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## **DA GBV TASK TEAM**

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12 June 2026

### **South African Human Rights Commission**

Sentinel House, Sunnyside Office Park

32 Princess of Wales Terrace

Parktown, Johannesburg

Delivered by hand

Dear Chairperson,

### **HUMAN RIGHTS VIOLATIONS AS A RESULT OF NON-REPORTING OF CHILD PREGNANCIES**

1. We hereby lodge an official complaint with the South African Human Rights Commission (“**the Commission**”) against all government departments failing to report and thereafter prosecute child sexual abuse in terms of South African law. This includes the Provincial Departments of Health, Social Development, and Education, and the National Departments of Police and Justice and Constitutional Development, which includes the National Prosecuting Authority (“**NPA**”) and the South African Police Service (“**SAPS**”).
2. The complaint is aimed at the aforesaid entities’ flagrant disregard for, and grievous violations of, the fundamental rights of the child through the failure to report, thereafter investigate, and finally prosecute sexual offences against children.
3. Where a child is found to be pregnant, this may be the result of statutory rape; unless it falls within the age-appropriate exceptions. Suspected statutory rape and abuse must be reported to the SAPS, the Department of Social Development, and child protection organisations in terms of Section 110 of the Children’s Act 38 of 2005 and/or to SAPS in terms of Section 54 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; amongst other obligations.

4. Yet it is clear that cases of suspected child sexual abuse and statutory rape are either not being reported to SAPS by responsible authorities, or that SAPS are refusing to open such cases. Whether this is through lack of training in Form 22 reporting or limited resources at SAPS, or mandatory reporting not being understood or adhered to by the Department of Social Development, individual schools, or society at-large, has not been determined.
5. We propose that this should be investigated by the South African Human Rights Commission with the intention of upholding the constitutional rights of the child.
6. For ease of reference, we will first deal with the factual background to the complaints, the relevant constitutional provisions, jurisdictional issues, the relief sought and then conclude.

### **Factual Background of the Complaint**

#### Legal framework

7. Child pregnancy is a serious issue, as a pregnancy in a girl under the age of 16 is clear *prima facie* and potential evidence of a crime – i.e., statutory rape.
8. Chapter 3 of the Act 32 of 2007 is quite clear on what constitutes consensual sexual penetration involving teenagers and statutory rape – both of which can result in child pregnancies.
  - 8.1. Sexual penetration of a child under 12 years old is always a criminal offence, with no exceptions. The law regards children under 12 as incapable of consent in all circumstances.
  - 8.2. For children who are 12 years or older, but under the age of 16, it is a criminal offence for any person to engage in sexual penetration with them. Even if the child agrees, the law considers that such consent has no legal validity. In other words, a child under 16 cannot legally consent to sex, regardless of what they say or believe.
9. The law recognises that teenagers may engage in consensual sexual exploration with their peers and aims to avoid criminalising age-appropriate relationships:
  - 9.1. If both parties are between 12 and 15 years old, consensual sexual penetration between them is not a criminal offence.
  - 9.2. If one party is 16 or 17 years old, consensual sexual penetration is also not an offence, provided the age difference between the two is no more than two years.
10. Where a girl child becomes pregnant, a reasonable suspicion and, in some cases, *prima facie* evidence exists that the child has been a victim of a sexual offence. Both Act 32 of 2007 and Act 38 of 2005 mandate the reporting of sexual offences; and yet this is often ignored or violated.
11. Section 54 of Act 32 of 2007 requires that a report be made to the SAPS when a person knows a sexual offence has been committed against a child. In terms of the Act 38 of 2005, Section 110 mandates the reporting of sexual abuse of a child by certain professionals, which includes teachers, doctors, nurses, and social workers (to name but a few). The report is done by the completion of Form 22, which must be given to a designated child protection organisation, provincial department of social development, or a police official.

12. Where a child under the age of 16 is pregnant, unless the professional person knows for certain that the child became pregnant within the exceptions to statutory rape, a reasonable suspicion must *a priori* exist that the child became pregnant as a result of a crime; and Section 110 would apply.
13. Failure by those obligated in law to report cases and address child rape and statutory rape inevitably results in this kind of criminal behaviour becoming normalised and even protected. It further violates laws in place to give effect to a child's constitutional rights; which are paramount.

#### Democratic Alliance investigation

14. In September 2025, the DA launched a countrywide investigation to determine whether provincial and national departments are fulfilling their obligations under Act 38 of 2005 to ensure that adults who have sex with minors are prosecuted and jailed. The focus was on child pregnancy, to determine whether these cases of suspected statutory rape were being reported.
15. We submitted written parliamentary questions ("PQs") to the Minister of Police ("SAPS"), the Department of Justice and Constitutional Development ("DoJ"), the Department of Basic Education ("DBE"), the Department of Health ("DoH"), and the Minister of Women, Youth, and Persons with Disabilities ("WYPD"), and also requested that questions be submitted to all nine provincial legislatures.
16. Questions to DSD were submitted in 2024. While submitted previously, these questions form an important basis of the analysis.
17. Nationally, answers have been received from SAPS, DoJ, DBE, DoH, WYPD and DSD. Provincial questions have not, however, been forthcoming, and only some have been received/properly answered.

#### Analysis of Parliamentary and Provincial Legislature Questions

18. The following information was received from PQs submitted in National Assembly in 2025. Relevant information from previous years and PQs from 2024 will be included where available.
19. SAPS revealed that in 2021/22 a total of 94 instances of children giving birth were reported to SAPS, while 68 pregnancies and 12 miscarriages/terminations of pregnancy were reported. In 2022/23, 119 births, 102 pregnancies, and 23 miscarriages/terminations were reported. In 2023/24 there were 129 births, 138 pregnancies, and 27 miscarriages/terminations reported. There were reports of 154 and 110 births, 169 and 164, and 32 and 47 miscarriages/ terminations in 2024/25 and 2025/26, respectively.
20. SAPS failed to clarify, despite request, the manner in which the reports were made; for example, they failed to state whether the reports were made in terms of Form 22 or otherwise. The reports could have been made by individuals, such as members of the public, doctors, nurses, or DSD.
21. Between 2021 and 2025, a total of 483 cases were investigated of which 442 were in terms of section 15 or 16 of Act 32 of 2007 (which deals with statutory rape). 676 cases were referred to the NPA, 58 were before the Children's Court, and 677 were closed without result.<sup>1</sup>
22. SAPS revealed further that a total of 610 statutory rape cases were reported in 2023/24, with 39.5% of victims being 15 years old, 30.77% being 14 years old, and 20.66% being 13 years old. Members of the

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<sup>1</sup> RNW5776-2026-01-07 <https://pmg.org.za/committee-question/35460/>

public reported the majority of cases (517). Further, 60 and 65 were reported by DSD and DoH, respectively, presumably through a Form 22 submission.<sup>2</sup>

23. The DoJ revealed that the NPA does not record the numbers of specific crimes referred by SAPS for prosecution, nor the numbers of cases originating from section 110(1) of Act 38 of 2005 (Form 22). This is deeply concerning and, in our view, a catastrophic failure in data management and sharing.
24. Further, information on the number of cases enrolled, successfully prosecuted, closed without result, and unsuccessfully prosecuted between 2020/21 and 2024/25 was only provided from Magistrates' Courts, as the Electronic Case Management System (ECMS) is not available at High Courts yet.
25. Between 2022/21 and 2024/25, the NPA decided to enrol a total of 2,845 cases and successfully prosecuted 980 cases, closed 2,166 without result, and unsuccessfully prosecuted 180 cases.
26. An important point to note is that the statistics provided by the NPA do not track a case from enrolment to completion, and the numbers are merely for the specific year and are independent of each other. This, similarly, is an abject failure by the DoJ to ensure clear, consistent, data collection and record keeping.
27. A PQ to DoJ further revealed that 81 cases involving statutory rape were withdrawn in 2023/24 in regional courts.<sup>3</sup>
28. As of October 2025, there were 33,444 sex offenders registered on the National Register for Sex Offenders (NRSO). The NRSO model is being enhanced to include data about the number of offenders registered for each type of sexual offence.<sup>4</sup>
29. In 2024, DSD indicated that the KwaZulu-Natal ("KZN") DSD had reported 0 (nil) cases of statutory rape to SAPS, while the Northern Cape ("NC") DSD reported 72 cases in 2023/24. In that same period, KZN DSD received 2,185 Form 22 complaints – 55 from DoH, and 1,157 from Non-Governmental Organisations ("NGOs"), and members of the public. The NC DSD received 19 from DoH and 10 from NGOs, while the Western Cape ("WC") DSD received a staggering 9,846 from NGOs.
30. Requested per age-group information was not provided.
31. Limpopo, Mpumalanga, Eastern Cape, Gauteng, Free State, and North West failed to provide information.
32. These revealed numbers do not align with the high number of child pregnancies being reported in hospitals, and further, it appears that the complaints received are not making it to SAPS or the NPA for investigation or prosecution. This, too, shows a disturbing break in the chain of protection that is supposed to keep South Africa's children safe.
33. DoH revealed that of the 122,302 adolescents gave birth in 2023/24, 2,716 were between 10 and 14 years old.<sup>5</sup>

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<sup>2</sup> RNO470-2024-12-23 <https://pmg.org.za/committee-question/27833/>

<sup>3</sup> RNW1042-2024 <https://pmg.org.za/committee-question/26444/>

<sup>4</sup> RNW6187-2025-11-28 <https://pmg.org.za/committee-question/34365/>

<sup>5</sup> RNW1044-2024-10-04 <https://pmg.org.za/committee-question/26257/>

34. As of October 2025, DBE and DoH had yet to fully integrate the data-sharing process between the two departments regarding teen pregnancies. DBE is also in the process of finalising a data-sharing agreement with DoJ to monitor reported statutory rape and sexual abuse cases of learners. We trust that this initiative will soon be implemented.
35. Schools are required to submit quarterly reports to the provinces regarding learner pregnancies, referrals to SAPS, DSD, and health facilities in order to monitor compliance with the Policy on the Prevention and Management of Learner Pregnancy and the Protocol for the Management and Reporting of Sexual Abuse and Harassment.
36. The following table reflects the number of deliveries and terminations in the provinces for children aged 10-14 years and 15-19 years in the first two quarters of 2025.<sup>6</sup>

Province	Delivery 10–14 yrs (Q1)	Delivery 10–14 yrs (Q2)	Termination 10–14 yrs (Q1)	Termination 10–14 yrs (Q2)	Delivery 15–19 yrs (Q1)	Delivery 15–19 yrs (Q2)	Termination 15–19 yrs (Q1)	Termination 15–19 yrs (Q2)
Eastern Cape	55	56	12	10	2 332	2 472	375	469
Free State	20	13	9	10	738	758	134	198
Gauteng	55	50	22	33	2 820	3 092	683	776
KwaZulu-Natal	85	120	12	13	4 962	4 943	419	539
Limpopo	50	48	12	13	2 445	2 593	288	434
Mpumalanga	46	44	3	5	1 710	1 804	245	271
Northern Cape	7	11	0	0	499	516	31	43

<sup>6</sup> RNW6185-2025-11-11 <https://pmg.org.za/committee-question/33978/>

Province	Delivery 10–14 yrs (Q1)	Delivery 10–14 yrs (Q2)	Termination 10–14 yrs (Q1)	Termination 10–14 yrs (Q2)	Delivery 15–19 yrs (Q1)	Delivery 15–19 yrs (Q2)	Termination 15–19 yrs (Q1)	Termination 15–19 yrs (Q2)
North West	12	16	18	16	1 108	1 058	176	232
Western Cape	56	54	54	37	1 697	1 693	346	376
National Total	386	412	142	137	18 311	18 929	2 697	3 338

37. In order to support pregnant learners, DBE partners with DoH and DSD to provide access to counselling and healthcare services through the Integrated School Health Programme (“ISHP”). At-risk learners are identified by school-based support teams.

38. As for educational support, DBE ensures pregnant learners can continue schooling as long as it is medically safe, with the Policy on the Prevention and Management of Learner Pregnancy in Schools. Further, schools are required to provide alternative learning options, flexible attendance requirements, provide study packs and additional learning support, and structured reintegration to school plans.<sup>7</sup>

39. WYPD oversees and collaborates with several departments to combat statutory rape and educate the youth on legal provisions, social consequences, and protection mechanisms.<sup>8</sup>

#### Provincial Questions

40. So far, we have only received replies from six provinces – Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Northern Cape, and Mpumalanga. Of these, we did not receive the full set of answers to questions posed.

#### Eastern Cape

41. Regarding psychosocial support for pregnant learners, the Care and Support for Teaching and Learning (“CSTL”) Framework are implemented at 500 schools, and these schools also have contracted Learner Support Agents. Further, the province contracted 49 social work graduates to provide social work services.

<sup>7</sup> RNW1016-2025-03-24 <https://pmg.org.za/committee-question/28735/>

<sup>8</sup> RNW5778-2025-12-01 <https://pmg.org.za/committee-question/34442/>

42. External funding is also used for Sexual and Reproductive Health and Rights (“SRHR”), Gender Based Violence and Femicide (“GBVF”), and Ikhwelo Lethu programmes in 189 schools.
43. The school Health and Life Skills Provincial Unit and the District Education Social Support Units conduct monthly monitoring and support visits to schools to ensure adherence to mandatory reporting.
44. All reported cases of sexual misconduct against learners are reported and handled by the Education Labour Relations Council (“ELRC”). It is deeply troubling that the Eastern Cape (“EC”) Department of Education (“DoE”) indicated that some cases are reported to SAPS by parents of affected learners, as it is unclear whether mandatory reporting of incidents to SAPS by schools is, therefore, being adhered to.<sup>9</sup>
45. Between January 2023 and September 2025, 1,077 children aged 10-14 years gave birth in health facilities in the EC. Further, the EC DoH routinely refers all pregnant girls younger than 16 years to high-risk clinics in hospitals, as well as a social worker for psychosocial support.
46. It should be noted that the EC DoH does not report suspected rape cases to SAPS, but rather to its own social workers, as well as social workers employed by DSD to investigate and manage cases.<sup>10</sup> EC DoH was to have meetings with all roleplayers and its legal division in October and November 2025 to define the role each department should play in complying with the Children’s Act.<sup>11</sup>
47. Even though 396 girls aged 10-14 years gave birth between April 2024 and September 2024 in the EC, only 16 cases were reported to SAPS.<sup>12</sup>
48. EC DSD reported that it received no Form 22s from the EC DoH and that no investigations into statutory sexual abuse and rape had been conducted. Later, in answer to another subsection of the same question, it claims that EC DoH referred 37 cases of teenage pregnancy for further investigation. In the same reply, EC DSD indicated that it investigated 14 cases of child abuse relating to child pregnancy and completed eight. It also conducted 7 joint investigations with SAPS.<sup>13</sup>

#### Free State

49. Between 2020/21 and 2024/25 the FS DSD received 2,765 Form 22s, with most cases being reported by the community, families of victims, and designated child protection organisations (“DCPOs”).<sup>14</sup>
50. Between April 2021 and June 2025, 4,732 children aged 10-19 years gave birth, of whom 509 were 14 years old or younger.<sup>15</sup>

#### Gauteng

51. While the Gauteng (“GP”) DoE provided answers, they hardly contained relevant information at all.<sup>16</sup>

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<sup>9</sup> EC Provincial Legislature: IQP-35 of 2025 (Question 1050)

<sup>10</sup> EC Provincial Legislature: IQP-34 of 2025 (Question 1014); EC Provincial Legislature: IQP-34 of 2025 (Question 1015)

<sup>11</sup> EC Provincial Legislature: IQP-40 of 2025 (Question 1211)

<sup>12</sup> EC Provincial Legislature: IQP-33 of 2025 (Question 969)

<sup>13</sup> EC Provincial Legislature: IQP-33 of 2025 (Question 990)

<sup>14</sup> FS Provincial Legislature: Question 649-2025-10-17; FS Provincial Legislature: Question 650-2025-10 -17

<sup>15</sup> FS Provincial Legislature: Question 651-2025-10-17

<sup>16</sup> GP Provincial Legislature: Question5-5ED298-04-10-2025; GP Provincial Legislature: Question5-5ED296-04-10-2025

### KwaZulu-Natal

52. KZN's answer from the MEC of Community Safety and Liaison provided information on the oversight his department plays in ensuring cases of statutory rape are investigated by SAPS.<sup>17</sup>

### Northern Cape

53. Between 2021/22 and 2025/26 the Free State ("FS") DSD received reports by 15 institutions regarding cases related to childbirth, terminations or miscarriages, or pregnancies, including 383 reports of sexual abuse, 44 of childbirth, and 10 of pregnancy were received. Some 428 Form 22s were received. Another 428 cases had been referred to SAPS. A total of 15 cases are currently pending at the Children's Court. *It should be noted that FS DSD's numbers do not align between subsections of answers.*<sup>18</sup>
54. During 2025/26, 67 cases were recorded on VCANE<sup>19</sup>, which were investigated by social workers. 125 cases were recorded on VCANE since it was established. 15 children were placed in temporary safe care.<sup>20</sup>
55. Between 2020 and 2025, NC DoH recorded 22,141 deliveries by children aged 10-19 years in health facilities, of which 502 were 14 years old or younger. In 2025, it was 3,149 and 56, respectively. Between 2023 and 2025, 695 terminations of pregnancies were recorded for children aged 10-19 years old, 8 were for children aged 14 years or younger. Between 2020 and 2024, 10 children aged 10-19 years became sterile after giving birth.
56. 148 reports were made to a DCPO, DSD, or SAPS.<sup>21</sup>

### Mpumalanga

57. MP DoE indicated that two cases of rape were reported on primary and secondary school premises in 2024 and 2025 in Ehlanzeni District, one of which is being processed by ELRC and the other by SAPS and the Greater Rape Intervention Programme ("GRIP"), a non-profit organisation ("NPO") based in MP.
58. Two rape cases were reported in Gert Sibande District – both perpetrators were apprehended and are in custody.
59. Between 2021 and 2025, there were a total of 12,434 learner pregnancies recorded in MP – to note, these include learners aged 12-25 years.<sup>22</sup>
60. Three child pregnancies between 2021 and 2023 were amongst child-headed households.<sup>23</sup>

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<sup>17</sup> KZN Provincial Legislature: 375-2025

<sup>18</sup> NC Provincial Legislature: Question 4-02-02-2026

<sup>19</sup> The Monitoring Tool of the Inter-Sectoral Protocol for the Prevention and Management of Violence, Child Abuse, Neglect and Exploitation

<sup>20</sup> NC Provincial Legislature: Question 5-02-02-2026

<sup>21</sup> NC Provincial Legislature: QP01 (Question 2) - 16-02-2026

<sup>22</sup> MP Provincial Legislature: Questions to MPED- 13-11-2025

<sup>23</sup> MP Provincial Legislature: Questions to MP DSD (Question 1) - 31-10-2025

61. As of 31 October 2025, MP DSD social workers were investigating 32 of 35 reported cases of statutory rape, of which children were removed to temporary safety care in seven cases, while 10 children were still exposed to the alleged offender. Substance abuse was present in three cases.<sup>24</sup>
62. In 2022/23, three cases of child births, terminations or miscarriages, or pregnancies were reported to MP DSD by the public, and one case was reported by a hospital. In 2023/24, two cases were reported by the public, and in 2024/25, one case was reported by a member of the public, while four were reported by Child and Youth Care Centres (“CYCCs”).<sup>25</sup>
63. MP DoH has implemented a Form 22 report recording system in 2025/26. In the first quarter of 2025/26, 78 Form 22s were submitted to MP DSD.
64. Between 2020/21 and 2024/25, 65 087 children aged 10-19 years gave birth in Mpumalanga health facilities, of which 1 824 were aged 14 years or younger.
65. Between 2023/24 and 2024/25, 3 567 terminations of pregnancies were recorded for children aged 10-19 years, of which 236 were for children aged between 10-14 years.<sup>26</sup>

### Conclusion

66. It is quite clear that while child pregnancy remains high in South Africa, based on DOH statistics, reporting of suspected sexual offences remains low, indicating that government departments are not complying with mandatory reporting requirements. There is further no coordinated approach between Departments, SAPS, and the NPA to ensure reporting and tracking of cases originating from Form 22.

### **Relevant constitutional provisions which are violated**

67. We submit that the only conclusion which can be drawn from the facts is that there exists a massive and systemic failure by responsible authorities across the country to meet even their most basic responsibilities, which have violated basic human rights and resulted in adversely affecting millions of vulnerable children.
68. The basis of this complaint lies in various sections of the Constitution of the Republic of South Africa, 1996 (“**the Constitution**”), which reads as follows:  
  
Section 10: Everyone has inherent dignity and the right to have their dignity respected and protected.  
  
Section 28: (1) Every child has the right  
  
(d) to be protected from maltreatment, neglect, abuse and degradation  
  
(2) A child’s best interests are of paramount importance in every matter concerning a child
69. We alleged that various provincial and national Departments have violated a child’s right, and the cause of this violation must be investigated and recommendations made.

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<sup>24</sup> MP Provincial Legislature: Questions to MP DSD (Question 2) - 31-10-2025

<sup>25</sup> MP Provincial Legislature: Questions to MP DSD (Question 4) - 31-10-2025

<sup>26</sup> MP Provincial Legislature: Questions to MP DoH - 03-11-2025

## **Jurisdiction**

70. It is submitted that the Commission, by its powers and functions as set out in section 13 of the South African Human Rights Commission Act 40 of 2013, read with sections 15 and 16 of the same Act and further with sections 181 and 184 of the Constitution, has the jurisdiction to investigate this complaint given that the actions of the above entities infringe upon the human rights of children.

## **Relief sought**

71. Taking into account the aforementioned, and in line with the powers and functions of the Commission as set out above, we pray for the following relief:

71.1. that the Commission investigates the aforesaid alleged violations of human rights;

71.2. that the Commission declares the various government conduct to violate the Constitution and a breach of a child's most basic rights;

71.3. that the Commission makes a finding for appropriate redress for affected persons;

71.4. that the Commission, in addition to the above redress, order the government departments to work together, and report sexual abuse of a child in a coordinated, managed, and data-driven fashion.

71.5. that the Commission makes recommendations to government departments to address these human rights violations and on improving reporting and action mechanisms.

## **Conclusion**

72. Based on the information provided, we submit that it is clear that the lack of action and mismanagement by the implicated entity constitutes a violation of most basic human rights of a child.

73. Given the immense public interest in these cases, we therefore ask that you investigate this matter with the necessary urgency it requires.

74. We trust that the Commission will take the appropriate and urgent, action.

75. I look forward to receiving your positive response in this regard.

## **Yours faithfully,**

Adv. Glynnis Breytenbach, MP

Lisa Shickerling, MP

Angel Khanyile, MP

Bridget Masango, MP

Michele Clark, MP

Nazley Shariff, MP

## **Spokespersons on GBV for the Democratic Alliance**

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