under the age of 6 years in public health facilities. In 2006 free primary health care was extended to all users. Primary Health Care services are currently provided by 3 077 clinics and 313 Community Health Centres, whilst hospital services are provided at 269 district hospitals, 54 regional hospitals, 12 tertiary and nine central hospitals.

205. The introduction of free health care services, together with the revitalization and building of more Primary Health Care (PHC) facilities, has improved access to health care services for many women and children, especially in rural areas. According to District Health Information System data, utilization of PHC services has increased significantly with over 120 million visits to PHC facilities being recorded in 2010.

206. Utilization rates amongst children have also increased with children below five years of age visiting PHC facilities an average of 4.5 times within the 2010 year (Department of Health, 2012). The primary health care package was defined in 2002, establishing norms and standards for primary health care clinics and community services and providing a tool to assess health needs and to guide resource allocation.

207. Other notable improvements in primary health care services over the past decade include the introduction of a compulsory one-year community service programme for newly-graduated health professionals and considerable improvement in the equitable allocation of public resources to address historical inequalities in provisioning.

208. The Children's Act (2005) also lays out the rights of children to health care information and emphasises that the child's best interests must guide health professionals in all decisions that affect children (this is discussed in more detail under General Principles).

209. Notwithstanding the above achievements, inequalities in coverage and quality of health care are marked. In an effort to tackle remaining challenges in the health system, and to address inequities in health care provision, the DOH has proposed the introduction of a National Health Insurance (NHI). The intention is to introduce NHI over the course of the next 14 years, including a 5 year pilot and enhanced efforts to upgrade public health facilities (DOH, 2011a). Initial efforts will be funded through a conditional grant but long term cost recovery will involve additional taxes for those earning above a certain income threshold. Access to NHI services will be open to all citizens of South Africa (and legal long-term residents), regardless of their employment status and ability to make a direct monetary contribution to the NHI Fund.

210. As per the committee's concerns in **concluding observation 29**, the DOH is in the process of re-engineering the Primary Health Care system and expanding community health services. This includes the introduction of district clinical specialist teams and a ward-based PHC outreach programme. The DOH is also aiming to develop an identification system (unique identifier) to ensure continuity of care and address loss to follow-up. The new Integrated School Health Programme (ISHP) aims to build on and strengthen existing school health services. Likewise the road map document for the South African education sector (Schooling 2025 and Action Plan to 2014) includes provision of public health and poverty reduction interventions for learners through the Care and Support for Teaching and Learning (CSTL) programme.

#### 6.4 Efforts to prevent and deal with communicable and non-communicable diseases and promote the physical and mental health and well-being of children:

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211. One of South Africa's success stories with regards primary prevention of communicable diseases is the Expanded Programme on Immunisations (EPI) which came into effect in April 1995. Significant strides have been made since then to increase coverage. Over 89% of children had received full routine immunisations by one year of age in 2010/11 (DOH, 2011a). Vaccines against pneumococcal and rotavirus infections were introduced into the routine immunisation schedule in April 2009, and by March 2011 a coverage of 72.8% for pneumococcal 3<sup>rd</sup> dose and 72.2% for rotavirus was achieved. The influenza vaccination was introduced in 2010 for pregnant women and high risk children and the updated EPI schedule includes immunisation with tetanus toxoid at 6 and 12 years (DOH, 2012a). It is expected that high coverage with these new vaccines will result in decreased morbidity and mortality attributable to pneumonia and diarrhea .

212. Measles elimination and polio eradication strategies have also been strengthened. National immunisation campaigns have been conducted every three years, and surveillance activities have been strengthened. SA was declared free of wild polio virus in 2006, and neonatal tetanus has also been eliminated. Following recent concerns about a re-emergence of measles, successful mass immunisation campaigns were conducted during 2010/2011.

213. Provincial consultation highlighted the need to address challenges with the procurement of vaccines to prevent periods of stock outs each year.

214. In terms of non-communicable diseases, the 2002 policy framework for non-communicable chronic conditions in children maps out health management responsibilities for the care of children with chronic health conditions. Standard Treatment Guidelines (STGs) and an Essential Drugs List (EDL) were published for mandatory use in public sector facilities. This is regularly reviewed and updated.

215. The need to strengthen mental health services is evidenced by high rates of suicide amongst young people in SA. Nine point five percent of all teen deaths in South Africa are due to suicide. Suicide is the fastest growing, and second leading, cause of death in the 15 – 24 year age group. Maternal mortality data also indicate high rates of suicide in women who are under-20 and in their first pregnancy. In their **concluding observations**, the UN Committee highlighted the need for SA to address this issue.

(a) Several important policy developments with regards child and adolescent mental health have taken place over the past decade. In 2004, the Directorate of Mental Health & Substance Abuse in the DOH released Policy Guidelines for Child and Adolescent Mental Health. In the same year, the Human Sciences Research Council was commissioned by the DOH to develop staff norms for Child and Adolescent Mental Health Services (CAMHS). The National Adolescent Health Policy and Implementation Plan also provide guidance to provinces on addressing issues such as suicide in adolescents.

(b) There is recognition that mental health of children in SA is impacted by a range of factors, including high levels of exposure to abuse and violence. Several programmes have been initiated to address these underlying causes including carer-infant bonding programmes and school-based interventions.

(c) Staff capacity to deliver mental health care services is severely constrained at primary health care level and classification of child and adolescent psychiatry as a sub-specialty means it is resourced only at tertiary level. The DOH recognises that re-classification of this specialty is necessary to strengthen resourcing at primary health care level.

## 6.5 Efforts to address the most prevalent health challenges - HIV/AIDS and TB:

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216. The HIV/AIDS landscape in South Africa has shifted dramatically since 1998. The first National HIV/AIDS strategic plan was developed in 2000, and in the same year the South African National AIDS Council was established, beginning a process of improved collaboration and coordination across departments and civil society sectors involved in the HIV/AIDS response. In 2002/2003 SANAC underwent a restructuring process during which the children's sector successfully lobbied for representation. The Children's Sector is now one of 18 civil society sectors represented on the SANAC and participates actively in the national council, technical task teams that inform the decisions of the council and Provincial AIDS Councils.

217. The 2<sup>nd</sup> National HIV/AIDS and STI Strategic Plan (2007-2011) were finalized under the leadership of the SANAC and with active participation of civil society, including the children's sector. For the first time, the plan emphasized the importance of a collaborative response between all stakeholders, including government and civil society. The current NSP (2012-2016) takes another important step forward with the integration of TB, in recognition of the high co-infection rates. The NSP 2012-2016 has the following broad goals: (1) Reduce new HIV infections by at least 50% using combination prevention approaches; (2) Initiate at least 80% of eligible patients on antiretroviral treatment (ART), with 70% alive and on treatment five years after initiation; (3) Reduce the number of new TB infections as well as deaths from TB by 50%; (4) Ensure an enabling and accessible legal framework that protects and promotes human rights in order to support implementation of the NSP; and (5) Reduce self-reported stigma related to HIV and TB by at least 50%.

218. Renewed engagement and high-level political leadership have paid off with significant improvements in HIV-related service reach and outcomes in the period under review. The list below highlights some of the most important achievements and key remaining challenges for child health.



219. Notable HIV prevention achievements since 1998 include a campaign for the promotion of medical male circumcision, intensification of HIV counseling and testing efforts, the provision of HIV life-skills education in all schools and grades as a compulsory part of the education curricula, and increased distribution and use of condoms among young people.

220. **Prevention of mother-to-child transmission (PMTCT):** The Annual Antenatal Seroprevalence Survey (2011) shows that HIV prevalence in pregnant women attending public sector clinics has increased dramatically in the period under review - from 15% in 1997, now stabilising at around 30%. Delays in the implementation of the PMTCT programme contributed to the increase in infant mortality observed since 1990. However, significant gains have been made since the roll out of PMTCT services. Interventions to prevent mother-to-child transmission of HIV are now offered in more than 95% of public antenatal and maternity facilities. Uptake of PMTCT services is high, with more than 98% of women getting HIV tested during pregnancy and 91.7% of HIV-positive mothers receiving ARV treatment or prophylaxis. The progress that has been made over the past decade in the implementation of the national PMTCT programme has enabled South Africa to reduce mother-to-child transmission to 2.7% at six weeks after birth (SAMRC, DOH and PEPFAR/USCDDCP, 2012). Greater effort is now needed to address provincial disparities and to minimize and monitor postnatal transmission associated with breastfeeding. New guidelines for the ART component of PMTCT have been introduced, and the DOH has emphasized the importance of ensuring that all eligible women receive care according to these guidelines.

221. **Early diagnosis and treatment:** Over 3,000 primary health care clinics are now able to provide counseling, testing and treatment for people with HIV and AIDS (UNHRC, 2012). The numbers of HIV-positive patients on treatment in SA has increased substantially since the start of the public sector ART programme in 2004. As of mid-2011 South Africa had almost 1.8 million people on ARV treatment. Over this period, the number of children receiving ART increased from 4200 (2004) to 152 000 (DOH, 2011). During 2011 alone, 40,000 children (under 15 years of age) were initiated on ART (DOH, 2012a).

222. Early diagnosis and management of children with HIV is essential to reducing mortality. Early diagnosis in children less than 18 months is facilitated by PCR testing, which is now available at all health facilities. The District Health Barometer 2010/11 (Health Systems Trust, 2012) measures the proportion of HIV-exposed infants who receive a PCR test before two months of age. It reports national coverage of PCR testing in 2010/11 as 52%. This figure has doubled from 26% in 2008/09 but remains well below the target of 85% for 2011. According to the barometer, rates of PCR testing of HIV-exposed infants vary substantially across provinces, with the highest coverage in the Western Cape (74%) and Gauteng (67%) and the lowest in the Eastern Cape, KwaZulu-Natal and Limpopo, all at 42%.

223. Guidelines for the treatment of children with antiretroviral therapy (ART) have been developed and implemented and are regularly reviewed. A directive was issued by the Department of Health in August 2012 stating that all children under five years of age were eligible for treatment regardless of CD4 count and/or WHO clinical staging. The Department of Health is also in the process of developing a comprehensive action plan for paediatric and adolescent HIV and TB which addresses early infant

diagnosis, treatment, care and support and includes a review of paediatric monitoring and evaluation systems.

224. Notwithstanding the progress that has been made, significant challenges remain in ensuring that all eligible children are initiated on ART as early as possible, and that systems for tracking progress in initiating and maintaining children on ART are strengthened.

225. **Post exposure prophylaxis for child rape survivors:** In April 2002, the South African government committed to providing post-exposure prophylaxis (PEP) to survivors of sexual violence to help prevent their risks of contracting HIV. South African law and policy provide a framework to facilitate the prompt and integrated provision of health and other services to children and other rape survivors. Reliable national data are not available on the extent to which children have access to PEP.

226. **TB services:** South Africa ranks the third highest in the world in terms of TB burden (0.4–0.59 million) and more than 70% of TB patients are also living with HIV. The TB epidemic is further compounded by multidrug-resistant tuberculosis (MDR-TB), with almost 7,386 laboratory confirmed MDR-TB cases and 741 confirmed cases of extensively drug-resistant TB (XDR-TB) in 2010 (DOH, 2012b). Efforts to prevent TB in children include the routine administration of the BCG at birth, contact tracing and INH prophylaxis for children exposed to a close adult contact with TB. Guidelines for managing HIV in children (2010) aim to ensure that HIV and TB care are provided as part of integrated maternal and child health services and include specific guidelines for the management of children with TB, including clinical and social support.

## 6.6 Reproductive health rights of adolescents and measures to promote a healthy lifestyle

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227. In **concluding observation 31**, the Committee recommends that SA strengthen implementation of adolescent health policies. The combined impacts of HIV, poverty, poor quality education and high levels of violence make adolescents a particularly vulnerable group in SA – 39% percent of 15- to 19-year old girls in South Africa have been pregnant at least once and one in 5 pregnant adolescents is HIV positive. In addition, the annual risk of TB infection in this age group is high, and TB incidence peaks in adolescents and youth (DOH, 2012b). Efforts to address this include:

- (a) Improved access to reproductive health rights: According to the Children's Act 2005) children as young as 12 years of age are legally entitled to access condoms (and other forms of contraception) from public health facilities and are entitled to confidentiality in this respect. The Choice on Termination of Pregnancy Act of 1996 enables adolescents to access free and safe abortions within the first trimester of pregnancy. Implementation of the Act has significantly reduced abortion-related mortality.
- (b) Policy Guidelines for Youth and Adolescent Health (2002), which outline five intervention strategies, namely promoting a safe and supportive environment, providing information, building skills, counseling and access to health services. New policy guidelines for Youth and Adolescent Health (2012) are currently in development.
- (c) The National Adolescent-Friendly Clinic Initiative (NAFCI) was introduced by the DOH in all provinces in 2003 to make health care facilities more accessible and acceptable to adolescents, and

in particular to remove barriers to reproductive health services for young people. As of 2011, 47% of primary health care facilities were accredited as youth-friendly.

228. SA has made great strides in addressing smoking as part of its efforts to promote healthy lifestyles. The Tobacco Products Control Act (1993) is the primary tobacco control law in South Africa. The Act was amended in 1999 and again in 2007 and 2008 to, amongst other things, prohibit advertising and promotion of tobacco products. The Act protects children against exposure to tobacco products in motor vehicles and designated smoking areas and prohibits access to vending machines which sell tobacco products. Together with increasing taxation on cigarettes, progressive legislation has contributed to a decline in smoking. SA also became a party to the WHO Framework Convention on Tobacco Control on April 19, 2005.

## 6.7 Measures to prohibit and eliminate all forms of harmful traditional practices:

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229. South Africa has sought to accommodate both children's protection rights and cultural rights through the adoption of a legal system which simultaneously recognises both customary and statutory laws. Whilst there are a number of positive traditional practices in SA that include protective elements for children, there are some practices that are (potentially) harmful. These include: a form of forced marriage (ukuthwala), polygamy, virginity testing, facial and body scarification (ukugcaba/ukuchaza) and digit amputation (ingqithi), some traditional healing remedies to treat ill infants and children, initiation ceremonies, a practice whereby a teenage girl is taken to bear children for a barren relative (Inhlanti), some 'cleansing rituals' done following the death of a parent and non-reporting of sexual abuse if the perpetrator is a family breadwinner, or in return for compensation from the perpetrator. Legislative reform over the past decade has sought to protect children from these harmful practices.

230. Section 12(1) of the Children's Act (2005) broadly provides that "Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being". It goes on to either prohibit or regulate a number of practices that are deemed harmful to children, including child marriages, forced marriages, genital mutilation, virginity testing and circumcision of male children.

231. Child marriages are also regulated through the Recognition of Customary Marriages Act of 2000 and the Marriage Act of 1961, as amended (see Part 2 for more information).

232. Statutory rape (that is consensual sex with a child younger than 16 years of age), assault, rape and kidnapping (all implicitly part of modern day ukuthwala) are criminally sanctioned in terms of the Sexual Offences Act (2007).

233. Traditional leaders have a legal mandate to develop, enforce and monitor customary law, and to advise and engage with government in the development of legislation that impacts on customary laws and practices. This role is regulated through the Council of Traditional Leaders Act (1997), the Traditional Leadership and Governance Framework Act (2003) and the Traditional Leadership and Governance

Framework Amendment Act (2003) and is recognized in both the Children's Act (2005) and the Child Justice Act (2008). Taking these obligations one step further, the pending National House of Traditional Leaders Bill No 56D-2008 expressly imposes on the House of Traditional Leaders the obligation to transform and adapt customary law and custom so as to comply with the provisions in the Bill of Rights.

234. Cabinet approved the Women Empowerment and Gender Equality Draft Bill for publication in the Government Gazette for public comments. It provides the Minister of Women, Children and People with Disabilities with the necessary authority to monitor, review and oversee gender mainstreaming and integration of gender equality considerations into all programmes of government and other sectors; and Promote the protection and advancement of women as envisaged in section 9 (2) of the Constitution.

235. The above provisions will be strengthened through the establishment of the National Council on Gender Based Violence located in the DWCPD.

#### 6.8 Measures to protect children from substance abuse (article 33):

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236. The pattern of excessive social drinking in South Africa poses a major public health problem, contributing to high levels of violence and risk taking behaviour.

237. A number of policies and programmes are in place to protect children from substance abuse. These include: A National Strategic Action plan for the Prevention of Substance Abuse among youth in SA (1999); Drug prevention as part of the Life Skills' program in schools; a National Drug Master Plan aimed at reducing the demand and supply of illicit drugs; the Prevention of and Treatment for Substance Abuse Act (2008) which complements the Children's Act (2005) by identifying a range of supportive interventions to increase children's and youth's capacity to make informed healthy choices; the National Liquor Act (2003) regulates the alcohol industry and proscribes advertising and sales to minors.

238. A number of Government departments and the SAPS have embarked on various substance abuse awareness raising activities targeting children, learners and out of school youth, school governing bodies, women prayer groups, parents, pregnant women, liquor traders and communities in general.

239. Many of the above activities are co-ordinated within the framework of the Anti-Substance Abuse Programme of Action. Efforts are also being made to monitor the impact of these various initiatives on children. A Youth Risk Behaviour Survey is conducted every 5 years on alcohol use trends among secondary school learners.

240. In line with WHO recommendations, the Minister of Finance significantly increased the total consumption tax burden for malt beer and spirits in Budget 2012 to respectively 35 and 48%. And the Department of Transport is currently considering a number of possible interventions to address driving under the influence of alcohol.

241. The Directorate for Priority Crimes Investigation (DPCI) focuses on measures to reduce the supply and demand of illicit drugs. In the 2011/12 financial year the activities of this Unit resulted in the dismantling of 12 Clandestine laboratories and the seizure of drugs to the value of almost R14 million.

242. The Department of Correctional Services' has a number of Substance Abuse Programmes that targets youth and child offenders and detainees to correctional facilities. These programmes aim to raise awareness of the link between substance abuse and negative behaviour and to support positive behavior change.

243. SA has also strengthened supportive measures for children who are addicted to substances. According to the Children's Act (2005), a child that is addicted to a dependence-producing substance and is without any support to obtain treatment for such dependency is a child in need of care and protection and hence entitled to the associated services and support. There are currently eight public treatment centers operating in five provinces (2 KZN,1 GP,1 MP,3 WC,1 NW) and another 50 registered private treatment centers, of which 25 are state subsidized.

#### 6.9 Measures to ensure the protection of children with incarcerated parents and children living in prison with their mothers.

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244. The White Paper on Corrections in South Africa (2005) addresses the needs of special categories of prisoners including mothers who are incarcerated with their young children. And Section 26D of the Correctional Service Act Regulations states that pregnant inmates must have access to pre- intra- and postnatal services. The Regulations allow for additional visits with biological father, next of kin or supportive person during the pregnancy and makes provision for meeting the additional nutritional needs of pregnant and lactating women.

245. The DCS drafted a Policy for Infants and Mothers (undated) to ensure that care and treatment of young children in Correctional Centres is practiced according to set standards. The policy makes provision for Mother and Child Units in Female Correctional Centres in order to create as many opportunities as possible for the mother to exercise and develop her parental responsibilities, and to maximise the potential for the infant's development. In August 2011, the Department opened the first new generation Mother and Baby Unit for women who are serving sentences with young babies under the age of 2 years. There are now centres like this in Pollsmoor, Durban Westville, and Johannesburg Prisons. As of June 2012, 95 children were resident with their mothers in SA prisons.

246. Case law in SA also supports the protection of children when sentencing their primary caregiver. In *S v M (Centre for Child Law as Amicus Curiae) 2008* the Constitutional Court held that, when sentencing primary care givers, courts must give preference to non-custodial sentences as far as possible. Where imprisonment is the only appropriate sentence, the court must take steps to ensure the safety of the children concerned during the absence of the primary care giver.

## 6.10 Environmental health:

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247. The Committee raised concerns in **concluding observations 29 and 30** about the need for South Africa to improve access to safe drinking water and sanitation services and to address environmental degradation impacting child health e.g. air pollution. Access to safe drinking water and hygienic sanitation has improved in the period under review although racial and provincial inequalities remain (see Figures 4 and 5 and tables 39 and 40 in statistical annexure 1F).

248. The Free Basic Water Policy and the Free Basic Water Implementation Strategy (Department of Water Affairs and Forestry, August 2002) make provision for the delivery of free basic water supplies to households living in poverty.

249. The National Environmental Management: Air Quality Act (2004) (NEMAQA) defines air quality that is not harmful to health and wellbeing through national ambient air quality standards. The implementation measures (regulatory tools) under the NEMAQA must progressively deliver air quality that is not harmful to health and wellbeing

250. The National Framework for Sustainable Development (NFSD) 2008 discusses the various environmental and social risk areas facing South Africa and maps out five strategic priority areas, namely (i) Enhancing systems for integrated planning and implementation, (ii) Sustaining our ecosystems and using resources sustainably, (iii) Investing in sustainable economic development and infrastructure, (iv) Creating sustainable human settlements, and (v) Responding appropriately to emerging human development, economic and environmental challenges.

251. The DST's Programme for Accelerating Sustainable Water Service Delivery (ASWSD) through technology innovation supports efforts to ensure access to safe drinking water. The first leg of the ASWSD initiative in the Amathole District Municipality was successfully completed in 2011.

252. Although the Department of Water Affairs notes a high degree of compliance with national health standards of water quality (94%), the experience of Ukhahlamba district in the Eastern Cape (where 80 infants died of contaminated water in 2008), points to the need for heightened vigilance and pre-emptive action between the DOH and local municipalities. Provincial consultation highlighted several challenges with the implementation of environmental health policies which need to be addressed. These include illegal dumping of waste, interruption of water supply, dilapidated water purification infrastructures, vandalism of communal taps as well as ineffective coordination of environmental health services.

253. SA has been active in generating strategies, policies and plans to respond to the impacts of climate change. The National Climate Change Response Strategy for South Africa (2004) is a comprehensive statement of the government's view of and response to climate change, but it fails to sufficiently consider the needs of children. The more recent National Climate Change Response White Paper (2011) identifies children as an especially vulnerable group but, with the exception of the health and nutrition chapter, the document provides little concrete guidance on how to address the needs of children. There is scope to address this gap and to strengthen coordination across Departments and strategies through the National

Adaptation Plan, currently being drafted. In 2011 the DWCPD, Department of Environmental Affairs, ODI and UNICEF undertook a study to review the impact of climate change on children in SA, to feed into policy deliberations. The study highlights the need to consider the impact of climate change within the context of broader development challenges facing children and families, including high levels of poverty and inequality, changing demographics, HIV and AIDS, management of scarce natural resources and rapid urbanization (DWCPD and UNICEF, 2011).

### 6.11 Social security and childcare services and facilities (articles 26 and 18, para. 3):

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254. The decline in child poverty in South Africa over the past decade is in part attributable to the growth of SA's social security programme. The programme includes five major grants, three of which are specifically targeted at children.

255. The **Child Support Grant** (CSG) of R100 per child per month was introduced in 1998 for children aged 0-6 years whose caregivers qualified in terms of an income-based means test. The main goal of the CSG is to ensure that primary caregivers of children living in poverty are able to meet the basic needs of the child. Since then, policy reforms have progressively expanded the age of eligibility (all children born after 31 December 1993 are now eligible), raised the income threshold to more effectively reach all poor children (currently set at 10 times the value of the grant), and adjusted benefit levels for inflation (as of August 2011, the grant value was R270 per child per month). The CSG has become the largest programme for alleviating child poverty in South Africa, and the number of beneficiaries has increased significantly from 70,000 children in 1998 to 10.5 million by April 2011.

256. In 2009 the DSD commissioned an evaluation of the Child Support Grant (DSD, SASSA, UNICEF, 2012). The study showed that many of the initial challenges impacting grant access have been addressed. Nevertheless, receipt of the CSG varies over different age groups with relatively low take-up rates for infants and youth in newly-eligible age groups. The results of the study confirm the positive developmental impact of the Child Support Grant in promoting nutritional, educational and health outcomes. Receipt of the grant by adolescents also generates a range of positive impacts, not least being a reduction in risky behaviours which reduces the child's risk of HIV infection. The study emphasises the importance of early and continuous access to the grant (ideally from birth) in order to maximize the observed benefits.

257. The **Foster Child Grant** is available to foster parents who have a child placed in their care by an order of the court. The grant value is significantly greater than that of the CSG, at R740 per month in 2011. Like the CSG, the number of foster child grant recipients has also increased over the past six years, from just over 270,000 in 2005 to 522,000 as of April 2011. Nearly half of all foster grant recipients are located in the EC and KZN, the two provinces with the greatest proportion of orphans.

258. The **care dependency grant** (described earlier) is a monthly cash transfer of R1140 (as of April 2011) to caregivers of children over the age of 1 year with severe disabilities or disabling chronic illnesses. As with the other grants, there has been a consistent increase in access to the CDG over the past six years, from 86,000 beneficiaries in 2005 to 113,000 in 2011.

259. **Employment-based contributory social insurance:** According to an analysis of data from Statistics SA, as of 2009 14% (2.6 million) of children in SA were paternal orphans, 3% of children (622,000) were maternal orphans and another 5% (966,000) were recorded as double orphans. In light of these high rates of orphaning, good access to social insurance benefits for child dependents is critical.

260. The formal sector employs 66.4% of the workforce and most of these employees will be members of a pension or provident fund. In addition, it is compulsory for persons employed in South Africa to contribute to unemployment insurance and workers' compensation schemes, which provide a death benefit to their children. A 2008 study commissioned by the DSD and UNICEF identified significant obstacles to accessing death benefits for orphans and widows. Greater efforts are needed to address these challenges (DSD and UNICEF, 2008).

## 6.12 Childcare services and facilities:

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261. Article 18 requires South Africa to take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. Early Childhood Development (ECD) has been identified as a national APEX priority in South Africa and enjoys priority programme status within the DSD.

262. There are numerous laws, policies, white papers and plans that govern the provision of ECD services and that give effect to international and regional obligations to young children. Developments since 1998 include: the White Paper on Early Childhood Development (2001), the Children's Act No. 38 of 2005 (and corresponding regulations and norms and standards), the norms and standards for Grade R funding (2008) in accordance with the South African Schools Act (1996), and the National Integrated Plan for ECD (2005-2010), currently under review. The National Integrated Plan extends well beyond centre-based ECD services, calling for an integrated approach to ECD with primary components of the plan located in a range of sites where children live and are cared for, including homes, formal ECD centres, community childcare centres, informal ECD settings, prisons, child and youth care centres, and places of safety. Legislation requires that facilities for the care of children are accessible to children with disabilities.

263. There is no obligation on the state to fund ECD services, however the Children's Act (2005) does indicate that ECD services should be prioritised (a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children; and (b) to make early childhood development programmes available to children with disabilities. Section 92 of the Act states that the National Minister for Social Development must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, coordinated and managed early childhood development system. In line with expanding policy provisions, both DSD and Education budgets for ECD have increased over the past decade (see table 3 in the statistical annexure A). Further resources have been directed at ECD via the Expanded Public Works Programme (EPWP) which is accessible for the training of ECD practitioners and the funding of ECD centres.



264. A 2011 diagnostic review of ECD in SA highlights the progress that has been made since 1994 in improving comprehensive support and services for early childhood, and points to some remaining challenges. These include insufficient support for parenting and poor access to good quality and affordable child care for very young children. Only about 20 percent of 0-4-year-olds from the poorest households have access to ECCE centres, and these centres are of variable quality. Children who are eligible for government subsidised ECCE only receive the benefit if they live in an area that is served by a registered centre and if their parents can afford the fees (The Presidency Performance Monitoring and Evaluation, 2012). The diagnostic concludes that ECCE needs to be expanded to the most at-need children through home- and community based programmes and calls for a revision to the current funding formula. Drawing on the outcomes of the ECD diagnostic, the DSD hosted a multi stakeholder conference on ECD in April 2012.

### 6.13 Standard of living measures:

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265. Poverty and inequality are dealt with in Part 3 General Principles and measures to address this are noted in several of the other sections. In September 2012, the University of Cape Town hosted the Carnegie III Conference with the support of the National Planning Commission in the Presidency. The Conference explored strategies to overcome poverty and inequality and the outcomes of the conference will feed into national planning.

266. Standard of living measures: Nutrition remains a key issue in South Africa and poor nutrition contributes significantly to deaths in young children. The 2005 National Food Consumption survey found that 18% of children were stunted, 9.3% were underweight and 4.5% were wasted. Levels for all three indices were highest in young children aged 1 to 3 years. Micronutrient deficiencies were also documented and the study found 14% of children (1 – 9 years) to be obese (DOH, 2012a).

267. Plans to address nutritional needs of children are included in the Integrated Sustainable Rural Development Strategy and the Urban Renewal Plan (2001). In July 2002 the Integrated Food Security Programme was introduced to streamline, harmonise and integrate diverse food security programmes into one comprehensive strategy to improve food security and nutrition in South Africa.

268. Other targeted initiatives include: the school feeding scheme reaching almost 10 million children, the National Food Emergency Programme (NFEP) administered by the DSD, and the Special Programme for Food Security (2004) aimed at increasing food production and improving livelihoods amongst smallholders. Regulations requiring fortification of certain food products were implemented in order to reduce micronutrient deficiencies and routine Vitamin A supplementation for children younger than five years was introduced in SA in 2003. Deworming is currently provided at PHC facilities and through targeted campaigns. Implementation of the WHO Ten Steps for the Management of Severe Malnutrition has been adopted by the majority of provinces and is currently being implemented in 125 hospitals, demonstrating positive results. The Infant and Young Child Feeding Policy (Department of Health, 2007) regulates safe nutritional and feeding practices for infants and young children and in September 2011 the Health Minister

signed the Tshwane declaration in support of exclusive breastfeeding, In 2012, the DOH drafted the Strategic Plan for Maternal, Newborn, Child and Women's health and Nutrition 2012-2016 to promote maternal and child health and reduce mortality. More details on these and other initiatives is available in annexure 2 0.

269. Although growth monitoring is provided at all health facilities, a number of studies have documented inadequacies in the correct identification and management of children with growth faltering and failure (Department of Health, 2012a). In 2010 a new comprehensive Road to Health Booklet was implemented as part of the immunization programme. The booklet includes improved systems for growth monitoring so as to enable early identification and referral of children in need.

270. Standard of living measures: Housing - The National Housing Programme is the state's primary measure to realise the right to housing and the Housing Subsidy Scheme is the largest component of the Programme. The programme delivery figures suggest a significant proportion of subsidised housing being accessed by women and households with children.

271. Nationally, the proportion of children living in formal housing has remained fairly consistent between 2002 and 2007, at around 70% of children. However, the General Household Survey (2011) shows consistent inequalities in housing access across racial lines, with virtually all White and Indian children in formal housing, compared with 89% of Coloured children and only 67% of Black children. Just over two million children live in backyard dwellings or shacks in informal settlements and over 40% of these children are within the particularly vulnerable 0-5 year age group.

272. The National Planning Commission (2011) recommends reform to public funding of human settlements to address current challenges and calls for the establishment of an Interdepartmental Spatial Coordinating Committee in the Presidency.

### 7.1 The right to education, including vocational training and guidance (article 28):

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273. The State has undertaken system-wide reforms over the last decade to improve the availability and accessibility of education, especially for the majority of children whose educational opportunities had been frustrated by apartheid policies. Measures include the restructuring of the education system, an increased education budget, infrastructure development, and special measures to ensure the inclusion of especially marginalised children including children living in poverty, children living in rural areas and children with disabilities.

274. The different levels of education, which fall under the management of the Departments of Basic Education (DBE), Higher Education and Training (DHET), and Social Development (DSD), were restructured to improve availability of pre-primary, primary and secondary education. The current system makes available (a) early childhood development (ECD) for children aged 0-4 through private ECD facilities; (b) the General Education and Training (GET) band covering Grades R to Grade 9 (for children aged 5 – 15). This band represents the compulsory phase of education and is made available through 25 850 public and private ordinary schools (5, 4% of which are independent); (c) the Further Education and Training (FET) band includes Grades 10 – 12 at schools (the senior secondary component), as well as vocational programmes at FET colleges; and (d) higher education, which is provided through 23 universities and other institutions across the country.

275. The combined basic and higher education budget has increased substantially over the last decade from R147.2 billion to R207 billion. Education now constitutes more than 21% of government's total allocated expenditure and accounts for 6% of GDP.

276. The budgets for ECD at Grade R level have also increased substantially from R 691 million in 2007/08 to R3.2 billion in 2011/12.

277. The State's ability to ensure the equitable availability of education has been hampered by educational infrastructure backlogs which have their roots in inequitable apartheid fiscal and development policies. It has developed a number of measures to address the infrastructure variability and inequity which prioritise educational facilities serving poor, often rural communities. Innovations include (a) the regulation of minimum infrastructure standards in ECD facilities; (b) the development of a National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and accompanying Guidelines Relating to Planning for Public School Infrastructure (2012) and National Guidelines for School Library and Information Services (2012) which have sought to standardise acceptable levels of infrastructure across the provinces and districts; (c) targeted infrastructure development programmes and budgets to ensure basic safety and needs; (d) interventions by the national DBE in two provinces where poor management deepened levels of infrastructural inequity; and (e)

improved budget allocations to improve infrastructure and student accommodation at FET colleges and universities.

278. The State recognises that simply making educational institutions available is not sufficient to realise the right of all children to education. As emphasised in the Committee's reporting guidelines, additional measures are necessary to ensure that especially disadvantaged children can gain access to the available system. The State's focus in the post-apartheid years was on improving access to education for the majority of children who had been excluded by the apartheid government's policies. Its efforts have resulted in significant improvements in access to education, including the following:

- (a) Access to ECD facilities (not including Grade R) almost doubled from about 16% in 2001 to approximately 30% in 2011 (The Presidency. DPME, 2012). Grade R enrolments have also doubled from 300 000 in 2003 to 705 000 in 2011 (Statistics South Africa, 2012).
- (b) Near universal primary school enrolment rate of 98% in 2010 (DBE, 2011e).
- (c) In addition retention rates have improved. 88% of learners completed Grade 9 in 2010 compared to 80% in 2003 (DBE, 2011e).
- (d) Gender equality has largely been achieved within education (Statistics South Africa, 2012).
- (e) The number of children between the ages of 7 – 15 with disabilities attending school increased by more than 20% between 2002 and 2010. The rate of access for those aged 16-18 also increased from 51% in 2002 to 68% in 2010 (DBE, 2012a).

279. Despite this progress, the State has been particularly concerned about the disproportionate exclusion of especially vulnerable children, including poor and rural children, children with disabilities, and older learners at the higher levels of education. Please see annexure 2J for a detailed list of especially vulnerable children and their levels of exclusion from the education system. It has consequently taken numerous measures to promote their inclusion and retention. These measures include the following and address the Committee's **concluding request No. 34** that the State take measures to promote school attendance, especially among vulnerable children, to make primary education free for all, and to ensure non-discrimination in the school environment:

- (a) Various policies and laws outlaw unlawful discrimination in the education system and guarantee children equal access to education and educational facilities. The Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000, the South African Schools Act (1996), the Admission Policy for Ordinary Schools Act (1996), White Paper 6 (2001), and the National Policy on HIV/AIDS for Learners and Educators in Public Schools (1999) prohibit the unfair exclusion of learners from educational institutions on the full range of international and national legally prohibited grounds.
- (b) The DBE has strengthened its framework governing the monitoring of learner enrolment and attendance to identify and address absenteeism of vulnerable learners. The National Policy on Learner Attendance (2010) obliges all schools to actively monitor learner attendance and to intervene where learners are absent for a prolonged period of time. In addition, the regulations to the Social Assistance Act No. 13 of 2004 link receipt of the Child Support Grant, which is available to the caregivers of children living in poverty, with school enrolment and regular attendance.

(c) Various measures have been implemented to address the most common drivers of exclusion of vulnerable children, such as poverty, disability, and teen pregnancies. These include (a) pro-poor funding policies that ensure preferential funding for schools in the poorest income quintiles, the introduction of no-fee schools in the poorest quintiles, school fee waivers for poor learners attending fee-paying schools, measures to address the cost of transport and uniforms, and a school feeding programme for poor learners. These interventions have brought the State closer to realisation of the **Committee's request No. 34** to make primary education free for all children; (b) a programme of action for the identification of learners with disabilities and other learning barriers and the provision of the necessary levels of infrastructural, teaching and learning support to enable their full participation in education; (c) measures to prevent early pregnancies and provide support to ensure the return of girls who become pregnant; and (d) the systemic integration of care and support for teaching and learning for vulnerable children within the whole education system. A full list of measures and accompanying implementation challenges and responses to these challenges is documented in annexure 2K.

## 7.2 The aims of education (article 29) with reference to the quality of education & education on human rights and civic education:

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280. In the years immediately following the dissolution of apartheid, education policies and programmes focused on remedying the historical exclusion and under-resourcing of education for the majority of Black children in South Africa. This resulted in significantly increased access to education for all children in South Africa. However, the quality of educational inputs and outcomes did not receive the same level of attention, and South Africa has consequently faced a number of significant challenges in realising the aims of education.

281. South African learners perform poorly as compared to learners in other developing countries in international, regional and national numeracy and literacy assessments. In the national 2011 annual assessments the average score for Grade 3 learners was 28% for numeracy and 35% for literacy. Grade 6 learners did no better (DBE, 2011f). In addition to the low literacy and numeracy rates in the early years of education, very few learners pass their final school year exams and even fewer pass subjects such as mathematics. The number of learners passing mathematics in the last of year of school decreased from 133 505 in 2009 to 104 033 in 2011 (The Presidency, DPME, 2012a).

282. The poor quality of education and low educational outcomes especially among poor learners, rural learners and Black learners has been caused by a number of underlying factors including, poor school management, low levels of district-level support, low levels of teacher competence and high levels of teacher absenteeism, curriculum challenges, insufficient teaching and learning support materials, low access to poor quality early childhood development, and variability across provinces and districts in the level of funding and implementation of national policies, amongst others.

283. The education sector has introduced a number of intensive reform interventions over the last few years to address the underlying causes of poor education, including (a) improving access to, and the

quality of ECD services; (b) improving the content and quality of the curriculum to ensure it supports the realisation of the aims of education spelt out in Recommendation 1; (c) the introduction of annual national assessments of all learners using international benchmarks; (d) the introduction of the holistic Strategic Planning Framework for Teacher Education and Development in South Africa 2011 – 2025 aimed at improving the minimum qualifications, competencies, and the number of teachers, especially in under-serviced areas; (e) ensuring that all children have access to adequate learning and teaching support materials, especially their own workbooks and text books; and (f) measures to improve planning, coordination, management and monitoring systems to ensure improved, standardised and equitable funding and implementation of national education policies across all provinces and districts.

284. These measures, which are documented in detail in annexure 2L, have already started yielding positive results. There has been a marked improvement in the pass rate of learners in Grade 12 (the National Senior Certificate). The pass rate was alarmingly low in 2009 (60,6%). In 2011 the pass rate exceeded 70% and climbed even higher in 2011 to almost 73%. The percentage of Grade 12 learners that qualify for university entrance has increased from 23,5% in 2010 to 24,3% in 2011, which bodes well for achieving the 2014 target of 175 000 learners (DBE, 2011a).

### 7.3 Human rights and civic education:

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285. The education system has a number of mechanisms in place to secure children's knowledge of, and respect for their rights and the rights of others. These include (a) the establishment of a dedicated Social Cohesion and Equity in Education Directorate within the DBE to promote mainstreaming of human rights teaching and practices within the system; (b) the inclusion of human rights education in the curriculum; (c) the development of an Integrated Strategy on HIV and AIDS 2012 – 2016 to ensure a comprehensive and integrated response to HIV and AIDS throughout the education system; (d) practical curriculum, training, awareness-raising and other interventions to address gender-based barriers and violence in schools; and (e) the establishment of peer education groups in schools. A full list of measures is documented in annexure 2M.

### 7.4 Cultural and linguistic rights of children (article 30)

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286. The Constitution recognises and protects the rights of all people to participate in and practise their religion or culture. This means that no school policy or practice may exclude or otherwise discriminate against a student on the grounds of his or her religion or culture. In addition, it means that schools may observe religious practices. In both instances, the right to practise one's religion or culture is subject to the limitation that such observance may not contravene any of the other rights contained in the Bill of Rights. The Constitutional Court has confirmed that the right cannot be used "to shield practices which offend the Bill of Rights." (*Christian Education South Africa v Minister of Education* 2000 (4) SA 757 (CC)).

287. The South African Schools Act (1996) provides that schools may observe religious practices, subject to the proviso that it is done on an equitable basis and no person (learner or teacher) can be forced to

participate. In 2003, a National Policy on Religion and Education was published to support schools in the development of constitutionally compliant religious practices and education at schools.

288. The State recognises that the right to use and be taught in one's home language is critical to maintaining the cultural integrity and the right of equal access to education of indigenous children, who in South Africa make up the majority, rather than a minority. The minority languages of English and Afrikaans were used by the apartheid architects as instruments of exclusion and oppression. They were given priority status as the official languages of the country. This resulted in the under-development of indigenous African languages in education settings. Consequently, language remains a barrier to access and to success in education in two respects. African and other languages have not been sufficiently developed as languages of teaching and learning and the majority of learners enter an education system dominated by English and Afrikaans without being fully proficient in these languages. The education sector has developed a number of policies to ensure equity of access to education and equality of opportunities for learning and optimal educational outcomes for non-English or –Afrikaans speaking children. These include:

(a) The Language in Education Policy (LiEP) (1997) and the National Curriculum Statements (2011) which require that learners be taught in their home language in the Foundation Phase. They further provide that children have the right to be taught in their language of choice where this is reasonably practical. This has resulted in almost 80% of learners in the Foundation Phase receiving instruction in their home language (DBE, 2010c).

(b) More recently, the Education Laws Amendment Act 2011 strengthened protection of the use of official languages by providing that the governing body of a public school must ensure that (a) there is no unfair discrimination in respect of any official languages that are offered as subject options, and (b) that the first additional language and any other official language is offered at the same level (Section 6B, South African Schools Act, 1996).

289. The LiEP has faced a number of implementation challenges, including difficulties in transitioning from Grade 3 to Grade 4 teaching in English, insufficient home language teachers and insufficient materials in relevant languages. The Minister has responded to these challenges through a number of innovations, including compelling schools to offer English as an additional language in the Foundation Phase so that Grade 3 learners who transition from the being taught in their home language to being taught in English in Grade 4 are able to cope with the transition.

290. The Language Policy for Higher Education requires all higher education institutions to develop their own language policies that will promote multilingualism and enhance equity and access in higher education. In addition, an advisory panel on the use of African languages at post-school level has been established.

## 7.5 Rest, play, leisure, recreation and cultural and artistic activities (article 31):

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291. Section 6(1)(e) of the Children's Act (2005) expressly recognises the "child's need for development and to engage in play and other recreational activities appropriate to the child's age" as a fundamental principle informing the implementation of the Act.

292. The realisation of this right is dependent on the provision, by local government and other role players, of adequate facilities and opportunities for children to play and engage in recreational and cultural activities. The current data (which is problematic in many municipalities) indicates significant inequities in the availability of, and access to these facilities. Children in urban wealthier areas generally served by better resourced and more effective local governments enjoy better access to facilities compared to their poor urban and rural counterparts generally served by impoverished and poorly managed municipalities.

293. Various efforts are underway to address the associated concern raised by the Committee in its **concluding request No. 34** for an improvement in the enjoyment of the right to recreation by all, especially children in Black communities. These include the following:

- (a) The South African Local Government Association (SALGA) has initiated a programme of action to aid and encourage local governments to mainstream and prioritise children's rights within their existing mandates, such as town planning, and the provision and maintenance of public parks and other recreational facilities.
- (b) In the interim, the most systematic mechanism for ensuring equitable access to recreational and cultural activities is through the public education system. The Department of Sport and Recreation (DOSR) and the DBE have developed a national pro-poor Integrated School Sport Framework (2011) with the objective of regulating access to, and the delivery of school sport for all learners, irrespective of their ability, based on the principles of equity and access. The DBE has also published a Draft School Sport Policy which provides an enabling framework for the implementation of the Strategy objectives at public schools. These initiatives have received the highest priority within the DOSR which has increased its 2012 school sport budget from R27,3 million to R42,6 million.
- (c) The Department of Arts and Culture (DAC) has implemented a programme for the provision of internet facilities at all community libraries. It has prioritised the implementation of this programme in poor and under-resourced communities.



## PART 8: Special protection measures

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### 8.1 Children outside their country of origin seeking refugee protection (article 22), unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration

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294. In 1996 South Africa committed itself to the protection of refugees by signing the UN and OAU Refugee Conventions and national efforts to protect refugees and refugee children have been expressed in the South African Bill of Rights. South Africa has also incorporated its international obligations in the South African Refugees Act (1998) and the Immigration Act (2002). Under these Acts, refugee children are protected from refoulement, discrimination and illegal detention and refugee children enjoy full protection in terms of rights to access to basic health care and primary education services as well as prohibitions to child labour. The law provides that immigration control should be performed within the highest applicable standards of human rights protection. Both Acts are currently under review and Parliament is in the process of finalising the Refugees Amendment Bill, 2010 and the Immigration Amendment Bill, 2010.

295. Once children have entered the country, the Department of Home Affairs has standard operating procedures for dealing with unaccompanied asylum-seeking children at Refugee Reception Offices, including provision of assistance with access to enabling documents.

296. Challenges with the current service response to refugee and asylum-seeking children include a complex status determination procedure and, in some instances, resistance from South African officials to providing the required assistance and support, and difficulties experienced in accessing enabling documents. Without secure asylum permits for unaccompanied refugee children, these children may be exposed to police harassment, intimidation, arrest and detention. According to inputs from provincial consultation, there is also poor tracking of children and no standardised tools for reporting on refugee and asylum-seeking children.

297. One of the most important recent developments in terms of the handling of refugees has been the re-constitution of the legally-mandated Immigration Advisory Board (IAB). The Board offers the opportunity for greater coordination on migration issues.

### 8.2 Children in armed conflict (article 38)

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298. In September 2009 South Africa ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. In line with the Optional Protocol, both the Children's Act (2005) and National Defense Force policy define the age of majority as 18 years.

299. While South African children are not exposed to armed conflict, levels of violence (including gun-related violence and gangsterism) among youth in South African communities remain extraordinarily high. Much of the violent crime in South Africa is thought to be driven by formal gangs.

300. Violent and antisocial conduct are fuelled by a range of contextual factors which are rooted in poverty and long term structural inequalities. This is reflected in high rates of firearm injuries, which are a leading cause of death in male teens and also feature in trauma-related causes of death in children younger than five, most of whom are caught in the crossfire. In an effort to address the high incidence of firearm deaths and injuries in South Africa, the Firearms Control Act (2004) aimed to reduce the use and distribution of guns. In 2005, the Department of Safety and Security instituted a nation-wide firearm amnesty over a period of three months during which over 46,000 illegal and legal guns were handed in. A recent study found a significant decrease in gun-related murder of women between 1999 and 2009, most likely due to the improvements in gun control legislation (SAMRC, 2012a and SAMRC, 2012b).

### 8.3 Children in situations of exploitation, including physical and psychological recovery and social reintegration (articles 32, 33, 34, 35, 36)

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301. The Children's Act (2005) provides a comprehensive legal framework for the protection of children from all forms of exploitation. This legislation also responds to South Africa's international obligations under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Section 141 of the Children's Act (2005) states that no person may use, procure or offer a child for slavery, commercial sexual exploitation, trafficking, forced labour, or for any offence listed in Schedule 1 or Schedule 2 of the Criminal Procedure Act (1977). The Act places an obligation on any social worker or social service professional to report such instances to a police official.

### 8.4 Child labour (article 32):

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302. Information on child labour in South Africa is available via the Survey of Activities of Young People (Statistics SA). According to the 2010 Survey, almost 1 in 4 children in South Africa are involved in economic activities and 41,6% of these children are exposed to at least one hazardous condition as a result of these activities. The survey found that the proportion of black children engaged in economic activities is higher (27,9%) compared to 4,2% of Indian/Asian children, 2,7% of coloured children and 1,8% of white children. The likelihood of involvement in economic activities increases with age: 15% of children aged 7–10 years are involved in economic activities compared to 29% of 11–14 year olds and 33% of children aged 15–17 years.

(a) South Africa ratified the Convention on the Worst Forms of Child Labour in the year 2000 and in May 2010, South Africa became a signatory to the ILO's Roadmap towards the Elimination of the Worst forms of Child Labour.

(b) The Child Labour Programme of Action (CLPA) is South Africa's roadmap towards the prevention, reduction and eventual elimination of child labour. The CLPA was first adopted in 2003 after extensive consultation within government, with a wide range of organisations outside government and with groups of teenage children involved in different forms of child labour. The

Programme set out specific actions to be taken and assigned responsibility for these actions. The second phase of the CLPA, which was adopted by Cabinet on 4 February 2009, covers the financial years 2008/09 to 2012/13. The third phase of the CLPA will cover the period April 2013 to March 2016. A report to Cabinet on progress on CLPA Phase 2 noted that government had performed relatively well in the areas of awareness raising, training, and development of materials, as well as in respect of some legislation and regulations.

(c) The action steps of the CLPA are incorporated in the development of the Child Exploitation Strategy and the Guidelines for the Prevention of and Response to Child Exploitation. These documents set out good practice standards for practitioners in accordance with international, regional and national legal frameworks.

(d) Several other policies and laws address and regulate child labour, including the Children's Act (2005) and Regulations on the Worst Forms of Child Labour (2010) and the farm workers sectoral determination which affords special protection to farm workers between 15 and 18 years of age. The Basic Conditions of Employment Amendment Bill (2010) proposes expanded protection for children, including for those who are working legally. The amendments aim to bring the provisions of the principle Act in line with the Constitution and increase the term of imprisonment from three to six years for violations (see annexure 2N for further information).

(e) While South Africa has made good progress over the past decade in creating a regulatory framework which protects children from the harmful effects of child labour, the findings of the recent StatsSA (Statistics SA, 2010) report suggest the need for a greater emphasis on ensuring that this framework is effectively implemented.

## 8.5 Use of children in illicit production & trafficking of drugs (article 33):

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303. Provincial consultations identified the use of children in drug trafficking as a problem in some areas.

## 8.6 Sexual exploitation and sexual abuse (article 34):

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304. Earlier sections describe efforts to prevent child sexual abuse and to ensure access to services and justice for those who are abused. Additional provisions in relation to child sexual exploitation and pornography are dealt with here, including reference to extra-territorial jurisdiction.

305. The Films and Publications Act (2004) creates a comprehensive regulatory framework for films and publications. The Act defines child pornography broadly and completely prohibits the creation, possession and distribution of child pornography. The Act is administered by the DHA and failure to report knowledge or suspicion of the commission of any child pornography is deemed a criminal offence. Enforcement of the Act is supported by the Film and Publication Board (FPB) which works closely with law enforcement agencies and other organisations involved in child protection issues to combat child pornography (See annexure 2N for more information on the FPB).

306. The legislative provisions with respect to the classification of adult content are repeated in the South African Cellular Operators Association Code of Good Practice (SA Cellular Code) as well as the Wireless

Application Service Providers' Association Code of Conduct (WASPA Code). Through the operation of the codes the mobile operators and their content providers are bound by these provisions.

307. Chapter 3 of the Sexual Offences Act (2007), deals expressly with Sexual Offences against Children, especially Statutory Rape, Sexual exploitation of children, including sexual grooming, child pornography and child prostitution. The Act establishes severe criminal sanctions for those who are in any way involved in the prostitution of a child and aims to provide the affected child with the necessary care and protection. Although a child is legally allowed to consent to a sexual act (which includes touching or penetration) from the age of 16, a consensual sexual act with a child is criminalised as exploitation of the child where such an act is accompanied by a reward/payment. Section 61 of the Sexual Offences Act (2007) makes provision for extra-territorial jurisdiction in Sexual Offences matters and Section 291 of the Children's Act (2005) provides for the extra-territorial application of child trafficking offences. Section 30A of the Films and Publications Act similarly provides for the extra-territorial application of offences under the Act.

308. Several government departments (DSD; DOJ; NPA; SAPS) provide training and capacity building on issues of child exploitation to combat commercial sexual exploitation, sale, trafficking and abduction of children. And the National Instruction on Sexual Offences instructs police officials on how to deal with a victim of a sexual offence in accordance with the Sexual Offences Act (2007) and guides police officials on services available to victims, including child victims of sexual offences (see tables 6 and 7 in the statistical annexure 1A for more information on training).

309. A Code of Conduct has been signed between Fair Trade Tourism SA (FTTSA) and the DSD for the Protection of Children from Sexual Exploitation in Travel and Tourism. The code of conduct covers the hotel industry, places of entertainment, tourism and related sectors.

310. South Africa also participated in the drafting and signing of the International Convention on Cyber Crime in 2001. The Convention provides for measures to assist police to investigate computer related crimes, including production, dissemination and possession of child pornography.

## 8.7 Sale, trafficking and abduction of children (article 35):

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311. There is currently no reliable national data on the extent of trafficking in children in SA or the type of exploitation for which such children are trafficked.

312. Currently, the legal protective measures dealing with trafficking in persons in South Africa is split between the Sexual Offences Act (2007) and the Children's Act (2005). The Children's Act defines child trafficking as the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic. The Sexual Offences Amendment Act includes transitional provisions (section 69 to 71) in respect of trafficking in persons for sexual purposes, which include the trafficking of children. Limitations within current law which need to be addressed include the lack of provision for child trafficking more broadly and the lack of provision for psychological and medical assistance, reintegration or

repatriation for victims of trafficking. Although SA law criminalises trafficking, it does not provide specific sanctions for the commission of this crime.

313. The Prevention and Combating of Trafficking in Persons Bill (2010) aims to address these gaps and to prevent and combat the trafficking in persons within and/or outside South Africa's borders. It criminalises trafficking in persons and other associated offences, and contains measures to protect and assist victims of trafficking. It also seeks to establish an inter-sectoral committee to prevent and combat trafficking in persons. If the Prevention and Combating of Trafficking in Persons Bill becomes law, it will be the most comprehensive statute on human trafficking in South Africa. The Bill has been approved by the Portfolio Committee and will be considered by the National Council of Provinces (NCOP).

314. At the level of implementation, there is an Inter-Sectoral Task Team on Human Trafficking (ISTTHT) led by the National Prosecuting Authority. This task team has been instrumental in raising awareness on human trafficking and led to the establishment of inter-departmental Provincial Task teams to address Human trafficking cases collaboratively. In certain provinces, such as KZN, the Provincial task Teams have made huge strides and achieved operational success against major traffickers. Human trafficking has also been declared one of the operational priorities of the DPCI (Directorate for Priority Crime Investigation).

315. During October 2011 the DPCI established a Human Trafficking Forum to complement the ISTTHT, with national and provincial coordinators. In addition, the DPCI in June 2011 established a Human Trafficking Desk within its Priority Crime Management Centre. Provincial Human Trafficking Coordinators are also an integral part of the Provincial Human Trafficking Task Teams. Through the effort of these coordinators, human trafficking cases are being prosecuted and assets of suspected human trafficking networks have been confiscated. Awareness campaigns targeting law enforcement agencies have also led to improvements in the management of victims of human trafficking. And the DOJCD has developed the draft National Policy Framework (NPF) on Trafficking in Persons to ensure structured, coordinated and victim-centred service system. Where relevant, activities are carried out in collaboration with Interpol.

## 8.8 Children in street situations:

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316. According to the DSD, there were an estimated 12,000 children living and working on the streets in 2011. In terms of the Children's Act (2005), a child who lives or works on the streets or begs for a living is considered a child in need of care and protection, and the Act makes provision for drop-in centres and child and youth care centres for the reception and care of street children.

317. Children living and working on the streets face a myriad of problems, including victimisation, abuse and exploitation, health issues, drug and alcohol addiction and psychological deprivation. A national strategy for children living and working on the streets (undated) was developed to address these challenges, to take forward the provisions of the Children's Act (2005) and to provide different stakeholders at national, provincial, and local levels with guidance on the development of appropriate programmes. The strategy includes several key interventions aimed at: preventing children from coming to the streets through support for at-risk families, early intervention for children who are new to the streets (this includes provision

for restorative justice for those young persons who have committed minor offences whilst they are living on the streets), protection services (including health care, education, counseling, assistance with enabling documents and shelter), and reintegration with family or placement where necessary in alternative care. The strategy outlines the roles of various stakeholders in supporting implementation.

## 8.9 Minority groups (article 30):

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318. Protection of the rights of minority groups is dealt with in Part 3, Part 4 and Part 7 in terms of linguistic and cultural rights and freedom of association, and special measures to prevent discrimination and ensure equality.

## 8.10 Children in conflict with the law, victims and witnesses (articles 37 and 40)

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319. The administration of juvenile justice (article 40), the existence of specialized and separate courts and the applicable age of criminal responsibility: The Child Justice Act (2008) gives effect to the rights identified in articles 37(b-d) and 40 in the UNCRC and establishes a criminal justice system appropriate to the needs and protection of children and entrenches the principles of restorative justice.

(a) **Criminal capacity.** The Child Justice Act (2008) stipulates that the minimum age of criminal capacity is 10 years, as opposed to the international standard of 12 years, set by the UN Committee on the Rights of the Child in General Comment 10 (See Part 2). The Act provides that children below the age of 10 years may not be arrested or prosecuted. Children aged 10 – 14 years may be arrested and prosecuted, but the prosecutor must prove to the court that the child had criminal capacity when s/he committed the offence. The UNCRC has observed that this kind of discretionary age limit can be discriminatory and has recommended that one minimum age is used. The determination of criminal capacity in children has placed an additional requirement on the health system, especially in the area of psychologists and psychiatrists, and delays in evaluation for criminal capacity are a challenge throughout the country. Additional investments are needed to bolster these services within the public sector.

(b) **Existence of specialised and separate courts.** The UN asks for the “Existence of specialized and separate courts” in matters relating to children. In South Africa, existing courts are being used and adapted for children’s issues - the Children’s Act (2005) establishes every Magistrate’s Court as a Children’s Court. Amongst the needs which have been identified to make the courts more child-friendly are the provision of additional microphones required for use in rooms where preliminary inquiries are heard and the general upgrading of facilities.

320. Children deprived of their liberty, and measures to ensure that any arrest, detention or imprisonment of a child shall be used as a measure of last resort and for the shortest appropriate time and that legal and other assistance is promptly provided (article 37)

(a) In line with the recommendations of **concluding observation 42**, the Child Justice Act (2008) contains provisions to encourage the avoidance of arrest, and where children are arrested preference must be given to the least restrictive option possible in the circumstances. The Act encourages the release of a child as soon as possible into the care of their parents, guardians or other suitable adults.

One of the guiding principles of the CJA requires that all procedures in terms of the Act should be conducted and completed without unreasonable delay.

(b) All children alleged to have committed a crime must be assessed by a probation officer before appearing in court, and within 48 hours of the arrest. The court must consider the probation officer's assessment report and all relevant factors before making an appropriate order for the future management of the child's case, based on the child's individual needs. The preliminary inquiry allows for child participation and a neutral chair (i.e. a presiding officer) to ensure a power balance between the interests of the State and the interests of the child. Three two-day Preliminary Inquiries Workshops were held in 2011 with Magistrates on the development of a standard form and proceedings for doing Preliminary Inquiries. Legal Aid SA practitioners are available at dedicated Preliminary Inquiry courts.

321. The sentencing of children, in particular the prohibition of capital punishment and life imprisonment (article 37) and the existence of alternative sanctions based on a restorative approach.

(a) The Child Justice Act (2008) aims to divert cases out of the criminal justice system and into programmes that reinforce children's respect for human rights and that allow children to be held accountable for their actions without obtaining a criminal record. To support implementation of the Act, the DSD drafted a policy Framework on the Accreditation of Diversion Services in South Africa and in 2010/2011 an accreditation process was devised and implemented. This process gave rise to a published list of accredited service providers which will be regularly updated. The DSD has also initiated therapeutic programmes for children in Child and Youth Care Centres who have been diverted from the criminal justice system or who are awaiting trial.

(b) For those found guilty, the Act provides various sentencing options to promote the effective rehabilitation and reintegration of children and to minimise the potential for re-offending. Through these various initiatives, the number of sentenced children in prisons decreased from 536 in April 2011 to 51 in December 2011. Provincial consultations however identified insufficient secure care facilities suitable for children who have committed offences.

(c) The UNCRC has also recommended "an automatic removal" of criminal records upon reaching the age of 18 years for all but the most serious crimes. The Child Justice Act (2008) sets out a procedure whereby the offender or his/her parents may apply for the removal of criminal records after five or 10 years for less serious crimes. However, the Act does not allow for the removal of records of serious offences (namely, schedule 3 offences, such as rape or murder), even when committed by a child.

322. Physical and psychological recovery and social reintegration (article 39)

(a) The Department of Correctional Services delivers a comprehensive and multi-disciplinary service to children incarcerated in the correctional centres. These services include social work services, health care services, education, psychological, spiritual and moral development services and programmes.

(b) Children who are deprived of their liberty are equally entitled to the compulsory education provisions contained in the South African Schools Act. Section 19(1) of the Correctional Services Act provides that every child inmate must have access to educational programmes. The realisation of this

right is beset by a number of challenges. A survey of 41 Correctional Services facilities conducted in 2011 found that, with the exception of a few prisons, unsentenced awaiting-trial children who spend an average of 70 days in detention, are not provided with access to any educational services. In addition, not all sentenced children have access to education (University of the Western Cape, 2012).

323 The protection of child witnesses: The Domestic Violence Act (1998) protects against harassment and stalking cases where the complainant and the respondent are in a domestic relationship. The Protection from Harassment Bill (2010) will extend protection to cases of harassment where there is no domestic relationship between the victim and perpetrator and includes protective provisions to children who can be complainants, persons related to a complainant or child witnesses.

324. Training activities for those involved in the juvenile justice system: Basic and in-service training has been rolled out to support implementation of the Child Justice Act. Training has targeted representatives from the DOCS, SAPS, the DOJCD, the DOH, Justice College, the Human Rights Commission, Legal Aid South Africa, probation and social services practitioners, prosecutors and provincial co-ordinators (see annexure 1A for a more detailed list).

325. Additional resources have been allocated to support implementation of Child Justice legislation. In particular, the number of child justice clerks increased from 111 in 2010/11 to 128 in 2011/12 and the number of legal aid attorneys employed by Legal Aid SA increased from 1452 in 2010/11 to 1718 in 2011/12, specifically to deal with Child Justice matters. Provincial Child Justice Forums (PCJF) have been established in each of the nine provinces (including representation from the DOJCD, DSD, DOCS, DBE, the NPA, DOH, SAPS, Legal Aid South Africa and NGOs) and the Child Justice Information Management Task Team (CJIMTT) was established to improve data collection across Departments to monitor implementation of the Act. The Medium Term Strategic Framework (MTSF) provides for the establishment of two One-Stop Child Justice Centres per financial year. The first two centres were established in the North West and Eastern Cape Provinces in the 2011/12 financial year and an additional two was planned for 2012/13.



#### **IV. Optional protocols**

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326. South Africa signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2003 and the Optional Protocol on the Involvement of Children in Armed Conflict in 2009. The initial report on measures taken to implement the provisions of each protocol is attached in accompanying documents.

(These reports are currently being finalized as at 21 September 2012).

**General measures of implementation (articles 4, 42 and 44)**  
**Allocation of resources during the reporting period**

**Table 1: Expenditure on social grants (SA RAND)**

Expenditure on Social Grants	2003	2008 (R)	2012 (R)
Child Support Grant	Not Available	19 625 983	34 319 490
Care Dependency Grant		1 132 102	1 736 424
Foster Child Grant		3 414 315	5 010 885
Social Relief of Distress Benefit (SROD)		0	185 298

Source: Department of Social Development, Budget office

**Table 2: Expenditure on health care**

Expenditure on health care	2003	2008	2012
1. Administration	1,613,408	2,530,419	2,996,144
2. District Health Services	14,589,830	31,477,903	51,997,500
3. Emergency Medical Services	1,283,004	2,899,386	4,884,416
4. Provincial Hospital Services	9,907,350	17,475,757	26,292,585
5. Central Hospital Services	6,371,304	11,028,199	17,791,449
6. Health Sciences and Training	1,078,201	2,542,940	3,901,380
7. Health Care Support Services	562,799	1,381,219	1,997,536
8. Health Facilities Management	2,042,845	5,562,438	7,968,401

Source: National Treasury Provincial Database representing all 9 provinces and conditional grants expenditure managed at national level

**Table 3: Expenditure on early childhood development: (SA RAND)**

Expenditure on early childhood care and development	2007/08 '000	2011/12 '000
Early childhood care and development 0-4 (DSD Budget)	766 022	2 910.768
Early childhood care and development Grade R	691 206	3 591 219

Source: Treasury and DBE Provincial Budgets and Expenditure Review: 2005/06 – 2011/12

**Table 4: Expenditure on education: (SA RAND)**

Expenditure on education	2002	2012/13
Departmental budgets for basic and higher education	147,2 billion	207 billion
Combined national and provincial basic education budgets	59.8 billion	152.1 billion
Special education / inclusive education MTEF 2008- R1,5 billion and MTEF2009- R300 million to be used as a baseline by provinces for inclusive education	Special education / inclusive education)	R400 00 from EU funds to be used for teacher development on inclusive education

Source: Treasury and DBE Provincial Budgets and Expenditure Review: 2005/06 – 2011/12

**Table 5: Expenditure on child protection: (SA RAND)**

Expenditure on Child Protection Measures*	2003	2008	2012
Child Care and Protection (National DSD)	504,528	3,875,358	6,423,831
Child Care and Protection (Provincial DSD)	731,832	1,849,531	3,063,476

Source: Department of Social Development

## Training provided on the Convention for professionals working with and for children

**Table 6: Training provided to judicial, law enforcement and related personnel**

Personnel	No. trained	Year(s)	Training provided on
South African Police Services	32 600	Since 2010	Child Justice Act and Children's Act
Prosecutors	912 (30 sessions)	Since 2009	Child Justice Act
Judiciary, probation officers, SAPS, Legal Aid, DOE, DHA, DOCS (Intersectoral Training by DOJCD)	306	2011	Child Justice Act
DOJCD Child Justice Clerks	891	Since 2010	Child Justice Act
Probation and social service practitioners	345	2011	Integrated Social Crime Prevention Strategy
Practitioners	285	2011	Probation Guidelines
Master trainers	205	2011	Therapeutic programmes
Practitioners	231	2011	Reception, assessment and referral in the child justice system
Prosecutors	993 (38 sessions)	2008-2012	Sexual Offences Act
Doctors and Nurses	529	2007-2010	Sexual Offences Act
South African Police Officials	5233	2007-2010	Sexual Offences Act
Intermediaries	216	2007-2010	Sexual Offences Act
Magistrates	402	2007-2010	Sexual Offences Act
Clerks	424	2009/10	Sexual Offences Act
Delegates from Thuthuzela Centres	483 (20 sessions)	Since 2011	Integrated Training Programme on Sexual Offences
Prosecutors	352 (21 sessions)	Since 2010	Maintenance Act
Prosecutors	213 (10 sessions)	Since 2010	Domestic Violence Act
Clerks of Domestic Violence	455	Since 2010	Domestic Violence Act

Personnel	No. trained	Year(s)	Training provided on
Prosecutors	422	Since 2010	Children's Act
Family Advocates, Family Assistants, Family Counsellors, Legal Aid Practitioners, Traditional Leaders, State Attorneys and Family Law Clerks	117	2010	Children's Act
Clerks of the Children's Court	582	Since 2010	Children's Act
Judiciary (Magistrates)	195	Since 2009	Children's Act
Correctional Officers & Social Workers	257	Since 2010	Child Justice Act

Source: Departmental reports submitted to DWCPD for UNCRC report

**Table 7: Training provided to other personnel**

Other professional categories	No. trained	Year(s)	Training provided on
Teachers			Data not available
Health care workers			
Social workers	2000	2010/11	Child Protection System
Social workers	2000	2011/12	Children's Act
Social workers	1000	2012/13	Risk Assessment Tool

Source: Department of Social Development

## **Definition of the child (article 1)**

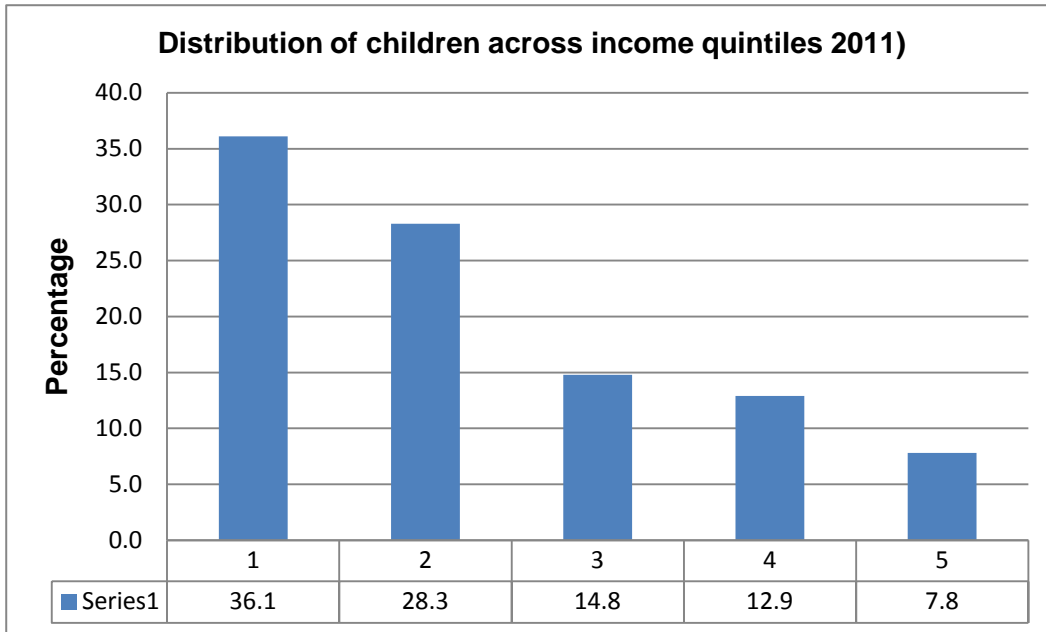
### **Child population**

**Table 8: Child population disaggregated by gender and race**

Year	No. children 0-17 years	Male (%)	Female (%)	Black African (%)	Coloured (%)	Indian/Asian (%)	White (%)
2003	18,596,778	50.4	49.6	84.1	8.0	1.9	6.0
2008	18,678,949	50.6	49.4	84.6	8.1	1.9	5.3
2011	18,541,347	50.2	49.8	84.7	8.1	2.0	5.2

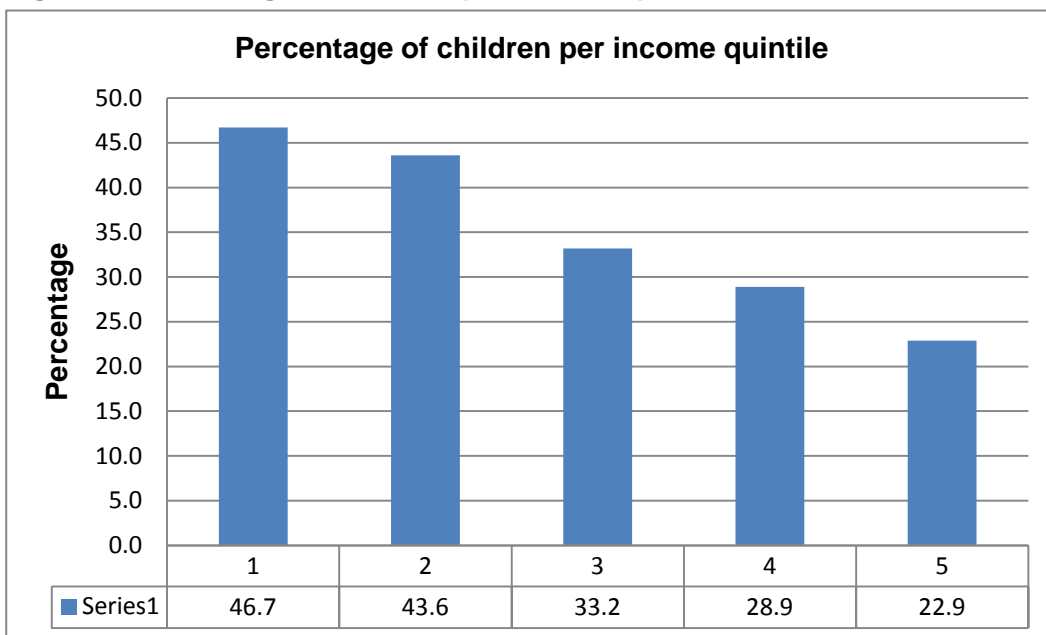
Source: Statistics SA, General Household Surveys 2003, 2008, 2011

**Figure 1: Distribution of children across income quintiles**



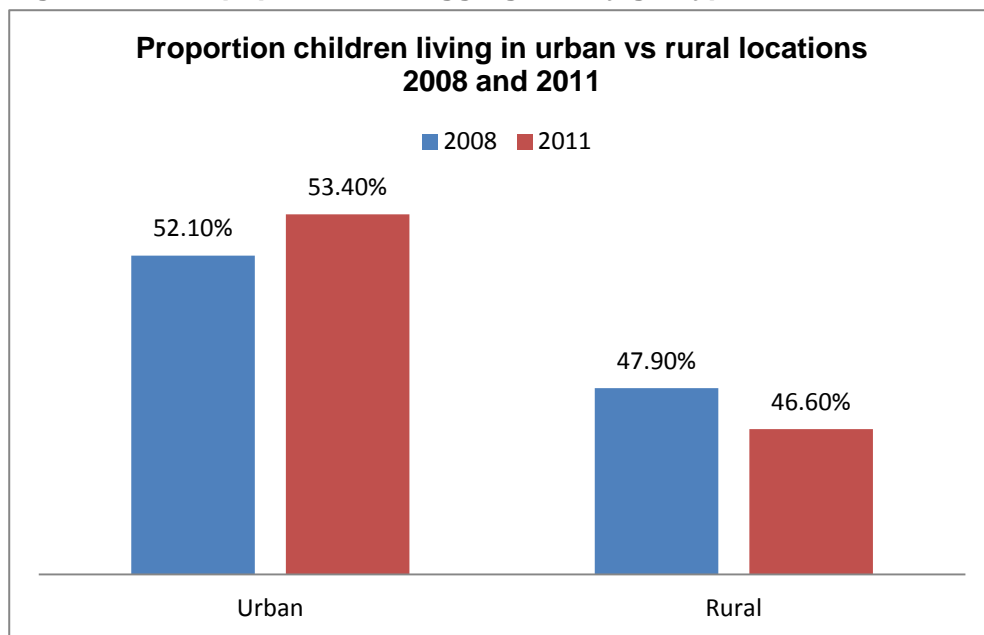
Source: Statistics South Africa, General Household Survey 2011

**Figure 2: Percentage of children per income quintile**



Source: Statistics South Africa, General Household Survey, 2011

**Figure 3: Child population disaggregated by geotype**



Source: Statistics South Africa. General household survey, 2008 & 2011

## Child marriages

**Table 9: Number of registered civil marriages of children by age and gender**

Age	2003			2008		
	Males	Females	Total	Males	Females	Total
13 years				0	1	1
14 years				2	4	6
15 years				2	25	27
16 years	5	132	137	3	120	123
17 years	16	394	410	8	359	367
Total	21	526	547	15	509	524
% of all civil marriages registered	0.01	0.29	0.31	0.01	0.27	0.28

Source: Statistics South Africa. 2004 and 2009. Marriages and divorces,.



**General principles (articles 2,3,6 and 12)**  
**The right to life, survival and development**

**Table 10: Number of children's deaths due to selected causes of death, by age (2008)**

Underlying causes of death	0	1-4	5-9	10-14	15-17	Total	Total deaths due to cause	% total deaths
Tuberculosis (A15-A19)	699	776	514	394	388	2,771	75,238	3.7
Human immunodeficiency virus [HIV] disease (B20-B24)	521	303	133	74	63	1,094	15,172	7.2
Sequelae of infectious and parasitic diseases (B90-B94)	0	1	2	1	0	4	604	0.7
Acute upper respiratory infections (J00-J06)	34	24	9	3	4	74	246	30.1
Transport accidents (V01-V99)	26	170	246	184	197	823	5,816	14.2
Other external causes of accidental injury (W00-X59)	1,001	1,227	782	754	1,029	4,793	34,189	14.0
Intentional self-harm / suicide (X60-X84)	0	0	0	7	36	43	443	9.7
Assault (X85-Y09)	16	20	8	37	242	323	5,520	5.9
Event of undetermined intent (Y10-Y34)	30	173	113	107	256	679	6,535	10.4
Complications of medical and surgical care (Y40-Y84)	31	12	4	12	16	75	737	10.2
Sequelae of external causes of morbidity and mortality (Y85-Y89)	0	0	1	0	1	2	60	3.3
Polio (A80)	0	1	0	0	0	1	11	9.1
Malaria (B50-B54)	2	7	2	5	0	16	1,320	1.2
Hepatitis (K75)	13	11	13	2	10	49	2,900	1.7

Source: Statistics South Africa. 2010. *Mortality and Causes of Death in South Africa: Finding from Death Notification*, Stats SA, Pretoria

**Table 11: Number of children's deaths due to selected causes of death, by gender (2008)**

Underlying causes of death	Male	Female	Unspecified	Total
Tuberculosis (A15-A19)	1,342	1,422	7	2,771
Human immunodeficiency virus [HIV] disease (B20-B24)	536	553	5	1,094
Sequelae of infectious and parasitic diseases (B90-B94)	2	2	0	4
Acute upper respiratory infections (J00-J06)	43	31	0	74
Transport accidents (V01-V99)	476	345	2	823
Other external causes of accidental injury (W00-X59)	2,958	1,823	12	4,793
Intentional self-harm (X60-X84)	22	21	0	43
Assault (X85-Y09)	267	55	1	323
Event of undetermined intent (Y10-Y34)	407	272	0	679
Complications of medical and surgical care (Y40-Y84)	46	28	1	75
Sequelae of external causes of morbidity and mortality (Y85-Y89)	2	0	0	2
Polio (A80)	1	0	0	1
Malaria (B50-B54)	8	7	1	16
Hepatitis (K75)	33	16	0	49

Source: Statistics South Africa. 2010. *Mortality and Causes of Death in South Africa: Finding from Death Notification, Stats SA, Pretoria*

**Table 12: Number of children's deaths due to selected causes of death, by province (2008) (\*Less than 5 deaths recorded)**

Underlying causes of death	WC	EC	NC	FS	KZN	NW	GP	MP	L	Total
Tuberculosis (A15-A19)	102	410	64	233	904	213	340	273	229	2,771
Human immunodeficiency virus [HIV] disease (B20-B24)	108	149	38	120	338	63	182	53	43	1,094
Sequelae of infectious and parasitic diseases (B90-B94)	0	0	*	0	*	0	*	0	0	4
Acute upper respiratory infections (J00-J06)	*	7	*	13	6	14	21	*	6	74
Transport accidents (V01-V99)	63	131	39	60	163	57	81	68	161	823
Other external causes of accidental injury (W00-X59)	524	748	114	274	1,119	279	1,019	347	367	4,793
Intentional self-harm (X60-X84)	*	6	9	*	16	0	0	7	*	43
Assault (X85-Y09)	65	92	13	20	50	24	38	5	16	323
Event of undetermined intent (Y10-Y34)	51	126	11	32	178	87	132	16	46	679
Complications of medical and surgical care (Y40-Y84)	*	15	0	7	25	8	9	*	6	75
Sequelae of external causes of morbidity and mortality (Y85-Y89)	0	0	0	0	*	0	0	*	0	2
Polio (A80)	0	0	0	0	0	0	*	0	0	1
Malaria (B50-B54)	0	*	0	0	*	*	6	*	*	16
Hepatitis (K75)	*	14	*	*	10	*	9	*	5	49

Source: Statistics South Africa. 2010. *Mortality and Causes of Death in South Africa: Finding from Death Notification, Stats SA, Pretoria*

## **Respect for the views of the child**

**Table 13: Child and youth organisations or associations**

Child and youth organisations or associations	Number of members		
	2003	2008	2012
Data not available			
Schools with independent student councils	Most schools have student representative councils		

**Table 14: The number of children that have been heard under judicial and administrative proceedings: preliminary inquiries held, by financial year**

Region	1 April 2010 – 31 March 2011	1 April 2011 – 31 March 2012
	Preliminary Inquiries Held	Preliminary Inquiries Held
Eastern Cape	1445	4335
Free State	808	1979
Gauteng	1463	2020
KZN	3843	4724
Limpopo	422	877
Mpumalanga	698	1062
North West	691	1437
Northern Cape	307	664
Western Cape	4794	5715
<b>Grand Total</b>	<b>14471</b>	<b>22813</b>

*Source: DOJCD - Statistics relate to the Child Justice Act 75 of 2008 which only came into effect as from 1 April 2010*

**Table 15: Children’s Court cases opened in terms of the Children’s Act No. 38 of 2005, by financial year**

Region	1 July 2010 – 31 March 2011 Children Court Cases Opened	1 April 2011 – 31 March 2012 Children Court Cases Opened
Eastern Cape	11947	15384
Free State	2718	3719
Gauteng	6234	9635
KZN	22375	23426
Limpopo	7606	9919
Mpumalanga	4591	7234
North West	6679	8941
Northern Cape	1840	1531
Western Cape	4566	6672
<b>Grand Total</b>	<b>68556</b>	<b>86461</b>

Source: DOJCD

Note: This data was only collected from 1 July 2010

## Civil Rights and Freedoms (articles 7,8,13-17, 28 and 39)

### Birth registration

Data collected in 2003 and 2008 was for births registered within one year. No comparable data was collected for births registered within 30 days in this time period, but is available in later years (2010/11 – 2011/12). The green blocks indicate the number and proportion of births registered within a year.

**Table 16: Number of births registered by year of occurrence (2003 and 2010)**

Year of birth	Total births	Year of registration									
		2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
2003	912,822	621,887 (68%)	165,662	43,404	34,601	20,009	14,085	8,322	4,852		
2008	1,047,581						915,674 (87%)	101,743	30,164		

Source: Department of Home Affairs

**Table 17: Registration for Births 2010-2011 and 2011-2012**

Year of birth	Registration of births		
	0-30 days	31 days – 1 year	2 – 14 years
2010/2011	487,105 (45%)	527,599 (47%)	93,238 (9%)
2011/2012	574,192 (51%)	435,453 (39%)	82,722 (9%)

Source: Department of Home Affairs

As is evident from the table above, between 2010/11 and 2011/12 the figures for those who complied with the law i.e. registered within 30 days after birth grew by about 6% or 77,087.

**Table 18: Birth registration figures by province (2010/2011)**

Province	0-30 days	31 days – 1 year	2 – 14 years	Sub-Total
Eastern Cape	62,100	60,905	13,584	136,589
Free State	36,069	20,328	4,767	61,164
Gauteng	131,104	81,666	11,400	224,170
Limpopo	47,906	78,760	7,756	134,422
KZN	95,391	116,204	33,773	245,368
Mpumalanga	24,284	87,021	8,883	128,180
North West	27,243	34,314	5,768	67,325
Northern Cape	14,463	9,068	1,539	25,070
Western Cape	58,545	39,333	5,768	103,646
<b>Total</b>	<b>497,105</b>	<b>527,599</b>	<b>93,238</b>	<b>1,125,934</b>
<b>Percentages</b>	<b>45%</b>	<b>47%</b>	<b>9%</b>	<b>100%</b>

Source: Department of Home Affairs

**Table 19: Birth registration figures by province (2011/2012)**

Province	0-30 days	31 days – 1 year	2 – 14 years	Sub-Total
Eastern Cape	78,319	54,441	11,029	143,789
Free State	37,789	15,896	4,731	58,416
Gauteng	153,208	65,926	15,089	234,223
Limpopo	57,432	74,643	7,192	139,267
KZN	97,887	104,600	25,802	228,289
Mpumalanga	30,276	45,068	7,202	153,842
North West	32,535	33,292	5,469	71,296
Northern Cape	15,546	8,352	1,394	25,292
Western Cape	71,200	33,235	4,814	109,249
<b>Total</b>	<b>574,192</b>	<b>435,453</b>	<b>82,722</b>	<b>1,163,663</b>
<b>Percentages</b>	<b>51%</b>	<b>39%</b>	<b>9%</b>	<b>100%</b>

Source: Department of Home Affairs

## **Access to appropriate information**

**Table 20: Proportion schools in each province equipped with information technology and communications**

Province	Landline	Fax	Internet	Computer
Eastern Cape	22%	14%	3%	11%
Free State	57%	52%	15%	22%
Gauteng	90%	86%	38%	75%
Kwazulu Natal	44%	31%	5%	17%
Limpopo	26%	13%	2%	11%
Mpumalanga	51%	35%	28%	16%
North West	44%	30%	4%	22%
Northern Cape	74%	69%	30%	51%
Western Cape	97%	92%	86%	61%

*Source: 2011 NEIMS report, DBE*

## **The right not to be subjected to torture or other cruel inhuman or degrading treatment or punishment**

Table 21: Incidents of inhuman or degrading treatment or punishment and responses to such incidents

Incidents or response	2003	2009	2011	
Number of children reported as victims of torture	No such charge exists, only assault			
Number of children reported as victims of forced marriage	DATA NOT AVAILABLE			
Number of children reported as victims of female genital mutilation				
Incidences of corporal punishment in schools, for children aged 5 years and older, by gender				
			Males*	1,042,725
			Females*	1,060,952
Number of incidences of corporal punishment in child care facilities	Unknown			
Number of incidents of bullying and mobbing	Unknown			
Number and percentage of reported violations above that have resulted in court decision or other follow up	Unknown			
Number of children who received special care in terms of recovery and social reintegration	Unknown			
The number of programmes implemented for the prevention of institutional violence	Unknown			
Training provided to staff of institutions	Unknown			

\*Source: Statistics SA, General Household Survey (2011)



**Table 22: Incidents of corporal punishment in schools (2011) for children aged 5 years and older, by province**

Province	Number of incidents (2011)
Western Cape	43 201
Eastern Cape	556 411
Northern Cape	48 366
Free State	158 170
KwaZulu-Natal	643 640
Northwest	154 670
Gauteng	124 885
Mpumalanga	75 042
Limpopo	299 292
South Africa	2 103 677

*Source: Statistics SA, General Household Survey, 2011*

## Family environment and alternative care (articles 5, 9-11, 18, 19-21, 25, 27 and 39)

### Family Support

**Table 23: Access to support services**

Service access	2012
The number of services and programmes aimed at rendering appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities	Not available
The number and percentage of children and families that benefit from these services and programmes	167000 families and 85000 children
The number of available childcare services and facilities	403 Child and youth care centres 705 Drop in centres 19 971 ECD centres
The percentage of children and families that have access to these services.	167 000 families and 85000 children 22 000 children in CYCC 1,2 million in DIC and 984 524 accessing ECD services

*Source: Department of Social Development*

### Children without parental care

**Table 24: Data on child care institutions**

Child care institutions	2012
The number of places available in child care institutions	25000
The number of children who are living in institutions	22000
The number and percentage of children reunited with their parents after a placement	No data

*Source: Department of Social Development*

**Table 25: The number of children placed in Foster Care by Children’s Court Order during each financial year**

Province	1 April 2010 – 31 March 2011	1 April 2011 – 31 March 2012
Eastern Cape	16347	14970
Free State	3054	2628
Gauteng	5935	4874
KZN	26175	18682
Limpopo	8290	8697
Mpumalanga	5405	5105
North West	6707	5028
Northern Cape	1519	732
Western Cape	3563	3556
<b>Grand Total</b>	<b>76995</b>	<b>64272</b>

Source: DOJCD

**Table 26: The number of child adoptions in SA per adoption type and financial year**

Year	Local adoption	International adoption	Total
2003/04	1,886	308	2194
2004/05	1,994	232	2226
2005/06	2,120	203	2323
2006/07	2,055	260	2315
2007/08	1,682	231	1913
2008/09	1,150	218	1368
2009/10	2,605	293	2898

Source: Department of Social Development: Adoption register

## **Family reunification**

**Table 27: International family reunifications**

Family reunifications	2012
Number of children who entered the country for the purpose of family reunification	No data
Number of children who left the country for the purpose of family reunification	No data
Number of unaccompanied refugee and asylum-seeking children	477

Source: Department of Social Development

## **Illicit transfer and non-return**

**Table 28: Abduction of children to and from South Africa**

<b>Illicit transfer</b>	<b>2003</b>	<b>2008</b>	<b>2012</b>
The number of children abducted from SA	No data	29*	
The number of children abducted to SA	No data	24*	34*
The number of perpetrators arrested and the percentage of those that were sanctioned	No data		

*Source: Department of Justice and Constitutional Development*

*\*\*Source: Department of Social Development*

## **Abuse and neglect, including physical and psychological recovery and social reintegration**

**Table 29: The number of reported cases of neglect and ill treatment of children in South Africa**

Province	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Eastern Cape	610	465	477	430	382	358	356
Free State	475	412	388	370	420	404	450
Gauteng	1,576	1,333	1,180	1,126	1,018	988	1,057
Kwa-Zulu Natal	685	687	637	467	448	490	455
Limpopo	381	328	277	269	232	235	218
Mpumalanga	309	331	246	203	166	170	164
North West	255	228	248	239	230	293	270
Northern Cape	451	347	272	240	232	213	197
Western Cape	1,762	1,437	1,103	914	978	883	847
<b>Total</b>	<b>6,504</b>	<b>5,568</b>	<b>4,828</b>	<b>4,258</b>	<b>4,106</b>	<b>4,034</b>	<b>4,014</b>

Source: Department of Social Development: Child Protection Register

**Table 30: The number of child abuse cases per province and financial year**

Province	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12 Quarter 1
Eastern Cape	0	0	0	1	0	373	181	0
Free State	1	19	953	210	117	10	18	0
Gauteng	832	461	1,075	675	1,121	296	588	18
Kwa-Zulu Natal	1	32	230	204	756	172	182	1
Limpopo	0	16	311	74	0	340	44	43
Mpumalanga	178	238	318	482	556	489	123	0
North West	106	0	1	142	34	114	26	57
Northern Cape	0	0	0	1	647	2	186	0
Western Cape	3,046	1,678	627	82	227	160	0	0
<b>Total</b>	<b>4,164</b>	<b>2,444</b>	<b>3,515</b>	<b>1,870</b>	<b>3,456</b>	<b>1956</b>	<b>1348</b>	<b>119</b>

Source: Department of Social Development: Child Protection Register (System not fully operational- data gaps in provinces)

**Table 31: The number of cases reported that resulted in court sanctions for perpetrators, per province**

Provinces	2008/2009	2009/2010	2010/2011	2011/2012
Eastern Cape	55	75	98	95
Free State	155	175	106	131
Gauteng	116	124	140	152
KwaZulu-Natal	55	48	50	29
Limpopo	87	69	80	57
Mpumalanga	40	36	42	39
North West	110	114	78	76
Northern Cape	82	63	55	39
Western Cape	194	205	174	140
<b>Grand Total</b>	<b>894</b>	<b>909</b>	<b>823</b>	<b>758</b>

Source: DOJCD

**Disability, basic health and welfare (articles 6,18, 23, 24, 26, 27 and 33)**  
**Children with disabilities whose parents receive material assistance**

**Table 32: Number of care dependency grants by province as at 30 April 2012**

Provinces	2003	2008	30 April 2012*
Eastern Cape			18,353
Free State			5,464
Gauteng			14,350
KwaZulu-Natal			35,271
Limpopo			11,474
Mpumalanga			8,079
North West			8,841
Northern Cape			4,256
Western Cape			10,013
<b>Grand Total</b>			<b>116,101</b>

\*Source: SASSA fact sheet no 4 of 2012

## Children with disabilities who are attending school

**Table 33: Number of primary learners with disabilities in *ordinary schools*, by province, from 2008 to 2010**

Province	Year		
	2008	2009	2010
Eastern Cape	18,607	17,614	20,969
Free State	15,438	5,077	15,154
Gauteng	12,397	11,218	28,497
KwaZulu-Natal	15,647	17,310	21,549
Limpopo	3,403	3,091	5,245
Mpumalanga	12,051	13,002	14,061
North West	3,390	2,511	1,534
Northern Cape	6,581	3,037	2,864
Western Cape	13,104	12,727	8,617
<b>South Africa</b>	<b>100,618</b>	<b>85,587</b>	<b>118,490</b>

Source: Annual School Surveys: 2008 to 2010.

**Table 34: Number of primary learners with disabilities in *special schools*, by province, from 2008 to 2010.**

Province	Year		
	2008	2009	2010
Eastern Cape	5,371	6,512	5,799
Free State	513	1,471	1,348
Gauteng	19,960	12,104	31,775
KwaZulu-Natal	6,749	8,738	11,436
Limpopo	5,561	5,136	6,618
Mpumalanga	2,245	3,026	3,746
North West	936	66	1,915
Northern Cape	3,606	375	3,182
Western Cape	1,766	1,529	3,874
<b>South Africa</b>	<b>46,707</b>	<b>38,957</b>	<b>69,693</b>

Source: Annual SNE Surveys: 2008 to 2010

## Health and health services

**Table 35: Rates of infant and child mortality**

Mortality	2003	2008	2011
Infant mortality rate	52.4	42.1	37.9
Child mortality rate (Under 5)	79.1	63.1	54.3

Source: Statistics South Africa. 2011. Midyear population estimates 2011, Stats SA, Pretoria

**Table 36: Proportion of children with low birth weight, wasting and stunting**

	2003	2008	2011
Proportion children with low birth weight <i>National DoH Indicator used: Low birth weight rate in facility (%)</i>		11.5	13.1
Proportion children with moderate stunting / wasting <i>National DoH Indicator used: Diarrhoea without dehydration incidence under 5 years (annual)</i>		22.7	15.2
Proportion children with severe stunting / wasting <i>National DoH Indicator used: Severe malnutrition under 5 years incidence (annual)</i>		5.3	4.7

DOH: District health information system

**Table 37: Maternal and infant health**

	2008-2009	2010-2011
Percentage of one-year-olds fully immunized		89%
Proportion of pregnant women who access antenatal care*		100%
Percentage of mothers and babies that received postnatal care within 6 days after delivery*	New indicator	29.9% babies 27% mothers
Proportion of deliveries taking place in health facilities under supervision of trained personnel*	87.9%	89%
Proportion of personnel trained in hospital care and delivery	Data not kept but all doctors and midwives are trained	
Proportion of mothers exclusively breastfeeding for six months		

\*Source: Department of Health, Annual Performance Plan 2012/13



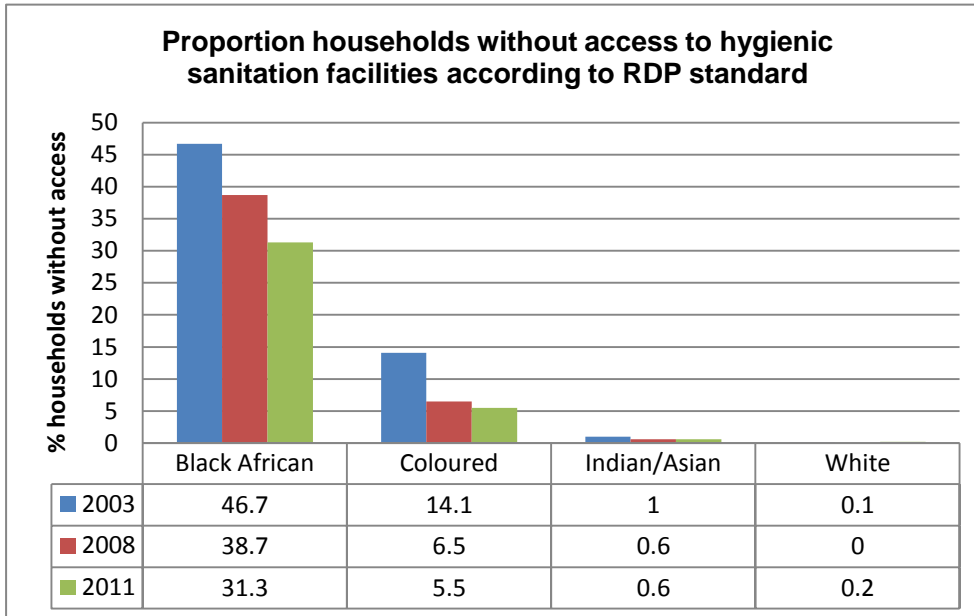
Table 38: Maternal mortality rate and leading causes of death

Maternal mortality		2009
Maternal mortality ratio		300 / 100 000
Five leading causes of death	2004-2007	2008-2010
Non-pregnancy related infections - mainly HIV and co-morbid infections	43.7%	40.5%
Obstetric haemorrhage	12.4%	14.1%
Complications of hypertension in pregnancy	15.7%	14.0%
Pregnancy-related sepsis - septic miscarriage and puerperal sepsis	9.0%	9.1%
Medical and surgical disorders	6.0%	8.8%

Source: Saving Mothers Reports 2004-2007 and 2008-2010; MMR from Health Data Advisory and Coordinating Committee

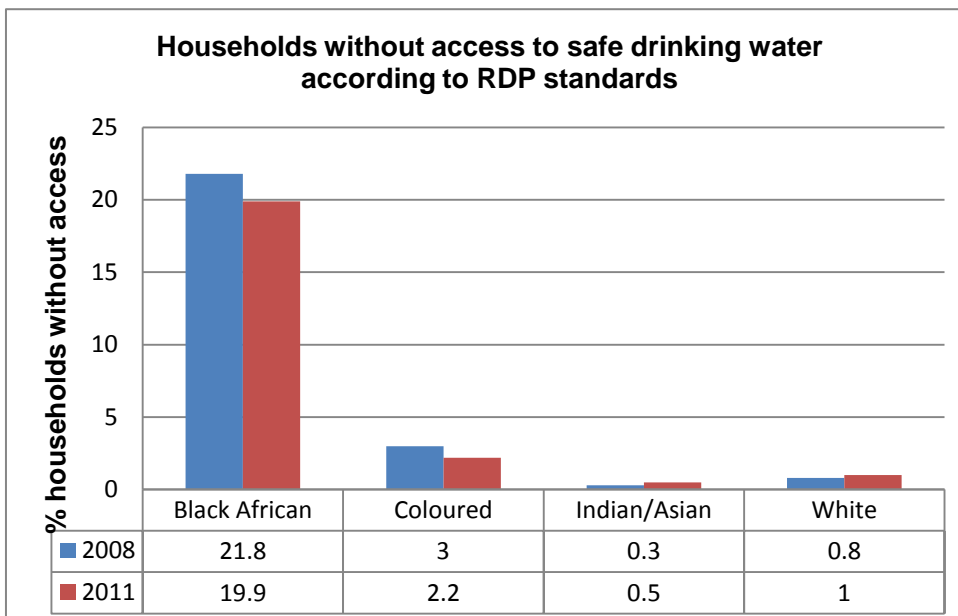
## Water and sanitation

Figure 4: Households without access to hygienic sanitation facilities, by race and year



Source: Statistics SA, General Household Surveys, 2003, 2008, 2011

Figure 5: Households without access to safe drinking water, by race and year



Source: Statistics SA, General Household Surveys, 2008 & 2011

**Table 39: Proportion households without access to adequate sanitation, by province and year**

Province	Western Cape	Eastern Cape	Northern Cape	Free state	KwaZulu-Natal	North West	Gauteng	Mpumalanga	Limpopo
<b>Proportion households <u>without</u> access to hygienic sanitation facilities according to RDP standard</b>									
2003	10.1	64.7	24.5	32.6	42.4	38.4	10.6	44.9	73.4
2008	6.1	45.2	23.7	23.8	37.1	41.3	8.7	45.4	67.6
2011	4.6	37.0	15.8	16.9	28.7	34.6	9.5	42.4	53.2
<b>Proportion households <u>without</u> access to hygienic sanitation facilities according to child specific standards*</b>									
2003	11.3	65.2	25.4	33.4	43.5	39.3	11.3	46.3	74.1
2008	8.9	46.2	26.5	24.8	38.5	42.2	10.4	46.5	68.0
2011	9.2	38.6	19.4	17.9	30.6	35.6	11.7	42.7	53.7

Source: Statistics SA, General Household Survey: 2003, 2008, 2011

\*Child specific standard: flush toilets and ventilated pit latrines that dispose of waste safely and that are within or near a house

Table 40: Proportion households without access to safe drinking water, by province and year

Province	Western Cape	Eastern Cape	Northern Cape	Free state	KwaZulu-Natal	North West	Gauteng	Mpumalanga	Limpopo
<b>Proportion households <u>without</u> access to safe drinking water according to RDP standard</b>									
2008	2.7	39.2	11.7	3.5	25.7	16.2	3.9	19.6	30.3
2011	2.2	35.1	7.3	3.1	25.9	17.0	3.4	16.7	28.6
<b>Proportion households <u>without</u> access to safe drinking water according to child specific standard*</b>									
2008	7.5	54.4	23.8	7.7	38.7	31.5	10.2	30.7	53.7
2011	8.1	56.0	19.5	7.4	34.9	31.6	10.3	29.2	44.7

Source: Statistics SA, General Household Surveys: 2003, 2008, 2011

\*Child specific standard: access to a safe and reliable supply of drinking water at home – either inside the dwelling or on site

## HIV and AIDS

**Table 41: The number of maternal orphans by province and calendar year**

*Source: Surveillance system of maternal orphans- Department of Social Development*

Province	Total	%	2003	2004	2005	2006	2007	2008	2009	2010	2011
Eastern Cape	209,042	16.5	16,207	19,510	23,488	26,569	25,589	25,863	25,403	24,237	22,176
Free State	88,340	7	5,592	6,921	9,429	10,991	10,796	11,680	12,068	11,309	9,554
Gauteng	196,355	15.5	17,644	23,437	23,843	23,055	22,238	23,260	21,417	21,209	20,252
KwaZulu-Natal	329,911	26	26,570	30,931	33,042	35,769	42,478	43,586	41,335	41,523	34,677
Limpopo	134,223	10.6	10,107	10,979	14,437	15,886	16,698	16,642	16,993	16,563	15,918
Mpumalanga	113,889	9	9,872	11,582	11,994	14,363	14,102	14,308	13,008	12,788	11,872
North West	92,642	7.3	7,522	9,007	9,651	10,707	10,872	11,693	11,689	11,255	10,246
Northern Cape	35,312	2.8	3,241	3,342	3,749	3,904	3,893	4,404	4,434	4,707	3,638
Western Cape	54,953	4.3	3,219	5,457	7,072	6,753	6,530	6,686	6,318	6,368	6,550
Unknown	12,700	1	1,894	1,993	1,688	2,335	1,504	1,008	2,146	89	43
<b>Total</b>	<b>1,267,367</b>	<b>100</b>	<b>101,868</b>	<b>123,159</b>	<b>138,393</b>	<b>150,332</b>	<b>154,700</b>	<b>159,130</b>	<b>154,811</b>	<b>150,048</b>	<b>134,926</b>

Table 42: The number of maternal orphans by age and calendar year

Year	Total	00 to 04	05 to 09	10 to 14	15 to 18
2003	101,880	33,002	46,490	22,309	79
2004	123,180	37,255	51,325	33,963	637
2005	138,444	39,008	52,526	45,022	1,888
2006	150,383	40,089	52,505	54,234	3,555
2007	154,754	39,569	50,092	55,541	9,552
2008	159,188	39,887	47,806	53,144	18,351
2009	154,920	37,535	43,941	48,275	25,169
2010	150,167	34,543	41,185	43,690	30,749
2011	135,367	28,987	36,724	38,429	31,239
2012	30,106	6,342	8,413	8,347	7,004
<b>Total</b>	<b>1,298,389</b>	<b>336,205</b>	<b>431,007</b>	<b>402,954</b>	<b>128,223</b>

Table 43: The number of maternal orphans by gender and calendar year

Year	Male	Female
	Total	Total
2003	50.731	51.149
2004	61.304	61.876
2005	68.885	69.559
2006	75.013	75.370
2007	76.887	77.867
2008	79.632	79.556
2009	77.359	77.561
2010	74.857	75.310
2011	67.422	67.945
*2012	15.055	15.051
<b>Total</b>	<b>647.145</b>	<b>651.244</b>

Source: Surveillance system of maternal orphans- Department of Social Development

**Table 44: Number of OVC benefitting from home and community based care services by province and year**

Province	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Eastern Cape	2,585	29,022	32,158	19,221	45,317	134,220	107, 111
Free State	6,260	9,699	15,712	22,534	26,701	29,542	12, 015
Gauteng	29,940	16,804	60,671	44,423	67,756	59,301	158, 425
Kwa-Zulu Natal	12,184	32,390	76,146	91,493	80,009	137,436	150, 453
Limpopo	5,934	13,786	12,365	3,127	9,501	1,170	137, 240
Mpumalanga	1,308	5,150	4,445	18,061	12,281	30,017	17, 087
North West	1,391	909	4,646	5,085	18,117	16,412	7, 557
Northern Cape	980	2,143	5,483	1,488	7,194	31,187	21,623
Western Cape	1,000	2,757	6,633	1,457	1,460	1,978	5,969
<b>Total</b>	<b>61,582</b>	<b>112,660</b>	<b>218,259</b>	<b>206,889</b>	<b>268,336</b>	<b>441,263</b>	<b>617, 480</b>

Source: National HIV/AIDS Programme

**Table 45: The number of HIV-positive children receiving antiretroviral treatment by financial year**

Children	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Children receiving ARV		11 959	37 694	23 369	68 788	87 439	105 123

Source: Health Information Epidemiology Evaluation and Research, Department of Health (November 10 / Report)

**Table 46: Proportion child-headed households per province – 2003, 2008 and 2011**

Province	2003	2008	2011
Eastern Cape	33.9%	26.5%	25.8%
Free State	6.0%	4.0%	4.6%
Gauteng	3.1%	4.1%	1.7%
Kwa-Zulu Natal	15.6%	12.6%	17.4%
Limpopo	27.2%	34.5%	33.2%
Mpumalanga	3.9%	11.2%	9.0%
North West	9.3%	5.5%	3.9%
Northern Cape	0.8%	0.5%	1.3%
Western Cape	0.4%	1.0%	3.1%
South Africa (%)	100%	100%	100%

Source: Statistics SA, General Household Surveys: 2003, 2008, 2011

**Table 47: Total number of child-headed households**

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
77,000	72,000	76,000	78,000	75,000	91,000	77,000	64,000	81,000	84,000

Source: Statistics SA, General Household Surveys



## Adolescent health care

**Table 48: Adolescent health issues**

Adolescent health issue	2003	2008	2011
The number of adolescents affected by early pregnancy			
The number of adolescents affected by sexually transmitted infections			
The number of adolescents affected by mental health problems	No data	No data	75 827*
The number of adolescents affected by drug and alcohol abuse			8573**

\*Source: Department of Health, DHIS data on mental health visits to health facilities by children.

\*\*Source: Department of Social Development

## Drug and substance abuse

**Table 49: Drug and substance abuse in children**

Drug and substance abuse	2003	2008	2011
The number of child victims of drug and substance abuse			No data
The number of assistance programmes available			12

Source: Department of Social Development

## Children with incarcerated parents

According to statistics provided by the Department of Correctional Services, there were 95 children living in prisons with incarcerated mothers in 2012.

The average age was 12 months. Of these 95 children, 60 were boys and 35 were girls

72 were Black African, 7 were White, 3 were Coloured and 13 were foreigners

Provincial breakdown was as follows: Western Cape 10, Gauteng 42, Limpopo 14, Kwazulu-Natal 9 and Eastern Cape 7 and Northern Cape and Free State 13.

## Education, leisure and cultural activities (articles 28, 29, 30 and 31)

**Table 50: Literacy rates**

Literacy rates	2003	2008	2011
Children			79,6
Adults			92,4

Source: Statistics SA General Household Survey, 2011

**Table 51: Primary school enrolment**

Enrolment numbers	2003	2011
Grade R	300,000	705,000
Enrolment rates	2002	2010
Grade 1-7	96%	98%
School attendance: Children of compulsory school going age (7-15 years)	73%	94%
Number and percentage of children in non-formal education system	Data not available	

Source: Department of Basic Education, GHS 2010: Focus on Schooling

**Table 52: Percentage of 7 to 15 years old children attending educational institution by gender, 2002-2011**

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Male	96.0	96.7	97.4	97.6	97.4	97.6	97.8	98.3	98.6	98.7
Female	96.6	97.6	98.1	97.9	97.8	98.2	98.1	98.6	98.7	98.8
Total	96.3	97.2	97.7	97.8	97.6	97.9	97.9	98.5	98.7	98.8
GPI	1.01	1.01	1.01	1.00	1.00	1.01	1.00	1.00	1.00	1.00

Source: Statistics South Africa, General Household Survey, 2002-2011, DBE own calculations

**Table 53: School retention**

Retention	2003	2010
Retention for full compulsory period (Grade 1-9)	80%	88%
Dropout rates between Grades 1 and 7		1% - 2.5%
Dropout rates in Grade 8		3.5%
Dropout rate for Grade 11		11.8%
Proportion learners completing their FET cycle (secondary schools or FET colleges)		41%

Source: Department of Basic Education, GHS 2010: Focus on Schooling

**Table 54: Teaching capacity**

Measure of teaching capacity	1994	2008	2009	2010	2011
Teacher learner ratio in ordinary public schools*		30.5:1			29.3:1
Proportion teachers qualified**	64%	94.4	93.7%	95.1	
Proportion of Foundation Phase learners who received instruction in home				80%	

\*Source: DBE (2012) Education statistics in SA 2010

\*\*Source: Department of Basic Education

\*\*\*Source: DBE (2010): Status of language of learning and teaching (LOLT) in SA Public Schools

**Table 55: Number of children in registered ECD sites and funding thereof, per financial year**

Item	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Number of sites registered not subsidized	3,731	1,770	4,195	3,053	No data	No data
Number of sites registered and subsidized	4,382	5,054	5,531	5,872	7,091	16,250
Number of children supported	270,096	306,277	314,912	355,762	411,203	432,729

Amount per day per child x 264 days (lower and upper amounts included)	R2.50 to R6.00	R4.40 to R9.00	R4.50 to R11.00	R5.20 to R11.00	R9.00 to R12.00	R11.00 to R12.00
Total amount of average annual subsidies	271,815,5	311,490,8	350,189,490	766, 022, 000.00	792,005, 000.00	961,562, 000.00

*Source: Department of Social Development*

**Table 56: Number of children in ECD sites subsidised per province and year**

Province	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Eastern Cape	63,300	63,300	63,300	63,300	74,480	74,500
Free State	21,688	24,438	25,726	28,558	36,558	40,558
Gauteng	16,047	16,146	20,000	23,854	41,419	42,154
Kwa-Zulu Natal	42,377	53,500	58,000	59,000	70,305	70,815
Limpopo	50,142	54,377	56,622	59,622	49,290	50,035
Mpumalanga	16,183	22,960	22,253	22,552	30,808	37,624
North West	12,000	12,560	12,000	17,621	22,257	25,215
Northern Cape	2,400	11,089	12,000	12,600	23,790	24,967
Western Cape	45,959	57,483	47,011	68,655	62,296	66,859
<b>Total</b>	<b>270,096</b>	<b>315,853</b>	<b>316,912</b>	<b>355,762</b>	<b>411,203</b>	<b>432,727</b>

Source: Provincial DSD ECD co-ordinators

**Table 57: Sports and leisure activities and resources**

	2003	2008	2011
Number or percentage of children in after-care programmes			
Proportion of schools with sports facilities			
Proportion of communities with public playgrounds			
Proportion of children participating in organised leisure, sports, cultural and artistic activities in rural areas			
Proportion of children participating in organised leisure, sports, cultural and artistic activities in urban areas			
Proportion of schools offering cultural and artistic activities			

\*Source: DOE NEIMS Report 2011. See provincial breakdown below

Table 58: Proportion of schools with sports facilities by province

Province	No of sites	Sports Facility available	Percentage of Sports Facility Available	No sports facility
Eastern Cape	5676	5275	93%	401
Free State	1615	985	61%	630
Gauteng	2031	1735	85%	296
Kwa-Zulu Natal	5931	4008	68%	1923
Limpopo	3923	1293	87%	526
Mpumalanga	1868	1749	96%	119
North West	1674	1542	92%	132
Northern Cape	611	493	81%	118
Western Cape	1464	1297	89%	167
National	24793	20481	83%	4312

Source: DBE National Education Infrastructure Management System (NEIMS) 2011

## **Special protection measures (articles 22, 30, 32-36, 37, 38, 39 and 40)** **Children outside their country of origin seeking refugee protection**

Table 59: Internally displaced, asylum seeking and refugee children

	2003	2008	2011
The number of internally displaced, asylum-seeking, and refugee children in South Africa	DSD No data		
The percentage of such children attending school			
The percentage of such children with access to health care			
The number of children who have disappeared during or after the status of determination proceedings.			

## **Economic exploitation of children, including child labour**

Table 60: Child labour and street children

	2003	2008	2011
The number of children below 15 years who are involved in child	DSD No data		

labour	
The proportion of these children with access to recovery and reintegration assistance	DSD No data
The number of children in street situations	12 000

*Source: Department of Social Development*

## **Sexual exploitation, abuse and trafficking**

**Table 61: The number and types of reported child abuse cases per financial year**

Types of abuse	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Sexual	1,687	888	1,115	797	1,460	695
Deliberate Neglect	1,273	851	659	636	1,053	512
Physical	1,117	521	528	342	656	246
Emotional	87	83	119	95	287	130
Not classified	0	1	94	1	0	0
<b>Total</b>	<b>4,164</b>	<b>2,444</b>	<b>3,515</b>	<b>1,870</b>	<b>3,456</b>	<b>1,583</b>

*Source: Department of Social Development*

**Table 62: Child trafficking**

	2003	2008	2011
The number of children trafficked			27
The number of border and law enforcement officials who have received training with a view to preventing trafficking of children and ensuring respect for their dignity			
The number of reported cases of sale of children, child prostitution, child pornography and child sex tourism			
The number of such cases that have been investigated, prosecuted and sanctioned			
The number of child victims of such crimes who have been provided with recovery assistance or compensation, in accordance with the provisions of article 9, paragraphs 3 and 4, of the Optional Protocol			

*Source: Department of Social Development*



**Table 63: The number of child trafficking incidents that have resulted in sanctions, per financial year and province**

Province	Charges	2009/2010	2010/2011	2011/2012
Eastern Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	2		2
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007		2	
Free State	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		2	
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007			2
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007			1
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007			2
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007		1	2
Gauteng	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		1	
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007		1	
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007		2	
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
KwaZulu-Natal	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	1		
	Sex Off: Living from the earnings of the sexual exploitation of a child Sec 17(5) of Act 32 of 2007		1	
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983	2	1	

Province	Charges	2009/2010	2010/2011	2011/2012
Limpopo	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007	1	1	
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007		1	1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
Mpumalanga	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007			1
	Sex Off: Trafficking in persons for sexual purposes Sec 71(1) of Act 32 of 2007			1
North West	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		1	1
	Sex Off: Sexual exploitation of children (engaging services) Sec 17(1) of Act 32 of 2007			1
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983		1	
Northern Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007			1
Western Cape	Sex Off: Benefiting from the sexual exploitation of a child Sec 17(4) of Act 32 of 2007		2	2
	Sex Off: Sexual exploitation of children (furthering) Sec 17(3) of Act 32 of 2007	1		
	Sex Off: Sexual exploitation of children: Sec 50A(1) Act 74 of 1983			1
<b>Grand Total</b>		<b>7</b>	<b>17</b>	<b>22</b>

Source: Department of Justice and Constitutional Development

## **The administration of juvenile justice**

**Table 64: The administration of juvenile justice (data only available from April 2011)**

	2011/2012
The number of persons under 18 who have been arrested by the police due to an alleged conflict with the law	
The number of cases where legal or other assistance has been provided	10785
The number of children who have been referred to diversion programmes	6256
The number of children found guilty of an offence by a court and have received suspended sentences	1128 guilty 218 suspended sentences (19%)
The number and percentage of children who have received alternative sanctions based on a restorative approach	1128 guilty 372 restorative justice (32%)
The number of children who have participated in probation programmes	6256
The percentage of recidivism cases.	No data

*Source: Department of Justice and Constitutional Development and the NPA*

## **Children deprived of their liberty**

**Table 65: Children deprived of their liberty: DATA NOT AVAILABLE**

	2003	2008	2011
The number of children held in police stations or pretrial detention after having been accused of committing a crime			
The number of institutions specifically for children alleged as, accused of, or recognized as having infringed the penal law			
The number of persons under 18 in these institutions and the average length of stay			
The number of persons under 18 detained in institutions where they are not separated from adults			
The number of children who have been found guilty of an offence by a court and have been sentenced to detention			
The number of reported cases of abuse and maltreatment of children during their arrest and detention/imprisonment			

SAPS currently have no electronic mechanism in place to capture information on how many children are detained and for how long. The development of a user specification for a detention management system that will be able to generate this information is in progress.

## **Annexure 2: Supplementary information with respect to the treaty specific component of this report**

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### **A - Part 1 - SALRC reviews of legal frameworks impacting on the rights of children**

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- a) The juvenile justice legal framework. This process culminated in the enactment of the Child Justice Act (2008). It is a comprehensive child justice law which aligns the legal framework governing children in conflict with the law with article 40 of the Convention and the principles of the Constitution of the Republic of South Africa;
- b) The Child Care Act (1983). This process culminated in the enactment of the Children's Act (2005) (as amended) which is a comprehensive child protection law that gives effect to a range of principles and rights contained in the Convention and the OPSC;
- c) The constitutional validity of a number of customary laws in 1998. This process culminated in the amendment of Law of Succession Act so as to outlaw the law of male primogeniture;
- d) The legal framework for the prevention and prosecution of sexual offences. This culminated in the enactment of the Criminal Law Amendment (Sexual Offences and Related Matters) (2007) (hereinafter referred to as the Sexual Offences Act) which makes provision for a multi-disciplinary approach to delivery of services and expands the scope of protection of children against sexual violence, abuse and exploitation;
- e) The adequacy of the legal system to secure the rights, as prescribed by the Convention and the OPSC, of the victims of child trafficking. This culminated in the development of the Prevention and Combating of Trafficking in Persons Bill (2010);
- f) Eleven family and marriage laws, including the Matrimonial Affairs Act (1953), the Divorce Act (1979), the Mediation in Certain Divorce Matters Act (1987), the Maintenance Act (1988), and the Recognition of Customary Marriages Act (1998), to ensure their alignment with the Children's Act (2005).

## B - Part 1 - Judicial rulings that have promoted closer alignment of children's rights in South Africa with the Convention

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- a) An order was made by the Constitutional Court in the *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC) for the revision of a housing policy that did not provide relief for households with children desperately in need of shelter.
- b) In the case of the *Minister of Health v Treatment Action Campaign (TAC)*, (2002) 5 SA 721 (CC) the Constitutional Court ordered the revision of the national Prevention of Mother to Child Transmission PMTCT policy to make anti-retroviral drugs available to all pregnant women.
- c) The Constitutional Court ordered, in the matter of ruling in *S v M (Centre for Child Law as Amicus Curiae)* 2008 (3) SA 232 (CC), that the best interests of the child must be taken into account in sentencing decisions for convicted caregivers.
- d) In the case of *Centre for Child Law v Minister of Justice and Constitutional Development and others (National Institute for Crime Prevention and Reintegration of Offenders as amicus curiae)*, 2009 (6) SA 632 (CC) the Constitutional Court declared that the application of minimum sentences by the Criminal Law (Sentencing) Amendment Act to 16 and 17 year olds was unconstitutional.
- e) The North Gauteng High Court ordered the suspension and amendment of a procedural requirement in terms of the Children's Act (2005) for the renewal of foster care orders so as to prevent the lapsing of such orders and the accompanying Foster Child Grant. The grounds for the order were that the current procedure caused undue hardship for children and their caregivers (*Centre for Child Law v The Minister of Social Development, the South African Social Security Agency and others*, Case number: 21726/11 North Gauteng High Court. 10 May 2011).

## C - Part 1 - Measures taken by departments to raise awareness of the Convention and train service providers on Convention and Protocols

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- a) The Department of Women, Children and People with Disabilities has engaged in a process of consultation and awareness-raising amongst children in rural and urban areas around the UNCRC and the new draft NPAC.
- b) The Department of Justice and Constitutional Development has been at the forefront of raising awareness of the Convention as well as training of officials on relevant laws. It has engaged in extensive awareness-raising, focussing strongly on the development of child-friendly and accessible information. Moreover, it has engaged in extensive training of officials on the Child Justice Act and other policies and measures of support for victims of abuse.
- c) As early as 2001, the Department produced a simplified version of the Convention written especially for children. UNICEF assisted the Department by reproducing the book for further distribution to civil society and other government departments. The book has been distributed in schools, and was widely distributed both nationally and internationally.
- d) More recently, and in keeping with current information technology, the Department developed a dedicated Children's Act webpage to raise awareness on matters pertaining to children's rights, as well as a webpage on the South African Service Charter for Victims of Crime.
- e) The Department and the National Prosecuting Authority have engaged in various communications campaigns and interventions which have included the use of local radio stations and publications such as brochures and pamphlets on maintenance rights, domestic violence, sexual offences, child justice, and Children's Courts. These brochures are available in various languages. Booklets on Domestic Violence and Children's Rights are available in Braille to children with visual impairments. Further examples of child-friendly publications are described in Part 4 of the report under the heading of the right of access to information from a diversity of sources.
- f) As part of the Department of Justice and Constitutional Development's outreach strategy, the Communications unit also undertakes quarterly information sessions involving schools and the community at large. The focus of these sessions is to inform children of their rights and responsibilities that fall within the Department's mandate. The Department has two dedicated email addresses addressing children's issues, and sexual offences matters respectively. Children can liaise directly with officials within the Departments on matters pertaining to children's rights and sexual offences.
- g) Training of officials by the Department in the last two years has seen: (Department of Justice and Constitutional Development, 2012)
  - i. 7 256 South African Police Service Members trained in the Child Justice Act
  - ii. 345 probation and social services practitioners trained on the Integrated Social Crime Prevention Strategy
  - iii. 15 government provincial coordinators trained on the tool to be used to do quality assurance of diversion services
  - iv. 285 practitioners trained on the Guidelines on Probation Services
  - v. 205 Master Trainers trained on therapeutic programmes in all nine provinces.

- vi. 231 practitioners were trained on the Reception, Assessment and Referrals of Children 215 practitioners trained on the Blueprint on Minimum Norms and Standards for Secure Care Facilities 477 NPA officials trained on the Child Justice Act with a focus on ensuring that all prosecutors are able to deal with child justice matters in an appropriate, efficient and sensitive manner.
  - vii. Intersectoral training sessions were held for 306 officials, including the judiciary, probation officers, assistant probation officers, SAPS, Legal Aid, DOE, DHA and DCS on the Child Justice Act
  - viii. 993 prosecutors were trained between 2008 and 2012 on the Sexual Offences Act No. 32 of 2007 and 483 multi-sectoral delegates linked to the Thuthuzela Centres received training through the Integrated Training Programme on Sexual Offences.
- h) The Film and Publication Board\_has implemented outreach and communications campaigns to create awareness and educate children, parents, and care-givers on the role of the Board, as well as the rights of children to protection against sexual exploitation, pornography and other forms of harmful media content. In addition, it has run workshops on the Films and Publications Act (2004) with the objective of training and empowering critical stakeholders like the South African Police Services, the National Prosecuting Authority, Metro Police, South African Revenue Service Customs, magistrates as well as distributors on their roles and responsibilities in terms of the Films and Publications Act (2004).The Board's training initiatives include a formal awareness program for Prosecutors, Police, Magistrates, and Judges on the prosecution and conviction of perpetrators of child pornography. A national workshop on combating child pornography was also held with the Office of the Deputy Minister of Home Affairs, Child protection unit of the South African Police Services, the Office of the National director of Public Prosecutions, Judges, Magistrates, Prosecutors, the Network Against Sexual Exploitation of Children, and other NGOs. The workshop brought experts from the United States of America and the United Kingdom and focused on implementation difficulties experienced by police and prosecutors of child pornography.
- i) The Department of Basic Education has integrated rights-based education into its life skills curriculum. In addition it has a "Rights and Responsibilities" campaign which aims to raise awareness of, and promote children's' commitment to respecting each other's rights and fulfilling their respective responsibilities. A Charter of Rights and Responsibilities has been developed and distributed to all schools in different languages. Children commit to the charter.
- j) The Department of Home Affairs has engaged in a number of communications and awareness-raising campaigns targeting especially remote and rural communities and children as part of its National Population Registration campaign. Innovative communication methods to convey information about the right to a name and birth registration include the use of Community Forums, the use of local radio stations and even loud hailers in communities.
- k) The Department of Social Development\_is the lead department for the national multi-sectoral Child Protection Week campaign. It was launched in 2010 by the National Child Protection Committee in order to uphold government's commitment to protect and promote children's rights in partnership with civil society. It promotes awareness-raising across the country on children's rights through educational talks, radio talks, the distribution of promotional materials, with a focus on reaching marginalised communities. Each year the programme adopts a specific theme which is often closely aligned with the Convention principles. In 2012 the theme is the strengthening of families to enable them to fulfill their



responsibilities to children, with an emphasis on positive discipline and prevention and early intervention programmes and services for children.

## D - Part 1 - Measures to regulate business activities impacting children

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- a) The State regulates the conduct of private entities in sectors ranging from health, to the media and the environmental sectors, so as to ensure that the rights of children are not compromised through the following, and other measures:
- b) Through laws such as the National Drug Policy and the Regulations relating to a transparent pricing system for medicines and scheduled substances - Medicines and Related Substances Act (1965) and the draft regulations on Foodstuffs for infants and young children (2012), the health sector regulates practices by private medical practitioners, pharmacists and pharmaceutical companies, as well as the sale of infant feeding products so as to protect the survival, development and health of children.
- c) The Consumer Protection Act (2008) introduces a number of restrictions on the provision of services and the sale of goods to protect consumer's rights. A number of these impact on services supplied to children by the private sector, including health and nutritional services and the sale of toys.
- d) The private sector is also constrained by a number of environmental laws such as the National Environmental Management Act (1998) and the National Environmental Management: Air Quality Act (2004) which oblige both public and private sector enterprises to conduct their business in a manner that will ensure that everyone (including children) enjoy their right to an environment that is not harmful to their health or wellbeing.
- e) The media is also regulated by various laws and codes, including the Films and Publications Act (1996) as amended (2004) so as to protect children from harmful information. Relevant limitations and regulations are discussed in more detail in Part 4, within the context of protection from harmful material.
- f) Finally, the Children's Act (2005) regulates the provision of child care and protection services by private entities through the prescription of minimum norms and standards to ensure acceptable levels of quality and safety.

**Legal measures**

- a) Various laws oblige consultation with children in matters affecting their education. For example, the South African Schools Act (1996), the National Education Policy (1996) and the Children's Act (2005) require that (UCT, 2011):
- i. Learners be consulted when developing a school code of conduct and that learners facing disciplinary processes have a right to be heard and to legal representation;
  - ii. All schools accommodating older children must have a formal learner representative council and learners must be represented on the overarching school governing body;
  - iii. The Minister of Basic Education is obliged to consult with learners through national learner representative bodies when reviewing or developing national education policies;
  - iv. Parents and others bearing parental responsibilities, are also required, in terms of the Children's Act to consult children when taking decisions about their schooling. For example, when deciding to change schools.
- b) Within the health context, the Children's Act (2005), the Choice on Termination of Pregnancy Act No. 92 of 1996, the Prevention of and Treatment for Substance Abuse Act No. 70 of 2008, and the National Health (2003) require that:
- i. Children participate in, and if they are old enough, consent to health treatment and procedures as well as HIV testing and disclosure, virginity testing and male circumcision, and access to contraception;
  - ii. Any child, regardless of her age, may consent, without her parents' involvement, to a termination of her pregnancy, provided she receives adequate medical advice;
  - iii. Children participate in identifying solutions to their substance abuse problems;
  - iv. Children be part of local health planning processes.
- c) The Children's Act (2005), the Child Justice Act (2008), the National Youth Development Agency Act No. 54 of 2008 and the National Climate Change Response Paper (2011) all require the consent and/or participation of children in:
- i. Adoption. Children older than 10 years, and even younger if they understand the proceedings, must consent to being adopted;
  - ii. Child justice determinations. The Child Justice Act requires the participation of children in conflict with the law in assessments by probation officers to determine their criminal capacity and related matters, as well as in the preliminary court inquiries;
  - iii. Divorce proceedings, the development of parenting plans, and any other proceedings involving guardianship, care and contact with parents or caregivers;
  - iv. Alternative care settings. The Children's Act requires that child and youth care centres have a children's forum and that children be represented on the management board;
  - v. Children in child-headed households must be consulted by the supervising adult appointed in terms of the Children's Act in respect of decisions taken on the child's behalf;

- vi. Children are entitled to participate in children's court inquiries in terms of the Children's Act for the determination, inter alia, of whether they are in need of care and protection, and for the determination of appropriate care orders;
- d) All children aged 14 – 18 years are regarded as youth and must, in terms of the National Youth Development Agency Act be included in democratic decision-making processes;
- e) The Climate Change Response White Paper (2011) requires that all vulnerable groups, including children, should be involved in the development of policies and programmes to address the impact of climate change on their communities.

**Departmental implementation of obligations to respect the views of the child**

- f) The Department of Justice and Constitutional Development
  - i. The Children's Act and the Child Justice Act recognise and protect children's right to participate in judicial and administrative proceedings in numerous ways, including by speaking on their own behalf, or through a legal representative. In order to facilitate participation, both Acts require that children's court rooms and processes be designed so as not to be intimidating, and encourage the child to feel comfortable with participating. In terms of the Child Justice Act, children have the right to be addressed in their home language, in a setting that is child friendly. Court officials are not robed and no court podium is used in preliminary inquiries. There are currently 1963 persons in the employ of the Department of Justice and Constitutional Development assisting in the translation of matters in court across the country.
  - ii. Section 48 of the Children's Act similarly states that the Children's Court must, as far as practicable, be furnished and designed in a manner aimed at putting children at ease. The Court must also be conducive to the informality of the proceedings and the active participation of all persons involved in the proceedings without compromising the prestige of the court. The Court may also not ordinarily be used for the adjudication of criminal trials and be accessible to disabled persons and persons with special needs.
  - iii. Section 170 A of the Criminal Procedure Act of 1977 as amended, makes special provision for the facilitation of evidence to be given by children in a secure and non-intimidating environment. It allows for evidence to be led via CCTV or one way mirrors, and with the assistance of an intermediary. The Department has installed CCTV's and one way mirrors in dedicated sexual offences courts to ensure that vulnerable witnesses in cases of sexual violence testify in a private room separate from the courtroom where the alleged offender is appearing.
  - iv. Where a child involved in a matter before the children's court is not represented by a legal representative, and the Children's Court is of the opinion that it would be in the best interests of the child to have legal representation; the court must refer the child and the matter to the Legal Aid Board for the necessary legal support.
  - v. The South African Law Reform Commission (SALRC) and the Department of Justice and Constitutional Development also facilitated the participation of children in the protracted consultative process through which the Child Justice Act was developed.
- g) The SALRC facilitated community dialogues to obtain the views of children on the Children's Bill.
- h) The Department of Rural Development has facilitated children's participation in the Comprehensive Rural Development Programme through its Child Participation Project and Children's Imbizo's. For example, during the Sixteen Days of Activism for No Violence Against Women and Children, the Department held children's Imbizo's in six of the nine provinces. Children were given an opportunity to

share their challenges and air their views on the developments they would like to see in their rural areas. These views and inputs were, and will continue to be integrated into the department's planning processes so that where possible, they can be acted on within the broader rural development framework. In addition, when planning Agri-Villages and other development initiatives, children from the relevant areas are consulted to identify their needs and how these can be met in the planning and implementation of the Agri-Villages. Their input has helped shape these villages and the Department has given children feedback on any of their needs that could not be accommodated. Moreover, before hosting the children the Department invests in preparing them for the process; to make them comfortable with airing their views and to train them on how to air their views. The Department has specifically sought to include minority indigenous children in rural areas such as the Khoi-San by encouraging their participation in the Children's Imbizo's and by creating opportunities for the sharing about their language and culture with other children in the area to raise awareness of and respect for diversity among the children.

- i) The Department of Basic Education has facilitated the participation of children in the development of various education policies and programmes through its Girls Education and Boys Education Movements (its GEM and BEM clubs).
  - i. For example, these clubs were used by the DBE to facilitate children's participation in climate change policy and programming dialogue over the last few years. South Africa hosted the COP 17 in 2011. The GEM/BEM clubs were a key vehicle for engaging children on climate change and facilitating their participation at the COP 17 events in November 2011. The department, together with UNICEF, engaged children across the country on matters related to climate change. The proceedings were recorded in a formal report that was shared with environmental decision-makers at an international and a national level, ahead of the COP 17.
  - ii. Another vehicle used by the DBE to mobilise children's participation in environmental dialogue include the Eco-schools project. It is coordinated by the Worldwide Fund for Nature and the Wildlife and Environmental Society for South Africa. It makes use of the school environment and curriculum to mobilise and empower teachers and learners to prevent, identify and change environmentally damaging practices. This is achieved through the integration of environmental issues into the day to day curriculum and encouraging the active transfer of knowledge by learners to communities within the school surrounds. As vocal agents of change, children are encouraged through this process to make themselves heard at a family and community level on matters related to the environment and home and community practices (DWCPD and UNICEF, 2011).
  - iii. The Committee specifically requested, in its concluding observation no. 22, that teachers be trained to enable students to express their views at provincial and local level. The Department has responded to this request through its curriculum policy which expects that learners will acquire the competence to express their views, both in writing and verbally, by the time they exit the school system. The issue is therefore integrated into the training of Language subject teachers.

## F - Part 4 - Measures adopted by the DHA to address low levels of knowledge and access to birth registration and ID services

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The Department has expanded its service delivery footprint through the following measures:

- a) A number of new offices have been built since 2005, with priority having been given to rural areas. By 2012 the DHA has 410 Civic Services Offices.
- b) In 2005 the DHA added a fleet of mobile offices which focused on rural communities. 115 mobile units are now operational in all nine provinces.
- c) To expedite birth registration and ID applications in remote offices, the Department has embarked on a programme of ensuring 300 service delivery offices are outfitted with “live capture functionality”.
- d) The footprint has also been expanded through the integration of registration services at hospitals and clinics, thus allowing for immediate and live birth registration. By 2012 the DHA had established a presence at 248 health facilities. The medium-term goal is to connect 260 health facilities by 2015, and ultimately, to achieve universal connectivity in all facilities across the country.
- e) The DHA has a partnership with the South African post office in terms of which it shares the Post Office’s retail space at a nominal rental and are also being designed into a number of new shopping malls.
- f) Registration services are offered through multi-purpose community Thusong Centres which were set up with the specific objective of extending government services, in an integrated manner, into rural and outlying underserved communities.
- g) The National Population Registration (NPR) Campaign is a public outreach programme to ensure that every citizen in the country is registered on the National Population Register and has the right document at a specified time of their lives. As such its focus is on securing birth registrations within the prescribed 30 day period. It has two strategic legs. The first was to streamline the registration process and to close the loopholes that have been used by opportunistic applicants to fraudulently obtain birth registration and identity documents. This involved the termination of the very late birth registration period within one year of launching the campaign, accompanied by an aggressive awareness-raising and community mobilisation campaign to ensure that all people older than one year, and especially those older than fifteen years, registered before the closure of the remaining period of grace. At the same time, the process for simultaneous late registrations of parents and registration of the birth of their child was simplified and uncoupled to reduce the risk of fraud.
- h) Stakeholder forums have been a key innovation employed to achieve the DHA’s advocacy, awareness-raising and community mobilisation objectives within communities with low birth registration rates, low levels of knowledge, limited resources and which are confronted by many of the other challenges preventing birth registration.

The DHA has targeted the establishment of these forums in every municipal area in the country. By 2011 it had succeeded in establishing these forums in 90% of the countries municipal areas. The forums are constituted by a wide range of local level actors, including community leaders, NGOs, other relevant government departments, the local municipality and community members. The forums fulfill a number of functions. They monitor service delivery by the DHA in their area, they combat corruption, they provide support to local community members in the form of information, obtaining the necessary

documents and facilitating engagements with the local Home Affairs officials, they provide support to the DHA by assisting in the resolution of difficult cases of registration and by highlighting service delivery gaps, thus allowing for a more community-drive and responsive evolution of the local footprint. Critically, the stakeholder forums have played a key role in raising awareness and mobilising communities to ensure the registration of all infants within 30 days of birth.

The department's close relationship with these stakeholder forums has resulted in an increase in the DHA's footprint, the employment of more staff, the opening of more offices and the deployment of mobile units into areas where the need is the greatest. In addition, the forums have significantly contributed to the improved realisation of the right of children to early birth registration and access to other forms of identity documents.

- i) The DHA has also integrated information and the provision of support for registration into various community based outreach initiatives led by other organisations and departments which target the same vulnerable communities. They have a working partnership with three thousand Community Development Workers which fall within the purview of the Department of Public Service and Administration. They provide information and support to vulnerable communities living in poverty and in rural areas with regards to a range of government services, including birth registration and identification documents. In addition, the DHA has enjoyed a working relationship with a number of civil society organisations in terms of which vulnerable communities have been targeted for receipt of information and mobile registration services.

## G - Part 4 - Departmental child-friendly communications campaigns and publications in furtherance of the right to information

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- a) The Department of Justice and Constitutional Development has adopted a pro-active approach in the dissemination of information about laws within its mandate and services it offers to protect the rights of children. Many of its interventions were listed in Part 1 and Annexure B under the discussion of communication about the principles and provisions of the Convention. Its initiatives have been designed to ensure maximum accessibility and relevance to all children. In 2011, it developed and aired television programmes on non-school mornings on matters pertaining to Child Justice, and has partnered with the Government Communication and Information Services to broadcast information about the Child Justice Act on 65 radio stations in regional languages. A more personal approach is adopted in a programme in terms of which justice centres participate in a programme of “Fair Play”. This takes the form of sports events at schools across the country educating children on rights and responsibilities in the context of sport rules.
- b) The National Prosecuting Authority (NPA) has developed and implemented a radio campaign on various topics, including the Child Justice Act (2008). The purpose of the campaign was to ensure that the NPA reaches out to community members in their respective languages with information about the criminal justice system for children. It is estimated to have reached 34 million listeners.
- c) Legal Aid South Africa initiated a toll free advice line in June 2010 which has a dedicated focus on children’s rights.
- d) The Department of Basic Education shares information with children about their rights through the curriculum, especially the Life Skills curriculum. It also develops and distributes targeted child-friendly publications such as their Rights and Responsibilities posters and publications on the prevention and reporting of abuse in the school setting.
- e) The Film and Publication board has implemented various outreach and awareness campaigns which have improved access to information by children, as well as their parents and others, on the Films and Publications Act (2004) and its protection against sexual exploitation, pornography and other forms of harmful content. It has targeted the dissemination of information in fora that are accessible to children such as schools and shopping malls.
- f) Multiple departments provide accessible information in a variety of media forms on the shared issue of child protection during the annual Child Protection Week discussed in more detail in Part 3 of the report.



## H - Part 5 - Structures and programmes that have been put in place to support implementation of child care and protection legislation.

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- a) National and Provincial Child Care and Protection Forums have been set up to facilitate co-operation and co-ordination in the implementation of the Children's Act (2005) and related matters
- b) Several national campaigns address issues of child protection, including Child Protection Week and the 16 Days of Activism Campaign on No Violence against Women and Children.
- c) Fifty two Thuthuzela Care Centres have been established around the country and are responsible for providing victims of sexual abuse with integrated services including access to police, counselling, doctors, court preparation and support with offender prosecution. Thirty of these centres are fully operational in line with the target of the NPA strategy document for 2011/12.
- d) The NPA launched an initiative known as the Ndabezitha Programme, which entailed the training of traditional leaders on the provisions of the Domestic Violence Act (1998).
- e) A restructuring process devolved and distributed members of specialised child protection units so as to have Family Violence, Child Protection and Sexual Offences (FCS) units at individual stations. Efforts are being made by the Minister of Police to strengthen and resource these units at police stations to improve police response to crimes against children.
- f) Victim Friendly Rooms at police stations have been established in an effort to ensure that victims, including child victims, are able to provide statements in a safe and private environment. These rooms are equipped with aids to assist the taking of statements from children. By the end of the 2010 financial year, 900 victim-friendly facilities had been established throughout the country.
- g) SAPS also co-ordinates school visits by police officials (known as Captain Crime Stop and the Adopt-a-Cop officials) and awareness shows at public events to raise awareness of child abuse and to highlight the importance of reporting such incidents.
- h) The DWCPD is pursuing agreements with key Municipalities to pilot the Child Friendly cities/communities model to create safe spaces for children within these areas.
- i) The Sexual Offences and Community Affairs (SOCA) Unit was established within the National Prosecuting Authority (NPA), mainly to focus on Sexual Offences, domestic violence, human trafficking, enforcement of child maintenance, managing of child offenders and other issues involving victimization of women and children. The primary focus of the Unit is to eradicate all forms of gender based violence.

- a) School feeding is offered via the National School Nutrition Programme, providing daily meals to almost 10 million children, although provincial consultation processes highlighted the need for feeding to continue during school holidays and for better menu planning to improve the nutritional value of the meal provided.
- b) The National Health Act (2003) protects, respects, promotes, and fulfils the rights of children to basic nutrition and basic health care services contemplated in section 28(l)(c) of the Constitution.
- c) The National Food Emergency Programme (NFEP) is administered by the DSD and is a sub-programme of the Integrated Food Security Strategy. The DSD-led programme is divided into two components - food relief to households in the form of food parcels, and food production support in the form of agricultural starter.
- d) The Special Programme for Food Security (SPFS) was introduced in 2004 to bring about a rapid and sustained increase in food production and improved livelihoods amongst smallholders.
- e) Regulations requiring fortification of maize and bread flour with zinc, iron and six vitamins were implemented in order to reduce micronutrient deficiencies. In addition, iodization of salt has also become mandatory. Fortification with folate has resulted in a 30% decrease in the incidence of neural tube defects, whilst mandatory iodation of salt has dramatically reduced the prevalence of iodine deficiency in the country. And routine Vitamin A supplementation for children younger than five years was introduced in South Africa in 2003.
- f) Deworming is currently provided at PHC facilities and through campaigns. Guidelines for regular deworming of primary school children have also been developed - and will be provided as part of the Integrated School Health programme (ISHP) package of services.
- g) Implementation of the WHO Ten Steps for the Management of Severe Malnutrition has been shown to reduce case fatality rates between 30% and 55%. This approach has already been adopted by the majority of provinces and is currently being implemented in 125 hospitals.
- h) Although growth monitoring is provided at all health facilities, a number of studies have documented inadequacies in the correct identification and management of children with growth faltering and failure (Department of Health, 2012). In 2010 a new comprehensive Road to Health Booklet was implemented as part of the immunization programme. The booklet includes improved systems for growth monitoring so as to enable early identification and referral of children in need.
- i) The Infant and Young Child Feeding Policy (Department of Health, 2007) regulates safe nutritional and feeding practices for infants and young children. And Policy and Guidelines for the Implementation of the PMTCT Programme (Department of Health, 2008) calls for appropriate feeding counseling, support and treatment of HIV-positive women and HIV-exposed infants. In September 2011 the Health Minister declared South Africa a breastfeeding country and a Tshwane declaration was signed in support of exclusive breastfeeding, targeting all health facilities to be Mother and Baby Friendly by 2015.
- j) In 2012, the DOH drafted the Strategic Plan for Maternal, Newborn, Child and Women's health and Nutrition 2012-2016. The plan reiterates SA's commitment to promoting maternal and child health and aims to reduce mortality and to improve the health and nutritional status of women, mothers, newborns

and children through promotion of healthy lifestyles and provision of integrated, high quality health and nutrition services.

## J - Part 7 - Children especially vulnerable to educational exclusion

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- a) 70% of predominantly poor and rural children aged 0 – 4 years are excluded from ECD services (The Presidency, Department of Performance, Monitoring and Evaluation, 2012).
- b) Approximately 120 000 learners of compulsory school age are excluded from school. Department of Basic Education (2011e)
- c) 480 000 children with disabilities of school-going age are out of school (Department of Basic Education, 2012a).
- d) Older learners are at a high risk of dropping out with a drop-out rate of between 3,5% and 11,8% for children after Grade 9 (Department of Basic Education Report, June 2011).
- e) Low numbers of older post-basic education learners (41%) are retained and complete their FET cycle and very few access to FET colleges. In 2011 only 1,6% of individuals attended FET colleges (Statistics South Africa , 2012).
- f) Black children are poorly represented at university level. Only 3,5% of this population group aged 18 – 29 were enrolled in 2011, which was only 0,4% higher than in 2010, compared to 20% of white and 14,9% of the Indian/Asian population groups (Statistics South Africa , 2012).

**a) Measures to address poverty as a barrier to education:**

- i. Lack of money for fees is the primary reason for children to be excluded from all levels of education (Statistics South Africa, 2012) (The Presidency, Department of Performance, Monitoring and Evaluation, 2012). The DBE has introduced (a) pro-poor funding of schools serving poor communities. The National Norms and Standards for School Funding (2006) oblige provincial departments of education to rank their schools from “poorest” to “least poor” and to allocate more funds to the poorer schools; (b) in 2006 the Norms and Standards for School Funding introduced no-fee schools. The policy was progressively expanded and as a result, the percentage of children attending an institution where no fees are charged increased dramatically from 0, 7% in 2002 to 55,6% in 2011. Currently, over 8 million learners in over 80% of public schools benefit from the no-fee school policy. The percentage is much higher in poorer provinces with larger rural areas such as Limpopo, the Eastern Cape and the Free State, where over 90% of schools are no-fee schools (Statistics South Africa , 2012). The no-fee policy has brought the State closer to realisation of the Committee’s request No. 34 to make primary education free for all children; and (c) the no-fee policy is supplemented by a system of school fee waivers for children living in poverty who attend schools that charge fees.
- ii. In addition to fees, the cost of uniforms and transport have been addressed through (a) the National Guidelines on School Uniforms No. 173 of 2006; and (b) provincial transport policies that provide subsidised transport to learners living far from schools. In addition, the National Policy for Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2008) makes provision for transport and hostels where “ease of physical access to schools is not financially feasible.” The Guidelines Relating to Planning for Public School Infrastructure (2012) call for the provision of transport or hostel accommodation on a “progressively phased and pro-poor basis.” Draft national hostel and transport policies are currently in development.
- iii. The National School Nutrition Programme has been implemented in the poorest schools in the country. The programme provides food to almost 10 million children. In 2011, 74,2% of learners attending schools with feeding schemes benefitted from this programme (Statistics South Africa , 2012).
- iv. A modest subsidy of R15 per child is currently paid to a number of registered ECD centres providing ECD to 0-4 year olds living in poverty, and a subsidy of between R5 – R 17 is paid to community-based centres providing Grade R services.
- v. The DHET has implemented a range of interventions to improve access for black African learners living in poverty including free education for children living in poverty at FET colleges. The Minister has established a working group to conduct a study to determine the actual cost of introducing fee-free university education for the poor. In addition, there is a National Student Financial Aid Scheme (NSFAS) and R5 billion of the 2012 budget has been allocated to it for loans and bursaries in the University and FET sectors.
- vi. The DBE is currently addressing a number of challenges experienced in the implementation of a number of these policies. Notably the DBE is currently reviewing the use of the quintile system to

determine preferential funding allocations with a view to adopting a more equitable framework which will allow learners to access funding in line with their relative poverty status. A study is also underway to explore an alternative foundation for the allocation of funding to fee-charging schools.

**b) Measures to address disability as a barrier:**

- i. The DBE has developed and implemented a number of interventions to improve access for children with disabilities, including: (a) a programme of action for the identification of learners with disabilities and other learning barriers governed by Education White Paper 6: Special Needs Education – Building an Inclusive Education and Training System (2001) and the National Strategy on Screening, Identification, Assessment and Support (2008); (b) the provision of disability-friendly infrastructure in terms of the preceding policy and the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2008); (c) the translation of core workbooks into Braille and the adoption of Sign Language as an official language within the curriculum.
  - ii. While much effort has been made to address disability as a barrier to primary education, there is a significant policy gap in making similar provision for State funded, regulated and otherwise supported early childhood education for children with disabilities. The DSD and DBE are in the process of responding to this gap through the national ECD plan of action currently in development.
  - iii. Furthermore, there are a number of challenges in the implementation of the inclusive education policy at primary and secondary levels. These largely revolve around the inadequacy of resources. The DBE is committed to resolving these issues, and plans on building more full service schools so that there is one in each district (92) and training more teachers on the disability strategy, with the goal of training 416 by 2014/15.
- c) Measures to address teen pregnancies: In 2011, 4,5% of girls between the ages of 13 and 19 were pregnant. Pregnancy creates a significant risk of educational exclusion. In 2009, 6% of out-of-school learners between the ages of 7 and 18 were not at school because of pregnancy (Department of Basic Education, 2011e). The DBE developed a set of guidelines to help prevent pregnancies and to encourage the return of girls after giving birth in the form of its Measures for the Prevention and Management of Learner Pregnancy (2007). However, following a 2009 study on the link between pregnancy and education, these have been revoked and are being replaced with a set of nationally applicable guidelines that will ensure the return of girls after giving birth, encourage the prevention of pregnancy through education on sexual and reproductive health rights, and ensure that returning girls receive the necessary levels of support to secure their ongoing retention.
- d) Integration of care and support for teaching and learning in the education system: The extent of poverty in South Africa and the aggravating effect it has on the vulnerability of children in already difficult circumstances has created a number of challenges to the implementation of targeted access policies. Educators have expressed concerns at the overwhelming number of learners needing support, the array of responsibilities that have been thrust on them to support vulnerable learners, as well as concerns about the lack of additional resources necessary to fulfill their assigned responsibilities. The DBE has sought to address these concerns through the systematisation of care and support for all vulnerable learners within the education system through the development and implementation of the Care and Support for Teaching and Learning (CSTL) Programme. It aims to secure nutritional support, health promotion, infrastructure, water and sanitation, social services, psychosocial support, safety and

protection, curriculum support, and material support to all learners, with a focus on the most vulnerable, through a collaborative multi-sectoral framework of action.

## L - Part 7 - Measures to address the underlying causes of poor educational outcomes in South Africa

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- a) Increased access to, and the professionalization of early childhood development and education: Improving access to, and the quality of early childhood development services, including ECE has been a key strategy employed by the State to improve the quality of all levels of education. The State recognises that early investment in health care, nutrition and education and stimulation is critical for the optimal cognitive development and later school performance of children. There is further recognition that the returns on these investments are higher in the case of children living in deprived social and economic circumstances. Measures that have been taken in this regard include the provision of free health care for all children up to the age of six years, the provision of an ECD subsidy to support the early childhood education of poor children, the capitalisation of training of ECD practitioners serving poor communities through the Expanded Public Works Programmes, the standardisation of the qualifications of ECD practitioners, the recent introduction of a minimum qualification for Grade R practitioners, and the universalisation of Grade R through the public school system.
- b) Curriculum review: The content and quality of the education curriculum is central to the quality of education and realisation of the aims of education contained in the Convention and General Recommendation 1 which are, inter alia to equip children with the numeracy, literacy and human rights knowledge and skills so as to enable them to be productive members of a democratic society. The DBE has implemented a variety of measures to improve the curriculum, including:
- i. Four reviews of the adequacy and quality of the school curriculum. These have led to the most recent Curriculum and Assessment Policy Statements for Grades R – 12 which were published in 2011 and will be implemented between 2011 and 2014. They have been designed to ensure improved acquisition of the skills and knowledge necessary to achieve the aims of education through appropriate content development and mechanisms for better teaching and learning. The revised curriculum focuses on the acquisition of basic skills such as literacy and numeracy, especially in the early years. It has been made more accessible to teachers through the development of specific content statements for each subject as well as specific statements as to the requisite teaching methodology and time to be spent on each subject area in all education phases. The curriculum statements are supported by accompanying assessment and promotion standards in the National Policy Pertaining to the Programme and Promotion Requirements of the National Curriculum Statement Grades R – 12 (2011) and The National Protocol for Assessment Grades R – 12 (2011).
  - ii. The Department has also implemented a training programme to support the proper application of the new curriculum and has thus far trained 130 000 teachers and 2 810 subject advisors.
  - iii. In addition, a number of targeted interventions have been developed to support improvements in enrolment and outcomes in specific areas such as mathematics and science. For example, the Dinaledi programme is an intensive programme of support targeting schools serving poor communities. Students are provided with intensive levels of support, as are the school teachers. In 2012 this intervention will be systematised for the benefit of all learners, rather than the select few that previously participated, through a new national strategy for Mathematics, Science and Technology Education.



- iv. The curriculum at FETs has been found to be outdated and a revision process commenced in 2012.
  - v. The curriculum for early childhood development is equally important in this equation and has undergone various developments. In 2009, the DBE developed the National Early Learning and Development Standards for Children Birth to Four years (NELDS), and is in the process of finalising a 0-4 curriculum. .
- c) Learner assessments: A core concern that emerged from the curriculum review process was the inadequacy of the learner assessment framework. This has been revised and strengthened in two key respects. In 2011 the DBE introduced Annual National Assessments (ANA) to assess progress in the acquisition of numeracy and literacy skills. In addition it will, in 2012, be implementing a National Strategy for Learner Attainment Framework to facilitate a process of continuous learner assessment and responsive teaching to address learning challenges and barriers revealed through the assessment process. A Curriculum Coverage Monitoring Tool has also been developed to ensure that the curriculum is covered from year to year.
- d) The number and qualifications of teachers: The State has taken a number of steps towards improving both the quantity and quality of teachers, especially in under-serviced areas:
- i. There have been significant improvements in the average national learner: teacher ratio during the reporting period. The ratio in ordinary public schools in 2011 was 29:1, compared to 30.5:1 in 2008. There is however variation in class sizes between different provinces. In total, approximately 14% of public school classes have more than 50 learners. (Department of Basic Education, 2012) The majority of these schools are in poorer provinces with historical educational backlogs. In 2008, of the 6% of schools that had an average class size in excess of 50, the majority were in the Eastern Cape (457) and in Limpopo (235). In addition, a recent 3 province study indicated that 55% of Grade R classes exceeded the recommended ratio of 30:1 (Department of Basic Education, Department of Social Development & UNICEF, 2011). Despite significant improvements in the number of qualified teachers from 65% in 1994 to 93,7% in 2009, the insufficiency of qualified teachers continues to problematise appropriate learner:teacher ratios. The problem is especially acute in rural areas, despite a policy for better pay for rural teachers. The DBE is continuing its efforts to improve the number of qualified teachers as well as the quality of their qualifications through its Strategic Planning Framework for Teacher Education and Development in South Africa 2011 – 2025. In addition, the department has improved implementation of the policy for better pay for teachers in rural areas and revised its policy on teaching posts to ensure a closer match between demand and supply in under-serviced areas.
  - ii. The 2012/13 – 2013/14 higher education budget makes provision for the ring-fencing of R450 million towards teacher education. At FET level, there has been a 15% growth in enrolments for teacher education programmes in 2010. This promising development is set to increase faster with the re-opening in 2010 of former teacher training colleges in various provinces.
- e) Learning and Support Materials: A concern raised in the curriculum review was the lack of textbooks to support learning.
- i. The DBE has subsequently introduced a workbook programme targeting the development and distribution of literacy and numeracy workbooks and textbooks for Grades R – 9. There have been a number of challenges in the delivery of workbooks in a number of provinces. The DBE has

- established a task team to investigate the cause of the delivery blockages and to make recommendations to ensure smooth delivery in the 2013 school year.
- ii. Moreover, the DBE has, through the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and Guidelines Relating to Planning for Public School Infrastructure (2012) sought to ensure minimum standards in relation to textbook content and the number and type of learning and support materials provided.
- f) Improved planning, coordination, management and monitoring: The DBE has sought to improve the quality of education across the provinces and districts through the following measures designed to improve planning, coordination, management and monitoring:
- i. The ACE management programme and performance agreements with principals have been introduced to strengthen leadership and accountability of school principals.
  - ii. The DBE has recognised that unlocking the potential within teachers to transform the quality of education requires regular testing and monitoring of teacher knowledge and practices. The department has sought to address this through the introduction of more stringent teacher monitoring and qualification systems. This innovation has introduced an element of tension with the organised teacher labour organisations. The DBE has sought to overcome the current tensions through a negotiated agreement with all stakeholders premised on the centrality of the development of an adequate monitoring and support system. In addition, the DBE, together with organised labour, business and community representatives adopted the NEDLAC Accord on Basic Education in 2011.
  - iii. Two structures were established in 2011 to improve the systemic planning, monitoring and support necessary to ensure ongoing strengthening of the education system. These are the Planning and Delivery Oversight Unit (PDOU) and the National Education Evaluation and Development Unit (NEEDU).
  - iv. Numerous initiatives have been implemented to improve the management and accountability of FET colleges and universities. These include the relocation of authority over FET colleges through the FET Colleges Amendment Bill (2011), a performance agreement system with FET college principals, increasing and building the financial and human resource management capacity at colleges, and the institution of college turnaround strategies in dysfunctional institutions.

## M - Part 7 - Measures to integrate human rights knowledge and practices within the education system

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- a) The former DOE established the Race and Values in Education Directorate and gender Equity Directorate to promote values, human rights (including gender rights), social cohesion and a sense of national identity in schools across the country. These directorates were recently merged into the Social Cohesion and Equity in Education Directorate. The directorate has developed programmes and produced several publications to support the implementation of human rights in schools including (a) the Manifesto on Values Education and Democracy (2001) to support the implementation of human rights education in the school system; (b) the Strategy for Integration and Anti-Discrimination, the purpose of which is to provide methods of improving racial and other forms of integration, and reduce discrimination within schools; (c) a publication entitled Educating for a Common Future; and (d) a number of Guidelines and activities to assist schools in addressing discrimination and build peace and cohesion. These include the Bill of Responsibilities and guidelines for teachers, educational documents for schools that highlight the responsibilities linked to the Constitutional Bill of Rights.
- b) Through an active programme of the Commemoration of Historical Anniversaries, the Department has encouraged learners and educators to engage with South Africa's difficult past. The commemorations programme has included the development and distribution of new history resources for schools, partnerships with human rights organisations and history resource developers, competitions and exhibitions with an historical focus, and the annual Nkosi Albert Luthuli Young Historians Competition.
- c) Over time the Directorate has implemented a range of different initiatives to support the growth of human rights cultures in schools. These have included the Whole School Development initiatives, an Advanced Certificate in Human Rights Education, and workshops with educational districts and School Governing Bodies on developing human rights cultures in schools.
- d) Human rights education, including education on equality, children's rights, gender equity, HIV and AIDS, and disability, is embedded in the new Curriculum which is premised on a number of principles, including social transformation, human rights, inclusivity, environmental and social justice, and valuing indigenous knowledge systems.
- e) The human rights education programme is supported by a HIV and AIDS (Life Skills Education) Conditional Grant to "provide education and training for School Management Teams (SMTs), learners, educators, and other school support staff to develop, implement and manage Life Skills Education in line with the NSP on HIV and AIDS, policies on HIV and AIDS, curriculum and assessment policy, drug and substance abuse and gender equity issues. The DBE has developed a revised Draft Integrated Strategy on HIV and AIDS 2012 – 2016 to ensure a comprehensive and integrated response to HIV and AIDS throughout the education system, with the objectives of increasing sexual and reproductive knowledge, skills and appropriate decision-making among learners, educators, school support staff and officials, and mitigating the impact of HIV by providing a caring, supportive and enabling environment for learners and educators in all South African schools.
- f) In addition, the DBE's Gender Equity Directorate has been at the forefront of ensuring that gender-related barriers are removed in the education system. It has developed various guidelines in this regard, including the Guidelines for the Prevention and Management of Sexual Violence and Harassment in

Public Schools, a series of support materials for teachers, entitled Generations (2008), and learner focused guidelines for dealing with sexual abuse in schools.

- g) In an effort to reduce and address the high levels of violence in schools, the DBE has signed a Collaborative Partnership Protocol with the South African Police Services. To date, 11 822 schools have been linked to local police stations.
- h) In addition, the DBE has established the Girls Education Movements (GEM) and Boys Education Movements (BEM). These are peer education movements that provide life skills education for girls and boys to help them deal with issues such as teenage pregnancy, HIV and AIDS, sexual abuse, drug abuse, and gender-based violence.

### a) Training activities to support implementation of the Child Justice Act

- i. In May 2011 a workshop was held on implementation of the section of the Child Justice Act (2008) dealing with proof of criminal capacity. In attendance were representatives from the departments of Correctional Services, South African Police Services, the DOJCD, the DOH including provincial Health Departments, Justice College, the Human Rights Commission and Legal Aid South Africa.
- ii. Basic and in-service training of police officers is conducted as per the SAPS National Instructions on an ongoing and incremental basis. Over 7 000 SAPS members have received this training in the current financial year (DOJCD, 2012) and 15 877 police officials have benefitted from a one-day Child Justice Act and National Instruction information session (SAPS, 2012). Other training targeting SAPs includes a variety of in-service “Vulnerable Children Workshops” and a “Children and Youth at Risk” course initiated in 2008.
- iii. A training manual on the Integrated Social Crime Prevention Strategy is in place and 345 probation and social services practitioners have been trained on the use of this manual. The DSD has also developed practice guidelines on probation services and trained 285 Probation Officers, Assistant Probation Officers and Child and Youth care workers nationwide.
- iv. 205 master trainers have been trained on the Social Crime Prevention Programme (therapeutic), including representatives from all nine provinces.
- v. Three workshops have been held on the Programme on Accreditation of Diversion Services in South Africa and provincial co-ordinators have been trained on quality assurance measures in diversion facilities.
- vi. During the 3rd quarter of 2011/12 financial year seven provinces received training on the Blueprint on Minimum Norms and Standards for Secure Care facilities
- vii. 1451 Legal Aid SA practitioners received training on the Child Justice Act between April 2010 and June 2011. This is administered as an e-learning module on the Legal Aid SA intranet and all new practitioners are required to complete the course. Information on the Child Justice Act is also included in the Legal Aid SA Regional Children’s Act training programme
- viii. In the 2010/2011 and 2011/2012 financial years, a total of 563 prosecutors received training on a range of issues related to Child Justice, including social context, criminal capacity, diversion, trials and sentencing. And several DOJ inter-sectoral training sessions were held at provincial level in Western Cape, Kwazulu-Natal and Gauteng.

### b) Additional policies in place to address child labour

- i. The Children’s Act (2005) makes provision for protection of children who are forced into labour. The Children’s Act (2005) defines child labour as work by a child which is exploitative, hazardous or otherwise inappropriate for a person of that age and that places at risk the child’s well-being, education, physical or mental health or spiritual, moral, emotional or social development. The Child Labour Enforcement Policy has been aligned to include the requirements of the Children’s Act (2005). The Children’s Act also reinforces the provisions in the Basic Conditions of Employment Act. This Act prohibits employment of children under the

age of 15 years and regulates the employment of children of 15 years or older. Any instance of child labour or a contravention of the provisions of the Basic Conditions of Employment Act 75 of 1997 must be reported to the Department of Labour. The Basic Conditions of Employment Amendment Bill (2010) proposes expanded protection for children, including for those who are working legally. The amendments aim to bring the provisions of the principle Act in line with the Constitution and increase the term of imprisonment from three to six years for violations.

- ii. The Regulations On The Worst Forms Of Child Labour came into effect on 15 January 2010 to protect the health and safety of child workers who are lawfully entitled to work. It prohibits categories of work which child workers may not perform, sets conditions on the work that child workers may perform and identifies which categories of work constitute worst forms of child labour.
  - iii. The farm workers sectoral determination affords special protection to farm workers who are between 15 and 18 years of age. They may not work more than 35 hours in any week but should be paid at the same rate as the workers that work 45 hours a week. Monitoring of this provision is however difficult and provincial consultations identified the fact that some farm owners refuse permission to officials to enter their premises.
- c) Activities of the Film and Publication Board: The Board has run workshops on the Films and Publications Act to inform and empower critical stakeholders (including SAPS, NPA, Judges, Metro Police, South African Revenue Service Customs, magistrates as well as distributors). The Board also works closely with Internet service and wireless application providers, as well as Internet content providers, to enhance the co-regulation of content accessible by children. Any person who provides child-oriented services, including chat-rooms, on or through mobile cellular telephones or the internet, must take reasonable steps to ensure that the service is not used for the purpose of the commission of any offence against children and must prominently display reasonable safety messages, create reporting mechanisms for children and report any information indicating an offence against a child to the police.

### Annexure 3: Key legal and policy developments since 1998

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*Please note: This list includes key developments only and is not exhaustive*

- Action Plan to 2014: Towards the Realisation of Schooling 2025, 2011
- Admission Policy for Ordinary Public Schools, 1998
- Alteration of Sex Description and Sex Status Act No. 49 of 2003
- Amended National Norms and Standards for School Funding, 2006
- Amended National Norms and Standards for School Funding, 2011
- Births and Deaths Registration Act No. 51 of 1992 (as amended)
- Child Justice Act No. 75 of 2008
- Child Labour Programme of Action for South Africa: Phase 2008 - 2012
- Child Labour programme of Action for South Africa 2013-2016 (draft)
- Child Protection Strategic Plan 2010/11-2014/15
- Children's Act No. 38 of 2005 (as amended)
- Choice of Termination of Pregnancy Act No. 92 of 1996 (as amended)
- Consumer Protection Act No. 68 of 2008
- Correctional Services Act No. 11 of 1998
- Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007
- Criminal Procedure Act No. 51 of 1977 (as amended)
- Curriculum and Assessment Policy Statements, 2011
- Defence Act No. 42 of 2002
- Department of Basic Education Delivery Agreement for Outcome 1: Improved quality of basic education, 2010
- Disability Rights Charter, 2000
- Domestic Violence Act No. 116 of 1998
- Child Protection Strategic Plan 2010-2014 (draft )
- ECD Infrastructure Plan, 2012 (draft)
- Guidelines on e-safety in schools, 2010 (draft)
- Integrated Strategy on HIV and AIDS 2012 – 2016
- National Plan of Action 2012 – 2017 (draft)
- Policy on Education Districts, 2012 (draft)
- School Sport Policy, 2011 (draft)
- Education Laws Amendment Act No. 31 of 2007
- Education White Paper 5 on Early Childhood Education, 2001
- Education White Paper 6: Special needs education – building an inclusive education and training system, 2001
- Employment Equity Act No. 55 of 1998
- Employment of Educators Act No. 76 of 1998 (as amended)

- Firearms Control Act No. 60 of 2000
- Free Health Care for All Persons with Disabilities Policy, 2003
- Free Primary Health Care for All Policy, 2006
- Further Education and Training Colleges Amendment Act No. 3 of 2012
- General and Further Education and Training Quality Assurance Act No. 58 of 2001
- Green Paper for Post-School Education and Training, 2011
- Guidelines Relating to Planning for Public School Infrastructure, 2012
- Immigration Act No. of 2002
- Integrated National Literacy and Numeracy Strategy, 2012
- Integrated Strategic Planning Framework for Teacher Education and Development in South Africa 2011-2025
- Language Policy for Higher Education, 2002
- Learner Attainment Improvement Strategy, 2012
- Maintenance Act No. 99 of 1998
- Medical Schemes Act No.131 of 1998
- Mental Health Care Act No. 17 of 2002
- National Child Labour Programme of Action for South Africa: Phase 2: 2008 – 2012
- National Drug Master Plan 2006-2011
- National Early Learning and Development Standards for Children Birth to Four Years (NELDS), 2009
- National Environmental Management Act No. 107 of 1998
- National Environmental Management: Air Quality Act No. 39 of 2004
- National Guidelines for School Library and Information Services, 2012
- National Guidelines on School Uniforms, 2006
- National Guidelines on Statutory Services to Child Headed Households, April 2010
- National Health Act No. 61 of 2003
- National HIV/AIDS and STI Strategic Plan for South Africa, 2012-2016
- National Norms and Standards for Grade R Funding, 2008
- National Norms and Standards for Public School Funding, 1998
- National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment, 2010
- National Policy Framework for Child Justice Act, 2010
- National Policy Framework for Management of Sexual Offence matters, January 2012 (draft)
- National Policy Framework for the Children's Act, 2009
- National Policy on HIV and AIDS for Learners, Educators in Public Schools, and Students in Further Education and Training Institutions, 1999
- National Policy on Learner Attendance, 2010
- National Policy on Religion and Education, 2003
- National Policy on the Management of Drug Abuse by Learners in Public and Independent Schools and Further Education and Training Institutions, 2002
- National Policy Pertaining to the Programme and Promotion Requirements of the National Curriculum Statement Grades R – 12, 2011



- National Protocol for Assessment Grades R – 12, 2011
- National School Health Policy, 2003
- National Strategic Plan for HIV, STIs and TB, 2012-2016
- National Strategic Plan for HIV/AIDS and STI, 2007-2011
- National Strategy for Learner Attainment Framework for Grades R to 12, 2012
- National Strategy for Mathematics, Science and Technology Education, 2012
- National Strategy on Screening, Identification, Assessment and Support, 2008
- National Youth Development Agency Act No. 54 of 2008
- National Climate Change Response White Paper, 2011
- Norms, standards and practice guidelines for the Children’s Act, May 2010
- Patient’s Rights Charter, 2007
- Policy framework for non-communicable chronic conditions in children, 2002
- Policy Guidelines for Child and Adolescent Mental Health, 2004
- Policy Guidelines for the Management and Prevention of Genetic Disorders, Birth Defects and Disabilities, 2001
- Policy Guidelines on Youth & Adolescent Health, 2002
- Policy on the Minimum Requirements for Teacher Education Qualifications, 2011
- Prevention and Combating of Trafficking in Persons Bill, B 7 - 2010
- Prevention of and Treatment for Substance Abuse Act No. 70 of 2008
- Prevention of Family Violence Act No. 133 of 1993
- Primary Health Care Package for South Africa, 2002
- Probation Services Act No. 116 of 1991 (as amended)
- Promotion of Access to Information Act No. 2 of 2000
- Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000
- Regulations relating to the performance of community service, 2005
- Regulations to Prohibit Initiation Practices in Schools, 2002
- Regulations: Safety measures at public schools, 2001
- Revised Exemption of Parents from the Payment of School Fees Regulations, 2006.
- Social Assistance Act No.13 of 2004
- Social Crime Prevention Strategy, 2010
- South African Council of Educators Act No. 31 of 2000
- South African Police Services National Instruction 2 /2010: Children in Conflict with the Law
- South African Refugees Act No. 130 of 1998
- Standard Treatment Guidelines (STGs) and Essential Drugs List (EDL) (first printed 1998, second edition 2006)
- Standardization of Provision of Assistive Devices Policy, 2003
- Tobacco Products Control Amendment Act No.63 of 2008

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*In line with prescribed national reporting practice all references are identified by affiliated institutions*

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women, children &  
people with disabilities  
Department:  
Women, Children and People with Disabilities  
REPUBLIC OF SOUTH AFRICA

## DEPARTMENT OF WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES

### TEMPLATE FOR PUBLIC COMMENTS ON THE DRAFT SECOND, THIRD AND FOURTH COUNTRY REPORT TO THE UNITED NATIONS ON THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

**Period for Public Comment:  
25 January 2012 – 22 March 2013**

Stakeholders are invited to validate the content of the draft report by:

1. Indicating whether they agree/disagree with the content of each article;
2. Providing additional information for the baseline report on both achievements and challenges.

The template can be used to guide structuring of submissions.

Comments should reach the DWCPD before **22 March 2013**

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<b>Email address</b>	
<b>Cell Number/Landline</b>	

<b>This submission reflects the viewpoints of my institution/organisation/company:</b>	<b>YES</b>	<b>NO</b>
<b>This submission reflects my personal viewpoints:</b>	<b>YES</b>	<b>NO</b>

**PART ONE: SUMMARY OF CORE DOCUMENT**

Note:

- This report covers the period of 1998 – June 2012.
- The 2011 Census data was released after the finalisation of the report.
- The core document is produced by the Department of Justice. It is the same document that is included in the UNCRPD report accessible on this website.

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## PART TWO: TREATY SPECIFIC REPORT

### Part 1 :General measures of implementation

#### 1.1 Ratification,reservation or declarations relating to the Convention , other international and regional instruments and Optional Protocols.

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

#### 1.2 Measure taken to bring domestic legislation and practice into full conformity with the convention and its Optional Protocols

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

#### 1.3 The regulation of business activities that impact on children

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

### Part 2: Definition of the child

## 2.1 Age of majority

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.2 The age of marriage

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.3. Age of contracting, litigating and other acts linked to legal capacity

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

I

## 2.4 Age of sexual consent



<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.5 Ages impacting on customary law

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.6 Alcohol and gambling

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.7 Minimum child labour age

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.8 Minimum age for recruitment into the defence force and gun ownership

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.9 Minimum age for consenting to medical treatment and health care

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 2.10 Age of criminal capacity and sentencing

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### Part 3: General principles

#### 3.1 Non-discrimination (article 2):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

#### 3.2 The best interests of the child

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

#### 3.3 The right to life, survival and development (article 6):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 3.4 Respect for the views of the child (article 12):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## 1 Part 4: Civil rights and freedoms

### 4.1 Birth registration, name and nationality and preservation of identity (articles 7 and 8):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 4.2 The rights to freedom of expression and the right to seek, receive and impart information (article 13):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

#### 4.3 Freedom of thought, conscience and religion (article 14):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

#### 4.4 Freedom of association and of peaceful assembly (article 15):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

#### 4.5 Protection of privacy and protection of the image (article 16):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**4.6 Access to information from a diversity of sources and protection from material harmful to the child’s well-being (article 17):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**4.7 The right not to be subjected to torture or other cruel, inhuman or degrading punishment including corporal punishment (articles 37(1) and 28):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**4.8 Measures to promote physical and psychological recovery and social reintegration of child victims (article 39):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**PART 5: Family environment and alternative care**

**5.1 Family environment and parental guidance in a manner consistent with the evolving capacities of the child (article 5):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**5.2 Parents' common responsibilities, assistance to parents and the provision of childcare services (article 18)**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.3 Separation from parents (article 9):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.4 Family reunification (article 10):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.5 Recovery of maintenance for the child (article 27):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			



### 5.6 Children deprived of a family environment (article 20)

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.7 Periodic review of placement (article 25)

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.8 Adoption, national and intercountry (article 21)

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.9 Illicit transfer and non-return (article 11):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.10 Abuse and neglect including physical and psychological recovery (articles 29 and 39):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 5.11 Corporal punishment

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## Strengthening social service capacity

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

## PART 6: Disability, basic health and welfare

### 6.1 Children with disabilities

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 6.2 Child survival and development

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 6.3 Health and health services, in particular primary health care

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 6.4 Efforts to prevent and deal with communicable and non-communicable diseases and promote the physical and mental health and well-being of children:

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 6.5 Efforts to address the most prevalent health challenges - HIV/AIDS and TB:

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**6.6 Reproductive health rights of adolescents and measures to promote a healthy lifestyle**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**6.7 Measures to prohibit and eliminate all forms of harmful traditional practices**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**6.8 Measures to protect children from substance abuse (article 33):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**6.9 Measures to ensure the protection of children with incarcerated parents and children living in prison with their mothers**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**6.10 Environmental health**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**6.11 Social security and childcare services and facilities (articles 26 and 18, para. 3):**

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## 6.12 Childcare services and facilities

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## 6.13 Standard of living measures: Poverty and inequality

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## PART 7: Education, leisure and cultural activities

### 7.1 The right to education, including vocational training and guidance

(article 28):

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## 7.2 The aims of education (article 29) with reference to the quality of education & education on human rights and civic education

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## 7.3 Human rights and civic education

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## 7.4 Cultural and linguistic rights of children (article 30)

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			



## 7.5 Rest, play, leisure, recreation and cultural and artistic activities (article 31):

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

## PART 8: Special protection measures

### 8.1 Children outside their country of origin seeking refugee protection (article 22), unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

### 8.2 Children in armed conflict (article 38)

I agree with the content	YES	NO	PARTIALLY
I disagree with the following:			
Additional information which should be considered:			

**8.3 Children in situations of exploitation, including physical and psychological recovery and social reintegration (articles 32, 33, 34, 35, 36)**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**8.4 Child labour (article 32)**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

**8.5 Use of children in illicit production & trafficking of drugs (article 33):**

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 8.6 Sexual exploitation and sexual abuse (article 34):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 8.7 Sale, trafficking and abduction of children (article 35):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 8.8 Children in street situations

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 8.9 Minority groups (article 30):

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			

### 8.10 Children in conflict with the law, victims and witnesses (articles 37 and 40)

<b>I agree with the content</b>	<b>YES</b>	<b>NO</b>	<b>PARTIALLY</b>
<b>I disagree with the following:</b>			
<b>Additional information which should be considered:</b>			