



# Submission by the South African National Child Rights Coalition to the United Nations Human Rights Committee of Experts on the Rights of the Child

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## Acronyms and abbreviations

CRG	Child Rights Governance
DPME	Department of Planning, Monitoring and Evaluation
GRSA	Government of the Republic of South Africa
HCI	Human Capital Index
ICESCR	International Covenant on Economic, Social and Cultural Rights
LOI	List of Issues
MTSF	Medium Term Strategic Framework
NEET	Not in education, employment or training
NCCPP	National Child Care and Protection Policy
NIECDP	National Integrated ECD Policy
NPAC	National Plan of Action for Children
ORC	Office on the Rights of the Child
SANCRC	South African National Child Rights Coalition
SONA	State of the Nation Address
DSD	Department of Social Development
CRG	Child Rights Governance

## Part 1: Introduction to the SANCRC and approach to the report

1. The South African National Child Rights Coalition (SANCRC) is a voluntary association of 126 child rights organisations.
2. The SANCRC hereby submits its complementary report to the Government of the Republic of South Africa's (GRSA's) Combined third to sixth periodic report submitted under article 44 of the United Nations Convention on the Rights of the Child.
3. In its endorsement of the rights-based development agenda, the State has committed to achieve inclusive, lasting development by providing a combination of multi-sectoral services and support across the life course of every child to realise their inter-dependent rights protected by the ACRWC – a pre-condition for their optimal personal and national development. Notably, it has committed to prioritise services and support to equalise the opportunities of historically marginalised children excluded through Apartheid policies, and in so doing, bring an end to the historical patterns of inter-generational exclusions based on race, nationality, geography, gender, disability, health and social and economic status and increase the number and proportion of children who not only survive, but develop to their full potential, are protected and participate.
4. It has further committed to ensure a whole-of-state coordinated commitment and action to provide the required multi-sectoral, promotive responses. It has committed to do so through the adoption of a child-centred system of governance as mandated, by inter alia, the UN and AU's General Comments 5, to ensure the sustained provision of the required combinations of services to overcome risks and build resilience of parents, caregivers and children and ensure they receive the nurturing care they need to thrive. It has domesticated that commitment in the development and adoption of core national policies, including the National Plan of Action for Children (NPAC), the National Child Care and Protection Policy (NCCPP) and the National Integrated ECD policy (NIECDP).
5. The SANCRC recognises with appreciation and has supported the State's transformational, equity-driven development agenda captured in the National Development Plan and supporting National Plan of Action for Children (2019 – 2025) and National Child Care and Protection Policy. The SANCRC further recognises and appreciates the measures taken to implement the state's commitments.
6. However, the SANCRC is concerned that, despite these commitments and measures taken to date, South Africa has, and continues to be marked by persistently poor outcomes for children and continuing patterns and increasing inequalities along historical equity fault lines.
7. The measures taken over the past two to three decades have not been adequate to realise the country's commitments to children.
8. The treaty reporting process is viewed by the SANCRC as a critical opportunity to take stock of and engage in constructive dialogue to improve implementation to improve equality and outcomes for children.
9. However, to use the reporting process to support continuing systems strengthening across government's planning cycles, the State's report must assess progress as measured against the overarching national commitments and goals, identify gaps and deficits, and underlying systemic drivers of poor progress. Using this analytical basis, the report should identify, or at the least enable the co-development, together with civic society and the Committee of Experts, of appropriate systems strengthening measures to be actioned by the State in its next planning cycle.
10. The state has committed to implement comprehensive, integrated measures to ensure the realisation of children's substantive rights, in combination, to secure their rights to equality / freedom from

discrimination, to survive, to develop their full potential, be protected and exercise their agency as actively engaged citizens.

11. Measuring and reporting on improvements in children's equality, survival, development of their full potential, protection and the exercise of their civic, political, educational, and economic agency provides an accurate reflection of the adequacy of implementation of the state's responsibilities.
12. To serve its purpose as a system strengthening catalyst, the state party report should focus on the changes in these core outcomes. It should identify where progress has been achieved, and where it has slowed, stalled, or even reversed, and engage in an analytical diagnostic of the measures taken under each of the implementation headings. This will enable the identification of strengths upon which to build, and critically, the identification of systemic weaknesses underpinning observed gaps and challenges in the availability, access, quality, and impact of the required combinations of services necessary to realise children's rights.
13. In so doing, the report will provide the basis for a constructive, analytical discussion that will generate actionable system strengthening measures that can and should be actioned by the state in its next planning cycle, and for which the state can be held to account in the next treaty reporting cycle.
14. An analytical system strengthening reporting process is always important. It is especially important now in South Africa as the country is about to embark on its next five-year planning cycle that will guide national priorities, planning, resourcing, and monitoring between 2025 and 2030 – the deadline for achieving the SDGs.
15. This reporting processes must be recognised and used strategically by civil society, the state and the Committee of Experts, as a crucial opportunity for identifying and promoting remediation of weaknesses in the country's responses that have frustrated effective implementation and improved outcomes for children, and ultimately frustrated the development of the human capital South Africa needs to achieve the SDGs by 2030 and beyond.
16. The State Party report does not provide a sound basis to support the envisaged process. It does not report or reflect on progress made in improving equality and outcomes for children in the reporting period.
17. It fails to assess and report on progress in improving outcomes for children, and as a result, progress in eradicating inherited and emerging inequalities and ending inter-generational patterns of exclusion.
18. It reports on, in the form of lists of multiple, fragmented implementation measures, mostly policy and legislative, alongside various pieces of research, campaigns and projects, with little explanation of how the measures taken have been designed, resourced, and implemented to address leading risks, their coverage, duration and impact of the interventions on improving equality and outcomes for children.
19. This report aims to support a constructive, systems strengthening process by placing the spotlight on the extent to which outcomes and equality have improved / deteriorated for children in the reporting period. Moving from this starting point, the report identifies the underlying implementation or governance inadequacies and consequential gaps and challenges in the realisation of children's protected rights in the required combinations across their life course. It is within this rights-based systems strengthening framework that the report offers concrete recommendations for consideration by the state in its next planning cycle to improve equality and outcomes for children in South Africa.
20. This report therefore does not respond to the state's 64-page report, item-by-item. Instead, it seeks to draw attention to the state's progress / lack of progress in fulfilling its rights-based treaty and

development implementation responsibilities to secure the rights of all children, especially the most vulnerable, not just to survive, but be protected, develop to their full potential, and participate as actively engaged citizens. This report focusses on the state's responses to the high-level, structural issues raised by SANCRRC in its previous submission informing the List of Issues (LOI).

21. It profiles systemic treaty implementation failures, evident from the approach, content and gaps in the state's report, that have persisted over the past three decades. It seeks to highlight the link between the failure to implement child rights treaty and development responsibilities systematically, and the failure, over the past two and more decades, to make substantive and sustainable progress in addressing leading risks and causes of poor outcomes, reducing inequalities along historical fault lines and realising the rights of all children in South Africa.
22. It does so with a view to catalysing a constructive discussion that will yield systems strengthening recommendations that can and should be actioned by the GRSA in the next, upcoming national medium and longer-term planning cycle for the period 2025 – 2030, to achieve transformational change that will end inter-generational patterns of poverty, inequality, and exclusion.

## Part 2: Status of equality and improved children's outcomes

23. The SANCRRC recognises and welcomes the country's explicitly equity-focused development agenda and the measures that have been taken, and reported on in this, and previous reports, in advancing that agenda.
24. It further recognises, and applauds, improvements in some outcomes for some children, notably improvements in child mortality rates, reductions in child poverty levels, acute malnutrition, and improved early learning enrolments in community-based and Grade R programmes, and school enrolment rates.
25. However, the SANCRRC is concerned that the measures taken, investments made, and fragmentary improvements have not been enough, or adequately strategic to change the lives of most children and bring an end to the high levels of poverty and inequality, as well as persisting patterns of exclusion inherited from the apartheid regime.
26. There has been minimal progress in realising equality and improved outcomes for, especially vulnerable children during the reporting period. As a result, South Africa has made limited progress in achieving the SDGs and remains one of the most unequal countries in the world, where disparities continue along inter-generational equity fault lines.
27. South Africa's 2019 SDG report confirms that poverty levels increased, and inequality levels remain amongst the highest in the world.<sup>1</sup> In 1993 the Gini coefficient was 0.66 and deteriorated to 0.68 in 2015.<sup>2</sup>
28. Despite world class policies, an explicit pro-poor agenda, and recording some of the highest comparative increases in spending on social services, development outcomes for most South Africa's historically marginalised children have not improved over the past decade across all stages of their life course.<sup>3</sup>
29. The deficits start early and accumulate across the life course, of especially the most vulnerable, thus fueling inter-generational patterns of poverty and inequality that prevent the realisation of the rights of today's children, as it did previous generations of children. And will, in the absence of transformation, trap future generations of children in the same negative cycle.

30. South Africa faces a human capital crisis that will prevent the achievement of its global and national sustainable, inclusive development goals, because it has failed to realise the rights of most children in the country to not only survive, but develop their full potential, be protected and participate.
31. In 2022, South Africa has a child population of 22 million children.<sup>4</sup> However, as documented in the next few paragraphs, the majority are at risk of poor outcomes because of deepening poverty, inequality and associated risks that undermine the capacity of their parents and caregivers to secure their survival, development, protection, and participation.

### Part 3: The right to survive and develop in the early years

32. Child survival has improved substantially. The under-five mortality rate dropped from 51.59 per 1,000 live births in 2010 to 32.85 in 2021.<sup>5</sup> However, progress has slowed, and the UN reports that given persisting challenges, South Africa is not on track to meet the SDG target by 2030.<sup>6</sup>
33. Progress has been slowed by the persistently high neonatal mortality rate which has, unlike the under-five mortality rate, increased since 2015 from 11 to 11.03 deaths per 1,000 live births in 2021.<sup>7</sup>
34. In addition, young children continue to suffer avoidable causes of death and morbidity, because of a combination of weak health systems, poor quality services, lack of parental knowledge and resulting poor child care, health, and nutrition practices, aggravated by lack of access to water, sanitation and affordable, safe sources of energy.<sup>8</sup>
35. For example, only 30% of children in South Africa have access to a clean source of water. There has been little improvement over the past 15 years, and access remains deeply unequal, with Black children, those living in rural areas, in the former apartheid homelands, and those living in poverty at a substantially higher risk. In 2015, 68% of children did not have access, and this has only improved by 2 percentage points to reach 70% in 2021. As a result, 5,5 million children do not have access to clean drinking water. This is a leading cause of poor survival, health, and nutrition of especially young children.<sup>9</sup>
36. For young children who do survive, few develop their full potential, with the most marginalised at the greatest risk of poor development outcomes.
37. Stunting has worsened. 27 out of 100 children under the age of 5 years are stunted, and so are at risk of cognitive and physical limitations that can last a lifetime.<sup>10</sup> Only 23% of children between 6 and 23 months receive a minimum acceptable diet.<sup>11</sup>
38. The Thrive by Five Index provides population data on the proportion of children aged 50 – 59 months are thriving, measured based on their development in three core domains, early learning, physical growth, and social and emotional functioning. In 2021, 57% of children attending an early learning programme failed to thrive by the age of five. They are not on track for cognitive and/or physical development.<sup>12</sup> Failure to thrive is deeply inequitable, with children in poverty and experiencing co-occurring intersecting historical vulnerabilities are at the highest risk of poor development, thus setting the patterns of exclusions seen across the life course of children and adults in South Africa.
39. The failure to thrive is caused by a confluence of risk factors in the child' care environment, starting even before conception, and continuing until the age of 8 years. Risk factors in this period, especially in the 1<sup>st</sup> 1000 days, erode essential early foundations that result in poor early and longer-term adolescent, youth, and adult outcomes. Risk factors, recognised in the National Integrated ECD Policy (NIECDP) include, high levels of gender-based violence, poor adolescent and maternal nutrition, low literacy levels of especially vulnerable women of child-bearing age, high levels of poverty, substance abuse and maternal depression, poor access to water and sanitation and harmful hygiene and

parenting practices, low development literacy, lack of access to services, harmful parenting practices, including the wide-spread use of corporal punishment and harmful religious and customary practices.

40. The NIECDP recognises the importance of investing in the early years, especially the 1<sup>st</sup> 1000 days, and commits, because this lays the country's human capital foundations, to ensure state-wide prioritisation and investment to provide comprehensive parental and family support, in the required combinations, to address the intersecting risks. The NIECDP was adopted in 2015 and using stunting as a proxy indicator for successful reduction of risks to early development, no progress has been made. The proportion of children under the age of 5 years that are stunted has not changed, and indeed marginally increased since 2015 from 22,4% to 22,8% in 2022.<sup>13</sup>
41. The failure to thrive is caused by, inter alia, the failure to address the underlying risks through the provision of comprehensive support to parents and families to enable them to provide their youngest children with the nurturing care needed to thrive.

## Part 4: The right to survive and develop in adolescence

42. The failure to thrive in the early years and the patterns of exclusion shape and aggravate inequalities and poor health, well-being, and development outcomes into the next stage of childhood - adolescence.
43. Adolescent health is poor and deteriorating in core preventable areas. The leading causes of death and DALYS are HIV, diarrhoea, TB, lower respiratory illnesses, mental health and behavioral conditions and inter-personal violence.<sup>14</sup> Risk factors that are on the increase include:
  - a. Lack of physical activity (in 2016 88% of girls and boys did not engage in enough physical activity for health).<sup>15</sup>
  - b. High levels of substance abuse – 27% of boys 10 – 19 use alcohol and 20% engage in heavy episodic drinking, and 11% of girls use alcohol, with 4% engaging in heavy episodic drinking
  - c. high levels of violence and abuse and gender norms. In 2016, 14% of males 15 – 49 and 7% of women aged 15 – 49 believed that a husband is justified in beating his wife.
44. A leading risk factor for poor health, but also a significant indicator of the failure to secure the equal and optimal development of adolescents is their educational status. South Africa has done well in improving school enrolment rates – with near universal primary school enrolment. However, the quality of education is poor, and when this is grafted onto weak early foundations, education outcomes are very weak, and dropout rates high, especially amongst older girls.
  - a. Whilst the expected years of schooling for a child who enrolls at the age of 4 years is 10.2 years by the time, she reaches age 18, the Learning-adjusted Years of School (LAYS), is only 5,6 years – based on what children actually learn.<sup>16</sup>
  - b. In 2016, 80 percent of 10-year-olds could not read and understand a simple text by the end of primary school.<sup>17</sup> By 2021, this figure had not changed. The University of Pretoria (UP) 2021 assessment of the South African portion of the Progress in International Reading Literacy Study found that 81% of South African Grade 4 learners are struggling to read for comprehension at age 10.<sup>18</sup> This was the case, despite the fact that in 2021, 88% of 5–6-year-olds had access to an early learning programme.<sup>19</sup>
  - c. Learning outcomes are unequal for poor, African, rural children. Less than 20% of children in no-fee schools achieved above the lowest international benchmark in maths.<sup>20</sup>
  - d. Whilst the State reports that its matric pass rate has increased to 80%, this is not a true reflection of progress in education outcomes. Struggling learners drop out, and the pass rate is set at a low



benchmark. It is estimated that 48% of learners who start Grade R drop out of school and do not complete secondary school, and key reasons for dropping out include the cost of education and failing to progress, and/or the perceived irrelevance of education.<sup>21</sup>

- e. Dropout rates increase in lower and upper secondary levels, with UNICEF reporting that in 2020, only 22% of girls and 44% of boys completed upper secondary school.<sup>22</sup>

## Part 5: Accumulated rights transgressions and human capital losses

45. The poor survival, health and education outcomes across children's life course accumulate to result in the loss of almost 60% of South Africa's human capital potential. The World Bank's Human Capital Index (HCI) measures the extent to which children's potential is developed, based on survival, health and education across their life course on a scale of 0 – 1. 0 represents no development and 1, full development. The global average is 0.56. South Africa's HCI is only 0.43. Whilst this is lower than the global average, of greater concern is the fact that the HCI has not increased in the past decade, despite significant increases in its health and education budgets, increases in Grade R and primary enrollment and increased child survival rates.<sup>23</sup>
46. A child born in South Africa today will, as was the case 10 years ago, only develop 40% of their potential.
47. Not only is the children's potential not developed, many do not have the opportunity to exercise their potential – they lack economic, civic and educational agency. This is evident from the persistently high and increasing NEET levels. Stagnant and worsening youth NEET rates are a result of accumulated rights deprivations experienced by historically marginalised children and young people starting in the earliest and continuing into their adolescent years in school.
48. "The South African NEET rate has been consistently over 30% and it has worsened over the past ten years."<sup>24</sup> In 2021, 36% of young people aged 15 – 24 years were not in education, employment, or training. This increased from 32.8% in 2002.<sup>25</sup>
49. The young people who fall into this group are the most vulnerable who have, from birth, been persistently and inter-generationally excluded. Most are Black (87%) and women (55%).<sup>26</sup> Girls are more than twice as likely to be NEET and, once they become NEET are at a higher risk of remaining NEET.<sup>27</sup>

## Part 6: Failure to implement rights-based development responsibilities

50. The preceding data indicates that, whilst South Africa has committed to and actioned a pro-poor development agenda, its design and implementation has not been adequate to ensure all children not only survive, but thrive and participate - socially, economically, civically, and politically across their full life course.
51. The reason for this failure and resulting human capital and development crisis is because of weak, fragmented and inadequately resourced implementation of the state's treaty and development responsibilities.
52. To reiterate, the state has committed to build inclusive human capital for sustainable development by ensuring every child, especially the most vulnerable, have an equal opportunity to develop their full potential and exercise their social, economic, civic and political agency as empowered citizens, peers, parents, employers and workers, business leaders, and political leaders and governors to end inter-generational patterns of poverty, inequality and exclusion.

53. Realising the full commitment is essential for ending inter-generational exclusions that not only prevent national, inclusive sustainable development, but disempower caregivers who are unable to provide children in their care with the care and protection required.
54. Realising all children's rights and achieving sustainable change requires transformational governance. It requires that government ensure the systematic provision of comprehensive support and services to enable all families and caregivers to provide the care required by their children so that they may develop and exercise their potential as actively engaged citizens.
55. The CRC, the ACRWC, and the SDG and African development agenda, as amplified by multiple implementation frameworks, guidelines and tools, including the following, mandate a child-centred, coordinated whole-of government systemic response to fulfil this overarching suite of implementation responsibilities:
- a. Treaty-specific guidelines on the implementation measures to be taken and reported on. For example, article 44, paragraph 1(b), of the UNCRC reporting guidelines.
  - b. UN General Comment No. 5 (2003): General Measures of Implementation on the Rights of the Child (GC 5)
  - c. General Comment No. 19 (2016) on Public Budgeting for the Realisation of Children's Rights (Article 4) (GC 19)
  - d. General Comment No. 5 ACERWC (2018): State party Obligations (Article 1) and Systems-strengthening for Child Protection (GC 5)
  - e. The Nurturing Care Framework for Early Childhood Development Framework for helping children survive and thrive to transform health and human potential
  - f. The INSPIRE framework INSPIRE: Seven strategies for Ending Violence Against Children
  - g. Global Strategy for Women, Children's, and Adolescent Health 2016 – 2030: Survive, thrive and transform
  - h. Global Accelerated Action for the Health of Adolescents (AA-HA!): guidance to support country implementation
  - i. Education 2030: Incheon Declaration and Framework for Action towards Inclusive and Equitable Quality Education and Lifelong Learning for All
  - j. The SADC Policy Framework on Care and Support for Teaching and Learning and accompanying Child and Youth Agency Framework
  - k. The Eastern and Southern African Ministerial Commitment: Fulfilling our promise to education, health and well-being for adolescents and young people
  - l. Transforming Education Summit Declaration and Report
56. They all create a common implementation mandate. They require that government adopt a child-rights governance system as one of the foundational building blocks of an effective, rights-based developmental state. To be an effective system it must:
- a. Identify improved development of children and reduced inequalities in their outcomes through the realisation of their rights, not just to survive, but to develop their full potential, be protected and participate as a national development priority, with corresponding outcome's focused, measurable goals, targets and indicators.
  - b. Recognise and mandate a state-wide developmental approach to achieving the goal. This requires that public resources be systematically used to strengthen caregiving environments – across the caregiving continuum – through the provision of age-appropriate combinations of services and

support to overcome risks and enable and empower parents and other caregivers, such as extended families, educators, health care workers, NGOs, businesses etc. to provide children with the care and protection required to thrive and to prevent poor outcomes. The goal is to ensure that all children receive nurturing care and protection – that is care and protection that realises all their interdependent rights to health, nutrition, protection, education and responsive care – in combination - through a national network of support.

- c. It further requires that the system identify the greatest challenges and risks, and the most effective and efficient interventions, and ensure state-wide prioritisation and investments in these to accelerate and sustain improvements.
- d. This requires a unified, multi-sectoral system of governance that ensures that all organs of state recognise and advance the developmental approach, know what is required to equalise and optimise children’s development, what the major risks and causes of poor outcomes are, what their contribution is to the combination of support required, and align their planning, resourcing, provisioning and monitoring to ensure each fulfils and accounts for their respective commitments through their sectoral governance systems.
- e. To achieve this requires high level leadership by heads of state to ensure state-wide recognition, commitment and accountability for coordinated planning, resourcing, monitoring and reporting by all organs of state to contribute to achieving the goal.
- f. It also requires inclusive governance through the systematic and sustained participation of children, their parents and caregivers across the governance continuum.
- g. Institutionalization of the goal, outcomes, targets, indicators and roles and responsibilities into the national architecture established to advance the national development agenda through the Presidency and supporting institutions and mechanisms.
- h. High level leadership is necessary to ensure an authoritative mandate and accountability by all organs of state to engage in child-centred planning, resourcing and monitoring resourced, provided and monitored by the many different sectors, to ensure that they are sustainably provided in age- and risk-responsive combinations across the life course of every child.
- i. The development of a supporting National Plan of Action for Children providing guidance on the role players and their responsibilities to advance the goal.
- j. The development of a national monitoring, reporting and accountability framework to collect, analyse and use data across government for child-centred development planning, monitoring and reporting on progress against the goal.
- k. The development of effective monitoring and accountability mechanisms to ensure compliance.
- l. The review and alignment of national multi-sectoral and sector policies, laws, programmes, budgets and monitoring frameworks to align with the goal and plan.
- m. The development of the child rights governance capacity of all in government on their responsibilities and how to fulfil them – across the governance continuum – from planning, to resourcing, to implementation, to monitoring, and to quality improvement.
- n. The development of an aligned national budget policy that promotes and enables the implementation of a coherent, child-centred developmental agenda.
- o. Establish a monitoring, reporting and follow-up mechanism to ensure regular assessments of progress, the identification of gaps and challenges, and the systematic use of that information in follow-up planning cycles by all of government to strengthen national response and accelerate sustained realisation of the rights of children to survive, thrive and transform society.

57. The mandatory implementation measures are not an end in themselves, but a means to an end. They must ensure a national child rights governance system that secures whole of government recognition, and alignment of systems and resources to provide services to strengthen caregiving environments to overcome the greatest risks, empower caregivers to provide and ensure all children receive nurturing care and protection, and ultimately equality and survival and development outcomes for children.
58. The State reports that it has taken several of the prescribed general measures of implementation. For example:
- a. It has developed a National Plan of Action for Children 2019 – 2024 (NPAC)
  - b. It has adopted a National Child Care and Protection Policy, 2019 (NCCPP) and a National Integrated ECD Policy, 2015 (NIECDP)
  - c. It has developed a child rights governance training manual
  - d. It has trained implementing personnel on various laws
  - e. It is developing a national child right, monitoring, reporting and follow-up framework
  - f. It has reestablished the Office on the Rights of the Child (ORC)
  - g. It has developed a children’s participation framework and developed a children’s manifesto
  - h. It has developed a child rights advocacy strategy
  - i. It develops an annual child rights status report
  - j. It has disseminated information about the CRC and concluding observations.
59. The SANCRC welcomes these developments. However, the coalition is concerned that they have not been adequate to achieve the necessary leadership, governance alignment, shifts and improved sustained, equity-focussed provisioning of transformational services by all organs of state necessary to address the leading risks, reduce inequalities and improve outcomes for children across all stages of their development.
60. The SANCR’s concern stems from the fact that, despite the reported measures, outcomes for vulnerable children have been and continue to be poor, and patterns of inequality and exclusion persist. The measures have not achieved transformation.
61. This is because the current system has not ensured the prioritisation of, and government-wide shifts in priorities, planning and resourcing to ensure children and their caregivers access the required combinations of transformational services to address leading, intersecting risks to survival, development, protection, and participation.
62. Across government, organs of state are not fulfilling their responsibilities to make the required services available, accessible and of the quality required to achieve transformation of caregiving environments.
63. This failure is evident from the persistently high levels and inequalities in multi-dimensional child poverty. In 2020, 62.1% of children live in multiple deprivational poverty – measured by their access to the combinations of services and support necessary to strengthen their caregiving environments to ensure their survival, development and protection: income support, health, nutrition, water and sanitation, education, and protection.<sup>28</sup>
64. Historically marginalised children experience much higher deprivations:
- a. 88.4% of children in rural areas, compared to 41.3% in urban areas live in multi-dimensional poverty.

- b. Children in provinces in the former apartheid homelands are at a much higher risk of multiple deprivations. 82.8% of children in Limpopo, compared to 33.6% in Gauteng are multi-dimensionally poor.
  - c. 68% of African children, compared to 38% of Coloured, and 11% of White children are multi-dimensionally poor.
  - d. Children in female-headed households are on average 20% more deprived than children who grow up in male-headed households.
  - e. Poverty rates among double orphans are almost 20% higher than non-orphaned children.
65. The United Nation's 2023 SDG progress and other reports taking stock of the transformational progress made to achieve the SDGs, confirm that countries across the world, including South Africa, are not on track to achieve inclusive sustainable development.<sup>29 30 31 32 33 34 35 36</sup>. A common underlying cause is that countries have not implemented their commitment and invested adequately and strategically to build the human capital of children, especially the most marginalised.
  66. The common message emerging is that treaty and development commitments must now be effectively implemented to achieve transformation. Countries must ensure that public resources are used to roll out sustainable, scaled-up transformational interventions to improve children's outcomes to build inclusive human capital.
  67. **Critically, the UN and partners stress that implementation of commitments has stalled because of inadequate government leadership, coordination, capacity, and public resourcing of transformational child-centred, national sustainable development agendas co-developed, implemented and monitored through meaningful and sustained adolescent and youth engagement.**<sup>37</sup>
  68. In 2019, the UN's Sustainable Development Solutions Network (SDSN) provided guidance on key measures necessary to advance sustainable development priorities. These included the identification and championing, by heads of state, of developmental priorities, and critically, the institutionalization of the strategic, transformational goals into government's architecture that has been set up to drive national planning, delivery and monitoring of national development goals, including their inclusion in the national development plan, medium term planning frameworks and budget policy statements.<sup>38</sup> The SDSN cautioned that a failure to do so would result in the goal falling outside of the governance parameters necessary to secure state-wide action, prioritisation of resources and monitoring of impact.
  69. The SANCRC recognises and welcome the state's reported measures to strengthen legal and institutional leadership and coordination mechanisms and institutions to advance a national child-centred, rights-based development agenda, notably the reestablishment of the Office on the Rights of the Child (ORC), the adoption of the NPAC and the NCCPP and the NIECD policy.
  70. However, the failure to institutionalise the child-centred agenda within the national development governance machinery, as per the SDSN's directive, has resulted in poor implementation of the agenda.
  71. The state's report does not explain how effective the measures have been in strengthening state-wide implementation of responsibilities to children.
  72. They are understood as vehicles to secure state-wide action through mainstreaming of children's rights through their governance processes.

73. They are understood to domesticate the country's implementation responsibilities and are intended to secure state-wide recognition by all organs of state of children's development, protection and participation as a national development priority, a shared understanding of what is required to improve outcomes, and alignment by all organs of state of their governance systems to fulfil their respective child rights provisioning responsibilities.
74. The general measures reported on have not provided the leadership, coordination, monitoring, and accountability required to ensure state-wide implementation of the child-centred, rights-based development agenda. This is evident from the gaps in the required suite of services and support. As illustrated by the levels of multi-deprivational poverty, and as further documented in the remainder of this report, crucial services and support mandated by the NPAC, the NIECDP and the NCCPP are either not made available by the relevant organ of state, are not accessible, or are not appropriately designed to address the underlying intersecting risks and causes, and/or are not provided together across the life course of all children, resulting in poor survival, development, and protection outcomes.
75. A fundamental reason is that the instruments and responsibilities are not recognised as mandatory and are not used to guide planning and provisioning and as such are not actioned by most organs of state in the country. This is evident in the failure, by the fact that several leading departments and institutions responsible for delivery and oversight of key developmental services, resourcing and realisation of children's rights and national development, do not reference, are not influenced by, and do not action the instruments, mandated developmental approach and corresponding sector responsibilities set out in these instruments.
76. For example, the Departments of Social Development, Health and Basic Education and National Treasury, as well as Parliament's strategic and annual performance plans identify, at the outset, the instruments that govern their planning and priorities and justify their programming and resourcing decisions based on the advancement of the priorities set out in the listed instruments. None of them identify or mention the NPAC, the NCCP or the NIECD policy as forming part of their overarching legal mandate. They all, however, mention the NDP and the Medium Terms Strategic Planning Framework (MTSF).
77. Their plans, programmes and budgets do not advance, or monitor the adoption of a developmental approach and improved equality and development outcomes for children. They do not prioritise, and advance critical responsibilities set out in these instruments to address underlying causes and intersecting risks across children's life course, starting in the earliest years and continuing into adolescence.
78. Notably absent, and as discussed in more detail under the headings of protection, family support, education, and inclusivity below, are mandatory population-scale, evidence-based measures to sustainably strengthen the capacity of families, parents, homes, and communities to provide children with responsive care, protection and support their cognitive development and learning from birth into adolescence, especially those with special needs, from birth.
79. For example, the NIECD policy mandates universalisation of support to parents to enable nurturing care in the first 1000 days through the public health system. The NCCPP mandates the provision of a comprehensive package of parental, family and community support to address underlying risks and strengthen care environments so that they are safe, caregivers are empowered to protect children from violence and to support their optimal development. The package is defined to include, not only social assistance, but parental education, affordable child care, psycho-social support, and birth

- registration, support for learning from birth, and specialised support – material, educational, and psychosocial – to address the additional risks and needs of children with disabilities. In addition, the policies mandate that these services be adequately and sustainably resourced, as a national development priority, through the public budget.
80. Neither the Department of Health's or Social Development's strategic and annual performance plans prioritise and action these responsibilities, and as a result, as documented in the State's report, programme is fragmented and provide only a limited number of services. Critically, the funded services provided at scale are those identified as priorities in the MTSF.
  81. The underlying reason is because the child-centred developmental agenda has not been institutionalized in the national development leadership, governance and accountability architecture established to advance all other national development priorities. The national development agenda and priority goals, outcomes, objective, and indicators are documented in the Medium Terms Strategic Framework (MTSF), the corresponding national monitoring and evaluation framework, and in the budget policy statement. These are housed within the Presidency, the DPME and national Treasury which have the political authority and legal mandate to command and secure state-wide planning and accountability for advancing the stated priority outcomes.
  82. The state reports that children are "indeed a priority" in the MTSF. However, this is not accurate. The MTSF does not provide the leadership required to secure leadership and state-wide action to improve children's development as directed by the most recent SDG evaluation reports.
  83. The MTSF does not identify improved equality and development of children's potential as a priority and does not create a state-wide duty to mainstream the services required to realise this national goal. This omission is starkly in contrast to the explicit recognition, in the MTSF, of women, youth and persons with disabilities as priorities. The MTSF explicitly mandates all organs of state to mainstream these groups and direct their resources and account for progress made in equalising and securing their development as a national priority.
  84. Throughout the MTSF, the mandate is repeated and made clear as to what is required to fulfil it, and all organs of state are duty bound to action and account for improve equality, development and social, economic, education, civic and political inclusion of them as the bedrock of achieving national development. Children are not included in this list and mandate.
  85. The MTSF states that "The NDP Vision 2030 prioritises the significant role of women, youth and people with disabilities in our society, If these groups are strong, our whole society will be strong. These are cross-cutting focus areas that need to be mainstreamed into all elements of South Africa's developmental future and all programmes of government. They will inform interventions across the three pillars." The MTSF mandates that all organs of state engage in "gender, youth and disability-responsive planning, budgeting, monitoring and evaluation and auditing" and requires that this be "institutionalized across government." Specific goals and targets are set to monitor and ensure accountability for mainstreaming and improving outcomes.
  86. Children and the equalization of their opportunities, development and inclusion do not receive any mention and there is no corresponding state-wide mainstreaming mandate, or accountability for improving outcomes.
  87. The MTSF institutionalizes and reinforces a fragmented approach that focusses the country's attention and demands action to provide only a select number of services and rights – notably health and education. Whilst the most recent revision of the MTSF does mention the importance of the 1st 1000 days for development – this is in the context of preparing children for school.

88. Goals and targets are not developmentally, outcomes-based and are not equity focused. They are limited to the following a narrow suite of interventions that are prioritised in the NDP, notably:
  - a. Increased immunisations
  - b. Increased formal pre-school
  - c. Increased ECD centre subsidies
89. The MTSF does not include a clearly defined national goal to equalise and improve development outcomes for children across their different stages of development, nor does it incorporate a state-wide duty to mainstream the responsibilities as clearly defined in the various policies – such as the NPAC, the NCPP and the NIECP – into planning, resourcing, monitoring and auditing – and to institutionalise these, as it does for women, youth and persons with disabilities.
90. The whole government takes its cue from the MTSF when planning. Therefore, improvements in children’s development, reducing inequalities in outcomes, and providing transformational services in combination to secure their inter-dependent rights across their life course are not:
  - a. recognised and advanced as a priority in the sector plans
  - b. does not inform the national budgeting process and priorities; and
  - c. are not monitored by Parliament.
91. This leaves critical gaps in the suite of adequately resourced services and support required to ensure children not only survive but are protected and thrive.
92. The SANCRRC acknowledges and welcomes the measures taken to strengthen child rights governance, notably the re-establishment of the ORC, its pending move to the Presidency, the development of a national child rights monitoring, reporting and follow-up framework, and the development of training materials to strengthen child rights governance capacity.
93. However, the SANCRRC is concerned that these measures have not been adequately institutionalized, resourced and operationalized to secure the state-wide shift towards child-centred developmental planning and provisioning necessary to improve outcomes for children. Our concerns are borne out by the State’s admission that state-wide child rights monitoring remains a challenge and that it does not engage in child rights budgeting. In addition, the ORC has not been able to influence national development planning. It has, as per the State’s report, developed an annual child rights monitoring report. However, as far as the SANCRRC is aware, this 2022 report remains a draft, does not provide actionable recommendations for strengthening the system and has not been distributed or used as an instrument to hold role players accountable through Parliament or to influence the 2023 planning cycle. The State’s report indicates that the ORC has developed an advocacy strategy but does not indicate what the goal and objectives are, whether it is resourced, who will implement it and what impact it has had on improved child-centred, developmental planning.
94. **The SANCRRC makes the following recommendations:**
  - a. Ensure the location and the institutionalization of the ORC in the Presidency and ensure it is adequately mandated, positioned and resourced to provide state-wide leadership, coordination and accountability for advancing an adequately resourced, evidence-based child-centred development agenda to reduce inequalities and improve outcomes for children across their developmental stages.
  - b. The Presidency, DPME and Treasury should identify and champion improved child development, protection and participation as national development goals.
  - c. The ORC should provide the institutional support to realise this goal, by inter alia:



1. Facilitating a national dialogue to identify SMART outcomes-based goals for improvements in development outcomes and reduced inequalities. This was difficult in the past because of the lack of composite indices for measuring development. However, several new measurements have been identified and serve to indicate progress in development across the life course. These include the ECD Index and Global scales, and the local Thrive by Five index; the HCI, and the NEET rate.
  2. Facilitating the development, through an inclusive process that ensures the meaningful involvement of children and civil society, of a new national plan of action for children. The current plan ends in 2024. The new NPAC should incorporate the national goal, corresponding outcomes across the life course and indicators of progress, and explicitly mandate state-wide actioning of the national priority and institutionalise the goals within the national architecture.
  3. Ensuring the NPAC, goal, outcomes and indicators and mainstreaming responsibility are integrated into the new MTSF for the period 2025 – 2030.
  4. Ensuring the goal and outcomes are identified as a national priority in the Medium Budget Policy Statement.
  5. Ensuring the goal, outcomes and indicators are integrated into the national development monitoring, reporting and follow-up framework that accompanies the MTSF to ensure the routine and systematic collection, analysis and use of data to monitor progress in the goals, underlying challenges and inform subsequent national planning and budgeting cycles.
- d. Independent oversight structures, including Parliament must monitor and hold government accountable for making progress in achieving the goals and outcomes.
  - e. The ORC must implement its training programme to build state-wide capacity for child rights governance.

## Part 7: The status of children’s substantive rights

95. The lives of most children in South Africa remain precarious. The country’s substantial resources are not being used efficiently and effectively to realise their rights that are key to, not only their survival, but their protection and critically, their equal and optimal development.
96. As the next section of this report shows, key rights remain unrealised for many of the most vulnerable children, locking them into negative cycles of poverty, poor development, and inter-generational exclusion.
97. This is because of the fragmented approach and the failure to plan, resource, provide and monitor improvements in the availability of and access to the services and support proven and legally mandate to strengthen caregiving environments and caregivers, to address underlying risks and causes, and improve equality and development and protection outcomes for children.
98. The State lists, under each of the substantive rights headings, a range of initiatives, with no indication of how these have been designed to address intersecting risks and strengthen caregiving environments where children live, learn, play, and transact. Nor does the report indicate who and how many caregivers and children are reached, the services provided, and the changes brought about in the substantive rights, and ultimately improved outcomes for children, or reductions in inequalities.
99. Programmes appear to have been developed by different sectors in silos to address specific concerns, rather than in a coordinated manner and strategically designed to strengthen caregiving

environments to overcome accumulative, intersecting risks to ensure children receive the care and protection needed to not only survive but thrive.

100. Many of the initiatives listed include research exercises into historical and emerging risks and challenges, such as online child safety. However, there is no indication of how, and if the research results have been used to inform the development of strategic, developmentally supportive responses.
101. In addition, many of the initiatives are not systemic and designed to enable and empower caregivers overcome multiple and leading risks and provide children with care and protect them against abuse, neglect and exploitation.

## Part 8: Protection from abuse, neglect violence and exploitation

102. A case in point is the state's response and measures reported on to address child abuse and violence and realise their right to protection.
103. Violence and abuse are leading causes of poor, unequal and inter-generational child health, well-being, and development. In 2010, it was estimated that, based on 2 leading risks factors, poverty, and stunting, 63% of children in sub-Saharan Africa under 5 years of age were at risk of not developing their full potential. However, when the additional risk factors of low maternal schooling and child maltreatment were added, the proportion of children at risk increased from 63% to 75%.<sup>39</sup>
104. Given the complexity of the scale and structural causes of violence against children, the state is duty bound to adopt a systemic, developmental approach to address the challenge. The State was asked, in the LOI, to explain the measures taken to address the underlying causes of violence, abuse, neglect and exploitation.
105. Statistics South Africa published a report in 2023 confirming that, despite being a right and key to national development, and despite the adoption of various policies and laws, violence and abuse of children, particularly in their homes, schools and communities remains high, and has escalated in recent years.<sup>40</sup>
106. The state reports that it has adopted multiple policies and laws, including the National Child Care and Protection Policy (2019), the Children's Act, which is in the process of amendment, and strategy for the prevention of Gender Based Violence.
107. Stats SA reports that:<sup>41</sup>
  - a. Whilst corporal punishment is prohibited in South Africa, in both schools and homes through a combination of laws and Constitutional Court rulings, corporal punishment is the most common form of violence against children.
  - b. The Constitution of the Republic of South Africa, Act No. 108 of 1996; The Children's Act, No. 38 of 2005; Abolishing of Corporal Punishment Act, No. 33 of 1997; and the South African School Act, No. 84 of 1996 explicitly prohibit, and criminalise the use of corporal punishment in schools. Despite the clarity of the legal position, corporal punishment is practiced in many schools and affects many children's rights to protection, education, dignity and equality.
  - c. Although corporal punishment at schools has been reduced in the country by 11 percentage points from 2009 to 2018, in 2019, more than "one million out of 13 million school going children aged 5–17 years reported that they had experienced some form of violence at schools. Five out

- of six (84%) children who indicated that they had experienced violence at school were subjected to corporal punishment by a teacher.
- d. Even though the Constitutional Court has found the defence of reasonable chastisement by parents to justify the use of corporal punishment in homes, it remains a common practice, with many parents not recognising this as a form of violence, but as a form of discipline.
  - e. The harmful attitudes and practices by parents persist, even though the Children’s Act makes provision for a positive discipline programme and the State reports that it provides family and parenting support programmes, promoting inter alia, the use of positive parenting practices. The challenge is that the scale, scope, and sustainability of these programmes are inadequate to bring about transformation. And the fact that the Children’s Act still does not explicitly prohibit the use of corporal punishment in the home weakens legal clarity, regulation, and accountability.
108. Despite the clear legal prohibition of harmful cultural practices, children continue to be exposed to abuse because of harmful cultural practices.
  109. Children’s consultations highlighted the persistence of child marriage and Ukuthwala in their communities. The persistence of this practice is driven by a failure to engage in transformational education and behaviour change programmes as well as legal inadequacies with regards to the age of marriage.
  110. Preventing violence against children requires the action of government and shifts in community practices on children discipline. According to the Governance, Public Safety and Justice Survey (GPSJS) 2019/20, nearly 91% of individuals aged 16 years and older were aware that corporal punishment is illegal in South Africa. Yet, close to 26% believed that it was acceptable for a parent or caregiver to physically punish their child if the child argues or talks back to them.
  111. The reported measures in para 72 of the State’s report to prevent child marriages are ambiguous. The current situation is that, in contravention of the CRC and the ACRWC, the Marriage Act 25 of 1961 and the Recognition of Customary Marriage Act 120 of 1998 allow minors to marry parental consent. The Children’s Amendment Bill has not increased the marriageable age to 18. The Draft Green Paper on Marriages was opened for public comment on 4 May 2021. The Marriage policy position has not been enacted into law.
  112. Harmful initiation practices remain a grave problem in South Africa. The Children’s Act and the Customary Initiation Act prohibit the admission of children younger than 16 years into initiation schools. Currently, the admission age in Limpopo’s provincial legislation is much lower than prescribed despite provincial legislation being subservient to national legislation which recently led to the death of a 6-year-old boy.
  113. The system must protect children across the full caregiving continuum – where children live, play, learn and transact. Thus, it must enable the protection of children in and through schools and business environments.
  114. Violence in schools remains a significant challenge because of the failure to implement sustainable, scaled-up prevention interventions. The SANCRCS children’s constituency raised concerns about the unevenness of programme implementation, with only some schools benefiting from programmes, and often only for a short period of time.
  115. As a result, violence in schools between peers and peers and educators remains high, including bullying, especially a problem for children from the LGBTQ+ community, sexual abuse, and neglect

and abuse of children with disabilities at special schools. (Further details can be found in copies of the detailed submissions made by members: EELC and the CCL).

116. The recent Enyobeni Tavern Disaster (June 2022) reveals significant gaps in the system, with regards to ensuring protective business environments. 12 children died after consuming toxic alcohol at a local tavern. The Liquor Act prohibits the sale of alcohol to minors but is poorly implemented.
117. The current system does not adequately protect victims of violence in and through the justice system. Research conducted by the Centre for Child Law Child confirms that court practices regularly contravene a Constitutional Court order that special measures be adopted to secure the best interests of child victims and witnesses in court proceedings. For example, witnesses are not provided with the necessary support through intermediaries or other qualified professionals to give testimony in child abuse cases, there is a lack of child-friendly facilities such as separate waiting rooms.
118. The care and protection of children with disabilities is severely compromised because of the lack of a systematic response that recognises and addresses the accumulative, intersecting risks to their survival, protection and development.
119. The State is duty bound to develop and sustain the provision of the required services and support to enable parents and caregivers of children with disabilities to meet their additional needs to secure their equal and optimal development. The current child care and protection system fails to do so.
120. Children with disabilities continue to experience significant discrimination and persistent social exclusion. They and their families are routinely denied access to developmentally essential services and support.
121. Only 1% of children with disabilities access ECD services. More than half a million children with disabilities are estimated to be out of school. Preventative, promotive, and therapeutic health services including assistive devices are not available through the public health system because of inadequate systems and funding, resulting in many avoidable and preventable disabilities. In 2016, Shonaquip & Uhambo, a member of the SANCRRC, were asked by the Department of Health in the Northern Cape to fund devices because it had over 800 people (children and adults) on their waiting list in need of mobility devices and no funding available for the next 12 months.
122. Children with disabilities are 3 – 4 times more likely to be victims of violence and abuse and are often repeat victims. 10 percent of children with disabilities, compared to 6 percent of other children experience physical abuse and 23 percent compared to 13 percent are neglected. Children with disabilities are at great risk of abuse violence and neglect in their homes.
123. The reason for the severity and increasing prevalence of violence is the failure to adopt a systemic, evidence-based response that ensures a universal package of support, complemented by specialised support to empower parents and caregivers of children with disabilities to provide them with nurturing care and protection.
124. The INSPIRE and Nurturing Care Frameworks provide a clear, evidence-based transformational road map of actions required to eradicate violence against children. They focus on the promotion of family resilience and empowering them, through integrated, multi-sectoral family and community-based support programmes that provide a combination of parental education, material, health and psychosocial support to address underlying causes and risks specific to

children. The frameworks have been domesticated and the state has committed to adopt the mandated transformational approach in both the NCCPP and the NIECP.

125. There is little reporting on the systematic implementation of the corresponding policy and legal mandates, and no indication of the positive, or other impact made on strengthening families, communities, and schools to protect children and engage in positive, protective practices, or on measures to strengthen protective systems for children, and the impact on improving reporting, provision of support, treatment and prosecution of cases of violence, abuse and neglect.
126. Instead, the report documents several campaigns, events such as the 365 Days Child Protection campaign, school-based campaigns aimed at empowering learners to prevent violence, and various research pieces.
127. Under the heading of protection and family care, the report mentions that parenting programmes have been provided, but does not indicate what these entailed, their reach, sustainability and impact on strengthening caregiving environment and reducing violence and improving outcomes for children. Based on the limited information provided, the programmes seem to be limited to parenting education and workshops, rather than the provision of systemic, population-scale, sustainable and integrated material, educational, psychosocial and related supportive services provided through public delivery platforms, such as health and education, that reach and have the mandate to support parents – as mandated by the global frameworks and the country’s own NCCPP and NIECDP.
128. The only systematic intervention reported on is with regards to Gender Based Violence. As discussed later, whilst systemic in nature, it does not provide a state-wide mandate and plan to prevent violence against children, and it is overseen by a ministry that is not mandated to address issues of family strengthening and child development.
129. The Presidentially led GBVF National Strategic Plan (2020-2030) is presented as a key measure to prevent violence against children. The GBVF NSP is not adequate to ensure an effective response to eliminate violence against children.
130. The challenge with the plan and its supporting institutional arrangements is that they do not respond to the scope, nature and underlying risks causing the extremely high levels and acceptance of violence, abuse and neglect of children in South Africa.<sup>42</sup>
131. The children’s sector sought an amendment or addition to the plan, for an extra Pillar 7 – focusing on the prevention of violence against children. This proposal was rejected, on the grounds that the issues are covered by all other pillars.
132. This is not accurate. Children are not included in the definition of GBV. The Centre for Child Law<sup>43</sup> notes that, “the definition of GBV adopted in the NSP refers only to women and excludes children, this implies that the primary focus is on women and relegates VAC to a non-priority.”
133. Many of the most prevalent forms of violence, abuse and exploitation experienced by children in their homes, schools and communities do not fall into the category of GBV. This includes the use of corporal punishment, online abuse, and peer-on-peer violence.
134. In addition, the institution responsible for overseeing the plan, the Department of Women, Youth and Persons with Disabilities does not have the resources, expertise or mandate to mount an effective, evidence-based transformational programme of action to address underlying causes and eliminate violence against children.

135. Therefore, currently South Africa does not have, as directed by the INSIRE framework and NCCPP, a national plan for the elimination of violence against children. This is a crucial gap, and is a leading cause of the fragmented, ineffective responses reported on.
136. In addition, Despite the fact that violence and/or maltreatment of children increases the risk of poor development outcomes by as much as an additional 10 percentage points, the prevention of violence, abuse and neglect of children is not recognised as an explicit national development priority in the MTSF and does not enjoy the same level of high level leadership as prevention of violence against women.
137. This is a significant gap, given that South Africa is one of the pathfinder countries tasked with operationalising the INSPIRE framework to ensure transformation to permanently eradicate violence against children, and given that it has committed to do so in terms of its various policies, including the NCCPP.
138. **The SANCRRC therefore recommends that the State:**
- a. Make the elimination of violence against children a priority in the next MTSF.
  - b. Strengthen the implementation of the developmental childcare and protection system provided for in the National Child Care and Protection Policy by strengthening the following systemic building blocks:
    - i. Develop a costed implementation plan for the provision of multi-sectoral services and support to address the multiple, intersecting underlying risks and causes of violence against children specifically and in so doing, prevent and eliminate violence against children
    - ii. The plan must be transformational and include population scale, sustainable parenting support that changes harmful behaviours, values and practices and promotes responsive, positive parenting.
    - iii. Develop an evidence-based, costed plan for the provision of scaled-up, sustained services and support to enable nurturing care and protection for children with disabilities
  - c. Strengthen the enabling legal and regulatory framework, including,
    - i. The adoption of laws making 18 the minimum age of marriage, with no exceptions.
    - ii. Amend S12 of the Children’s Act explicitly prohibits the use of corporal punishment in the home.
    - iii. Ensure all provincial legislation governing initiations comply with the Children’s Act.
  - d. Strengthen the national system to identify and provide all families caring for children at risk with an appropriate combination of supportive services to enable the provision of nurturing care.
  - e. Develop a transformational sustainable, scaled-up integrated programmes of support for enabling nurturing care and protection across the caregiving continuum – homes, families, ECD centres, schools, alternative care settings, communities, business, and the media – to promote wellbeing and prevent harm. For example:
    - i. As recommended by the children of the SANCRRC, invest in strengthening the education curriculum to ensure all children are empowered to bring an end to violence, how to prevent it and how to advocate for changes in family, school, peer and society’s values, attitudes and practices.

- ii. The strengthening of preventative, positive discipline measures to curb violent behaviour in schools.
- f. Ensure that the programme of support provided to families addresses the full suite of risks and challenges preventing them from providing nurturing care, including:
  - i. Parenting support, day care, education, identification, referrals, and parent networks for responsive caregiving, including for children with disabilities
  - ii. Access to early childhood care and development
  - iii. Appropriate health care and nutrition
  - iv. Access to transport
  - v. Adequate material support based on the needs of the child and family in question
  - vi. Inclusive, quality education
  - vii. Protection and alternative care services
- g. Develop and implement a population scale programme of parenting and family support for responsive caregiving for all families, and for additionally vulnerable families including teen parents, parents of children with disabilities, children with behavioural difficulties, families whose children have been removed and placed in alternative care.
- h. Strengthen human resources and infrastructure for planning, provisioning, monitoring, and quality improvement of the developmental child care and protection system.
- i. Magistrates and prosecutors should be trained to adjudicate in and protect the interests of child victims in sexual offence matters.
- j. Expand the provision of the 24-hour Child Protection Service to all provinces.
- k. Align budgeting to support the implementation of the developmental child care and protection system and increase budget allocations to support promotive and preventative support and services in fulfilment of the NCCPP commitments.
- l. Evaluate the impact and do a cost-benefit analysis of the various campaigns and projects undertaken to date to prevent violence against children and distribute the results widely.

## Part 9: Name and nationality, birth registration and citizenship

- 139. Despite a number of progressive developments, persisting legal and administrative challenges prevent children from accessing birth certificates and identity document documents.
- 140. A Constitutional Court ruling<sup>44</sup> ordering changes to the Births and Deaths Registration Act No 51 of 1992 (BDR Act) to enable unmarried fathers and children whose parents could not provide a valid passport or visa or permit to register the births of their children has not been actioned and the challenges persist.
- 141. Orphaned or abandoned children continue to face barriers. Despite changes to the law, Home Affairs officials continue to ask social workers to find parents and bring them to the office to participate in the registration process.
- 142. All late registration of birth (LRB) applications take long to process. For children in the care of the state, the wait is much longer. The case of ABBA and 33 children v the Minister of Home Affairs & others was brought to aid a social worker who had waited two years to register the births of children in her care because Home Affairs put them in the regular queue and would only register two children per month.

143. Stateless children continue to face challenges in securing birth certificates and identity documents despite various court rulings ordering the strengthening of the legal framework to address the relevant barriers. 3 court orders<sup>45</sup> ordering the DHA to adopt regulations to enable the implementation of provisions in the South African Citizenship Act allowing stateless children born in South Africa to automatically acquire citizenship have not been actioned.
144. **The SANCRRC recommends that:**
- a. The Government comply with all court rulings, amend relevant laws and enact supporting regulations to strengthen the rights of children to a name, nationality and documents.
  - b. Legislate and implement policies to identify and regularise the stay of stateless children.
  - c. Take measures to enforce current policies and laws through training and publication of circulars directing lawful administrative processes, including:
    - i. Cancelling Circular 4 of 2004 and instructing local offices to register the births of children without the requirement of DNA paternity results and accept other forms of proving paternity for the purposes of birth registration.
    - ii. Instruct all local offices to prioritise social workers acting on behalf of children in the care of the state, waive all related fees, and stop requiring social workers to find and bring the parents of abandoned children to the registration.

## Part 10: The right quality, inclusive education

145. Equal access to inclusive, quality basic education from birth is a non-negotiable for equalising and ensuring children's development.
146. The failure to realise this right for historically marginalised children is a key reason for the persistently high levels and patterns of inter-generational poverty and inequality that impede inclusive and equitable child and national development.
147. Children living in poverty, in under-serviced rural and peri-urban areas, the youngest children aged 0-2, children with developmental delays and disabilities, ill children, children involved in child labour, teen parents and other vulnerable groups experience chronic educational exclusion.
148. The SANCRRC acknowledges the steps taken by the State to strengthen the inclusive education system and to equalise access for the most marginalised. However, critical access and quality barriers persist to exclude historically marginalised children, thus fueling intergenerational inequalities and exclusions.
149. Girls are especially vulnerable to educational exclusion because of high levels of early and unintended pregnancies. The Department of Basic Education's Policy on the Prevention and Management of Learner Pregnancy in Schools is welcomed. However, there are concerns with the ability of the policy to ensure the inclusion of and support for pregnant girls.
- a. Learners who are over six months pregnant are required to provide information that may not be possible to obtain and may be arbitrarily enforced to the prejudice of girls. For example, girls must submit a medical certificate indicating the status of her pregnancy and estimated delivery date. In addition, she must provide reports certifying that it is safe for her to continue with her schooling if she wishes to stay in school beyond 30 weeks (8 months) of pregnancy. If the learner does not provide this information and fails to provide an explanation, she may be asked to take a leave of absence until medical proof is provided. As the SANCRRC is writing this report, newspaper articles are reporting the plight of girls who are being excluded by schools on the



grounds that they are too far in their pregnancy, and for many, this means they cannot write their final exams.

- b. In addition, the policy notes that a document titled 'Implementation Plan for the Policy on the Prevention and Management of Learner Pregnancy in Schools' will describe how the policy's goals will be achieved. Unfortunately, this implementation plan does not accompany the policy.
150. Not having access to menstrual hygiene products continues to prevent girls' educational participation.
151. Transportation for children is lacking to access schools especially for children who have physical disabilities.
152. Documentation requirements continue to prevent migrant and undocumented children from accessing school. Once again, despite a court ruling<sup>46</sup> that everyone has the right to education regardless of their ability to provide proof of identity by providing a birth certificate or other documentation, migrant and undocumented children are prevented from enrolling by schools.
153. The recently introduced Basic Education Laws Amendment Bill (BELA Bill) will, if passed, create additional barriers for undocumented learners.
154. The failure to provide safe and enabling school infrastructure remains a challenge.
155. In the *2013 Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure* (hereafter 'Norms and Standards') were enacted committing to ensuring basic services at all schools by November 2016 and ensuring all schools have functional libraries and laboratories by November 2023.
156. Despite the above undertakings, the Minister of Basic Education sought to extend the timelines.
157. The Maths, Science & Technology Grant saw significant underspending across the provinces, resulting in 80% of schools not having access to laboratories.
158. Pervasive underspending and lack of prioritization of school infrastructure leads us to our present situation where many schools are overcrowded. While children from poorer provinces migrate to the more affluent and resourced provinces and districts with hopes of securing access to an appropriate quality of education.
159. The quality of education and education outcomes remain unequal and for historically marginalised children, including children living in poverty, children with disabilities and children living rural and overcrowded urban areas.
160. The poor and unequal quality of education is a critical impediment to transformation and achieving sustainable, inclusive development.
161. The causes include weak early childhood development services to support children's school readiness, the failure to systematise the inclusive education commitments made in policies like White Paper 6 and the inadequacy of the curriculum to develop the agency of children for sustainable development.
162. Whilst there are several measures underway to strengthen early childhood care and education, and these are welcomed, access to quality early learning remains a challenge. ECD in the pre-school years remains largely privately provided and resourced. The current subsidy is inadequate and the process for ECD registration to access the subsidy is overly complex
163. White Paper 6, which currently governs elements of inclusive education is not a law. It is also based on outdated evidence and does not include ECD. The current enabling framework and

supporting institutional arrangements are weak and fragmented. This has proven fatal to the effective systematisation and implementation of inclusive basic education policies and commitments. Resources, programmes, infrastructure, monitoring, and quality improvement follow clear legal mandates which are absent.

164. The SANCRC recognises and welcomes the initiatives in place to address the quality of basic education, especially to strengthen numeracy and literacy teaching and learning. However, the SANCRC is concerned with the persisting poor quality of education with regards to its ability to adequately prepare children for full social, economic, civic, and political inclusion.
165. Children and UN at its recent global Transforming Education Summit both placed the spotlight on the failure of the curriculum to provide children with quality education for developing their agency to address social, economic, and environmental development challenges.
166. The summit noted the persistent risk of educational, and as a result, social, economic, and civic exclusion of thousands of children. It recognised as legitimate the concern raised by students in “developing and developed countries alike ... that they leave the education system without the tools that they need to adapt and thrive in a rapidly changing world, including digital literacy, global citizenship, and sustainable development. This situation is exacerbated by the fact that both early childhood education and lifelong learning, so crucial for individuals and society at large, remain an aspiration in most countries.”<sup>47</sup>
167. The Summit participants, including South Africa, committed to strengthen the curriculum for developing agency to equip children drive transformation.
168. Learners have indicated, in consultations in preparation of this report, that the curriculum is primarily provided through a poorly designed life orientation curriculum that leaves them ill-equipped, in terms of knowledge, skills and capacity to bring about the changes and fulfil their responsibilities to change their lives, the lives of their families and their communities.
169. **The SANCRC therefore makes the following recommendations:**
  - a. The Department of Education should:
    - i. Adopt the ‘Implementation Plan for the Policy on the Prevention and Management of Learner Pregnancy in Schools’ without delay.
    - ii. Provide training to schools on the implementation of the Learner Pregnancy Policy so as to ensure that schools do not discriminate against pregnant learners as recent reports<sup>19</sup> indicate continued exclusion of these learners.
    - iii. Monitor the overall implementation of the Learner Pregnancy Policy.
  - b. Review and simplify the processes for ECD registration, funding applications and claims and increase the R17 subsidy per qualifying child, per day.
  - c. The government should immediately waive education fees attached to accessing special needs schools and ensure that children with disabilities access free basic education in free, non-fee paying, mainstream schools.
  - d. Prioritise funding for school infrastructure, strengthen implementation of school infrastructure programmes to equip schools with relevant infrastructure.
  - e. Review the curriculum, together with children, to strengthen it to develop the agency of all children to be drivers of sustainable, rights-based development.

- f. Review and revise White Paper 6 to clearly articulate updated policy goals, accompanied by a concurrent commitment to timeously enact legislation to give effect to revised policy provisions.
- g. Legislation mandating and clarifying responsibilities for the provision of inclusive education and ECD must be enacted.
- h. Ensure the full systematisation of the national inclusive education policy with the support of adequate institutional arrangements, programmes, financial and human resources, the required infrastructure, and an information management system to inform evidence-based planning and monitoring of implementation to improve access and quality of education for all, but especially the most vulnerable, excluded groups.

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<sup>4</sup> <https://www.statista.com/statistics/1116077/total-population-of-south-africa-by-age-group/>

<sup>5</sup> <https://dashboards.sdgindex.org/profiles/south-africa>

<sup>6</sup> <https://dashboards.sdgindex.org/profiles/south-africa>

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<sup>13</sup> <https://dashboards.sdgindex.org/profiles/south-africa>

<sup>14</sup> <https://platform.who.int/data/maternal-newborn-child-adolescent-ageing/static-visualizations/adolescent-country-profile>

<sup>15</sup> <https://data.unicef.org/resources/adolescent-health-dashboards-country-profiles/>

<sup>16</sup> <https://thedocs.worldbank.org/en/doc/7c9b64c34a8833378194a026ebe4e247-0140022022/related/HCI-AM22-ZAF.pdf>

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<sup>18</sup> [https://www.up.ac.za/centre-for-evaluation-and-assessment/news/post\\_3151785-up-study-shows-81-of-grade-4-learners-in-sa-have-reading-difficulties-](https://www.up.ac.za/centre-for-evaluation-and-assessment/news/post_3151785-up-study-shows-81-of-grade-4-learners-in-sa-have-reading-difficulties-)

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