CHAPTER 21

COMPREHENSIVE SEXUALITY EDUCATION (CSE)

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OVERVIEW

Comprehensive sexuality education (CSE) is an important school-based programme to prevent HIV and combat gender-based violence (GBV) among young people. CSE is crucial to the fulfilment of certain human rights, by promoting and protecting the rights to equality and non-discrimination, the highest attainable standard of sexual and reproductive health for adolescents, and the right to be free from all forms of violence and coercion, among others.

This chapter gives an overview of the health context in South Africa and looks at the ways in which government offers healthcare services through schools, through on-site delivery and using the school curriculum itself. It outlines the HIV prevention and sexuality messaging taught through the compulsory subject of Life Skills or Life Orientation, the weaknesses of this subject, and the introduction of new 'scripted lesson plans' (SLPs) to deliver CSE. Finally, it looks at the position of these SLPs and the need for young people to speak out for their rights to age-appropriate, scientifically accurate and non-judgmental sexuality education. The chapter lists key laws, policies and international commitments which support the delivery of CSE in schools.

HEALTH CONTEXT IN SOUTH AFRICA

In South Africa, the sexual and reproductive health rights of children and adolescents are enshrined in the Constitution and a number of other policies in various government departments.

- Section 27 of the Constitution, in particular subsection (1)(a), stipulates that everyone has the right to have access to healthcare services, including reproductive healthcare.
- A woman's choice to terminate a pregnancy is protected through the Choice on Termination of Pregnancy (CTOP) Act (1996), regardless of her age.
- The Children's Act of 2005 states that "every child has the right to have access to information on health promotion and the prevention and treatment of ill health and disease, sexuality and reproduction" (Section 13(1)(a)).

Other policies, including the Integrated School Health Policy (2012), the National Adolescent Sexual and Reproductive Health Rights Framework Strategy (2015), the National Youth Policy and the National Policy on HIV, STIs and TB for Learners, Educators, School Support Staff and Officials in Primary and Secondary Schools in South Africa, among others, all protect and promote the sexual and reproductive health rights of young people.

Despite this comprehensive legal framework, South Africa has a high burden of sexual and reproductive health (SRH) challenges. South Africa still has very high rates for the spread of HIV and other sexually transmitted infections (STIs). These rates are particularly high among young people.

While these problems are experienced very intensely by all youth, this is particularly true for young women – adolescent girls are up to four times more likely to become infected with HIV than their male peers. In 2017, research from the Department of Basic Education (DBE) reported that 1 900 female learners contract HIV every week. Research also shows high rates of unplanned teenage pregnancies among school-going female youth, and that this has negative effects on school attendance: only one third of teenage mothers return to school after giving birth to finish their education.

South Africa also has some of the highest rates of gender-based violence (GBV) and rape in the world. A quarter of South African women between the ages of 18 and 49 have experienced violence from an intimate partner, although researchers also state that sexual abuse and violence is under-reported. For these reasons, adolescent girls and young women have been flagged as a key population group in the country's National Strategic Plan against HIV, TB and STIs for 2017-2022.

Although some of the government's interventions focus specifically on adolescent girls and young women, boys and young men also face various SRH challenges. Young girls have been shown to be more vulnerable, but transmission of HIV and other STIs is also high among boys and young men. Many boys and young men feel pressure to engage in risky sexual activities to prove that they are 'manly' or strong. Men are also less likely to test for HIV or STIs than women, and may not know their status for longer, or they may avoid treatment.

The government has come up with numerous policies and programmes which aim to work together to address the country's sexual and reproductive health and accompanying social challenges. Some of these are carried out through the basic education sector, which is what this chapter will look at in more detail.

SCHOOLS AND HEALTH MESSAGING

The South African government has identified schools as an important space for the communication of public health messaging. Many people believe that prevention is better than cure, and the government has used schools to try and decrease the numbers of people living with preventable diseases and health conditions.

Schools form an important part of government's efforts to strengthen preventative health services; but over and above preventing poor health, schools also form important settings to *promote* good health, through positive behaviours, attitudes and knowledge. Schools are not only envisaged as spaces for a child's educational or intellectual growth; they also form an important environment for children's physical and social development.

The Departments of Basic Education, Health and Social Development all work together to coordinate health programmes and policies at schools. These three government departments also have several important joint policies, which coordinate the provision of preventative healthcare services at schools and improve the physical, social and psychological health and development of learners.

Some government interventions at school happen through the on-site provision of healthcare services for learners at school. Examples of this include the provision of nutrition at quintiles 1 to 3 schools through the National School Nutrition Programme (NSNP), which also provides deworming to learners in regions where parasitic infections are common. Screening for problems with eyesight, hearing and teeth also happen periodically at schools, and nurses or healthcare professionals from the Department of Health come to schools every year to administer the vaccine against Human Papilloma Virus (HPV) to girls who are nine years old or older.

In addition to the on-site delivery of healthcare services, government has also used the school curriculum – in other words, what is taught to learners in lessons and in educational content at school – to prevent health problems and promote healthy lifestyles. Many health messages – including ones about HIV prevention, the importance of a healthy diet and exercise, and stopping substance abuse, among others – are communicated to learners in South African schools. Some important health messaging known as 'comprehensive sexuality education', or CSE for short, forms part of the compulsory subject of Life Orientation (LO). This chapter will outline what CSE is, and then look at how it is delivered at South African schools through LO.

WHAT IS COMPREHENSIVE SEXUALITY EDUCATION?

Comprehensive sexuality education (CSE) teaches young people about their sexual and reproductive health rights. Fundamental to CSE is the understanding that information is empowering for young people, and that having access to scientifically accurate, non-judgmental and age-appropriate messaging about sex, sexuality and relationships allows young people to make informed and responsible choices.

Research has shown that CSE leads young people to make less risky and more responsible decisions about sex, sexuality and relationships. CSE has resulted in young people delaying having sex for the first time, and having fewer concurrent sexual partners. CSE also leads to increased condom and contraceptive use by young people, reducing unplanned teenage pregnancies and HIV and STI infections among learners.

Evidence shows that CSE leads to reduced frequency of sexual activity among young people. CSE is intended to give meaning to the rights to equality and non-discrimination, bodily integrity, dignity and privacy; and to allow access to healthcare services, by forming part of a youth-friendly sexual and reproductive health system and by linking learners up to non-judgmental SRHR services. CSE also contributes towards increased acceptance of and respect for sexual and gender diversity.

CSE has been developed together by public health experts, teachers and young people from around the world – including South Africa – to equip learners with the knowledge and attitudes necessary to live healthy lives. One of the international benchmarks for CSE is a document that was published by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) called the International Technical Guidance on Sexuality Education (ITGSE), which was first released in 2009, with an updated edition published in 2018. The ITGSE lists key concepts that CSE curricula should cover:

- Relationships
- Values, rights, culture and sexuality
- Understanding gender
- Violence and staying safe
- Skills for health and well-being
- The human body and development
- Sexuality and sexual behaviour
- Sexual and reproductive health.

The ITGSE shows ways in which each of these eight key concepts can be taught to children of all ages, from five years old until learners are 18. The topics and the level at which they are taught have been informed by psychologists, doctors, teachers, NGO practitioners and other specialists who work in the fields of holistic youth development, health, education and human rights.

CSE, as outlined in the ITGSE, was developed partly in response to dominant systems of 'abstinence-only' sexuality education, which tend to be based on silence or misinformation.

In the context of 'abstinence-only' sexuality education, abstinence is the idea that one should not engage in sexual activity at all until one is married.

Abstinence is recognised as the best way to prevent pregnancy or the spread of sexually transmitted infections such as HIV. Although many think otherwise, CSE recognises and respects that there are many reasons that people might choose to abstain from sexual activity. CSE protects the rights of young people to choose how, when or whether they engage in sexuality; and if they do, it equips them with information to make safe and responsible decisions. Abstinence, according to CSE, is seen as one safe option out of several.

Although abstinence-only sexuality education is often based on certain moral, religious, cultural or traditional worldviews, it has existed in different forms in secular societies too. Throughout communities where conversations about sex or sexuality are taboo, or where it is considered inappropriate or imprudent to talk openly about sex with young people, abstinence-only sexuality education has become widespread. With the main message of abstinence-only education focusing on teaching young people not to have sex, when young people do engage in sexual behaviour, they are unaware of the consequences of sexual behaviour.

In some communities, it is thought that open conversations about sex or sexuality will encourage young people to be sexually active or promiscuous; and for this reason, many communities prefer silence or abstinence-based approaches. In abstinence-only sexuality education, learners are not offered potentially life-saving information about sex, sexuality and relationships, and may be left in the dark about their bodies and the changes they experience in the transition to adulthood. Instead of equipping young people with the information, attitudes and values needed to have healthy relationships based on mutual respect and equality, abstinence-only sexuality education teaches learners not to have sex at all.

In some cases, the messaging about not having sex is accompanied by judgment of those who choose to engage in sexual activity, which can stigmatise young people and prevent them from accessing services or support. For example, being unable to speak about pregnancy may lead young girls to seek unsafe backstreet abortions, because they fear they will be judged if they ask for help from the adults in their lives.

Acknowledging that young people have rights and agency, and are understandably curious about sex, CSE takes a different approach. CSE recognises that silence or taboo does not empower young people to make healthy and constructive choices about their sexual lives. While CSE does not actively encourage having sex, it facilitates open conversations between young people and informed adults to make sure that learners have the tools they need to engage in sexuality safely and responsibly.

While CSE is very much about puberty and the biological aspects of sex and reproduction, it is holistic, and goes further than just bodily changes and the menstrual cycle. CSE's primary objectives are to prevent the spread of HIV and STIs, to reduce the numbers of unplanned teenage pregnancies, and to teach learners about puberty. But there are a number of other important outcomes also associated with CSE. CSE also aims to change attitudes and behaviours to help learners have healthy relationships based on mutual respect. It teaches learners about rights, equality, tolerance, communication strategies and self-confidence.

CSE aims to be transformative, and to support measures to achieve gender equality. Through its messaging, CSE tackles the values, attitudes and practices which fuel gender-based violence, femicide, gender inequality and intolerance through education about human rights, consent and non-discrimination. CSE is also intended to support learners with positive messages about their identities, and to encourage healthy self-development.

Central to CSE is a contextual understanding of the reality of gendered, class and other power dynamics, and how these play out in the fields of sexuality and relationships. A CSE curriculum should be rooted in reality, and address the unique challenges that young people face with respect to SRH rights. CSE in South Africa, for example, would need to recognise the power dynamics that lead some young women into transactional relationships with older male partners, and create an environment in which it is difficult to negotiate condom use. A responsive CSE curriculum should develop universal respect for consent and the right to say 'no' to unprotected sex or unwanted sexual attention. CSE would also strengthen self-confidence and assertiveness among vulnerable groups, such as young women.

Here is a table that shows some of the differences between what abstinence-only sexuality education might say in comparison to CSE:

Abstinence-only approach	CSE
'Don't ever have sex until you're married and want to have a baby!'	'If you choose to abstain, that is your choice and you are respected for it. But if you want to experiment sexually, you must do so safely.'
'You should not have sex until you are married.'	'As long as you do engage safely – by using a condom and contraceptives – and with the consent of each partner, you can make the choice to have sex if you are ready to do so.'
'If you have sex, you are dirty, immoral or doomed.'	'Sex is a natural part of life, and as long as partners consent and choose to use a condom and contraception, there is nothing wrong about having sex.'
'Sex is only allowed when it is between a married man and his wife.'	'There is a diversity of genders and sexualities, and everyone deserves equality, acceptance and respect. Not everyone will want to get married, but everyone deserves healthy relationships. Sex between a man and a woman – heterosexual sex – is not the only acceptable form of sex. Learners who do not identify as heterosexual, or cisgender (meaning that their gender identity fully corresponds to the sex assigned to them at birth), also deserve to have empowering information about sexuality.'
'Sex is only okay if you are married and trying to make a baby.'	'In reality, people engage in sexual activities for a number of reasons, not only to conceive and have children. Young people deserve information about sexuality and how to make safe choices, even if they do not want to have children.'
'Sex will give you HIV or an STI. Sex before marriage will just result in you getting a disease.'	'If you engage in safe-sex practices, you can protect yourself – and your partners – from the transmission of HIV and STIs. You should know your status by getting tested, and use a condom every time.'
'Talking about sex is not allowed. These things are private, and talking about them is indecent and inappropriate.'	'Sex *is* a very personal, private part of life, but that doesn't mean that we cannot talk about it honestly and where we feel comfortable. Open conversations with information that is accurate and non-judgmental can help people make more informed decisions.'
'Talking about sex will just encourage learners to go out and do it.'	'Talking about sex doesn't encourage young people to have sex – in fact, it helps them be safer and to delay having sex.'
'Learners are too young to be told about sex or sexuality.'	'Learners deserve to know about their bodies and their rights, with age-appropriate and culturally relevant information. Learners of all ages have questions which can be answered sensitively. Keeping young people in the dark can potentially put them at risk of being abused.'

The content of school-based sexuality education in South Africa has changed over time. We turn to this next.

LIFE ORIENTATION

HIV prevention and sexuality education is offered through the Life Skills and Life Orientation (LO) subjects, and has been offered to all learners since 2000. These programmes are funded through a special conditional grant called the HIV and AIDS/Life Skills education grant, which is allocated to the Basic Education department.

Life Skills is a compulsory subject between grades 4 and 6, and LO is a compulsory subject for grades 7 until matric. The LO and Life Skills curricula cover a number of topics, including physical education, healthy lifestyles, career choices, study skills, democracy and human rights, the environment, and personal development.

Currently, LO is offered through the Curriculum, Assessment and Policy Statement (CAPS), which governs what learners are taught in schools and how they are assessed. But this curriculum and the ones which came before it seem to be ineffective at achieving important SRHR goals, including HIV prevention.

Why is the curriculum not achieving its goals in terms of HIV prevention? Research points towards multiple factors. Some research has shown that there are not enough time or resources given to the subject to allow it to be effective at communicating its public health messaging. The curriculum does not address LGBTQI issues and does not teach about consent sufficiently. Research also found that the curriculum lacks crucial detail about contraception, pregnancy, sexual risk, and how sexually transmitted infections such as HIV can be spread.

Other reasons are related to the teaching of LO. The curriculum lacks important detail and does not support teachers. Many LO teachers are not trained for the subject specifically, and only pick up the subject so that they can be paid more for teaching an additional subject. And even where teachers have been trained for LO, many feel personally uncomfortable discussing CSE topics. In some cases, teachers have been reported to minimise, neglect or omit discussions about sex, sexuality and relationships, many citing fear that information about these CSE topics would encourage learners to be more sexually active. Reportedly, sometimes teachers have spread misinformation about sex and sexuality.

The DBE committed to improving comprehensive sexuality education by assisting educators and bringing the curriculum into alignment with international best practice. This led to the development of 'scripted lesson plans' for CSE, which we examine next.

THE SCRIPTED LESSON PLANS FOR CSE

Over the course of 2018 and 2019, the DBE worked in partnership with public health and youth education specialists to revise the CSE curriculum and develop scripted lesson plans (SLPs). These SLPs sought to address adolescent SRH and rights issues more comprehensively, and were piloted in five provinces. SLPs were drafted to be in accordance with the requirements of the CAPS curriculum document, but also in alignment with international best practice for CSE.

The SLPs are very detailed, and contain aims, reading resources, glossaries, activities, assessments and other learning materials. The idea is that now, teachers do not have to develop the teaching and learning material for CSE themselves, but can follow a 'script' which delivers public health messaging effectively. This would also support teachers in facilitating potentially difficult or sensitive conversations about rights issues around sexual and reproductive health. Educators whose own personal moral, religious, traditional or cultural beliefs clash with the material are guided about how to address the issues constructively and put the needs of their learners first. The SLPs are written in simple, inclusive language and cover a range of SRH and rights topics. For trained and untrained teachers alike, these SLPs are a valuable resource.

The SLPs offer scientifically accurate, non-judgmental information about sex, gender, sexuality and relationships.

The SLPs cover the following topics:

GRADE 4
bit.ly/grade4SLP

- Respect for my own body
- Respecting the bodies of others
- Dealing with conflict
- Emotions – 'Why am I feeling this way?'
- Bullying
- Responding to bullying
- Culture, society and sexuality
- The basics of HIV and AIDS
- Transmission of HIV
- Celebrating the life of Nkosi Johnson

GRADE 5
bit.ly/grade5SLP

- Body image
- I can choose my relationships
- This is my body and I can say what happens to it
- The benefits of good and safe relationships
- Child abuse – 'Keeping myself safe from abuse'
- Sexual grooming: I can say 'NO!'
- Dealing with violent situations: What is sexual violence?
- Learning from our elders
- Should boys and girls be treated differently?
- Dealing with the stigma of HIV
- Changing attitudes towards people infected with HIV and AIDS

GRADE 6
bit.ly/grade6SLP

- Body image: 'My body is changing'
- Body image: 'I am who I am'
- Body image: Acceptance of self
- Negative and positive peer pressure
- Behaviours that put pressure on us
- Bullying and links to gender-based violence
- Bullies can change
- What are gender stereotyping, sexism and abuse?
- Gender equality, stereotypes and bias
- HIV and AIDS, stigma, care, treatment and support

GRADE 7
bit.ly/grade7SLP

- Setting goals and reaching your potential
- Appreciation and acceptance of self and others
- Is there a difference between gender and sex?
- Understanding puberty – physical, social and emotional changes
- Healthy and unhealthy relationships
- Making decisions about sex
- Assertive communication
- Revisiting your goals and moving forward

GRADE 8
bit.ly/grade8SLP

- Setting goals and reaching your potential
- Healthy and unhealthy messages about our gender (A)
- Healthy and unhealthy messages about our gender (B)
- Making healthy sexual choices and knowing your limits
- Sexuality is more than sex
- What young adults need to know about STIs, and HIV and AIDS
- Your risk for STIs, HIV and AIDS and pregnancy
- HIV and AIDS and stigma
- The art of saying: 'No thanks'

GRADE 9
bit.ly/grade9SLP

- Setting goals and reaching your potential
- Safer sex: hormonal contraception
- Safer sex: using condoms
- Barriers to condom use
- One partner at a time
- Using sexual and reproductive health resources in the community
- Are you ready for parenthood?
- Sexual consent
- Power and control in relationships
- Condoms: being assertive and staying protected
- Consolidating intentions for Grade 9

GRADE 10
bit.ly/grade10SLP

- Developing my self-confidence
- Understanding power. Getting to share it
- Gender, equality and healthier relationships
- Social and environmental justice: we can make a difference
- My changing life roles and life goals
- Understanding sexual interest
- Our choices, our decisions
- I know what I want
- Consent, rape and taking action

GRADE 11
bit.ly/grade11SLP

- My priorities and life goals
- Healthy relationships: choosing the right influences
- Healthy and unhealthy relationships and the media
- Living a balanced lifestyle, staying in control
- Understanding the consequences of risky behaviour
- Positive role models
- Gender, power and violence
- Rape – prevention, support and change
- Taking action against abuse

GRADE 12
bit.ly/grade12SLP

- Our needs and our rights, taking action
- Human factors affecting our health – and what we can do about them
- STIs: protecting ourselves, protecting our future
- Looking ahead: my personal protection plan

SLPs are available at: www.education.gov.za/Home/ComprehensiveSexualityEducation.aspx

These SLPs bring South Africa's CSE curriculum in line with our constitutional rights and with best practice for sexuality education. Covering the gaps from the CAPS curriculum, the SLPs now offer comprehensive information about the types of contraceptives that young people can access in the public health sector in SA, and details and crucial messaging about consent, rape and victim-blaming.

There are some gaps in the SLPs, however. These limitations need to be addressed, so that the sexuality education that is offered to young people is comprehensive.

SOME LIMITATIONS OF THE SLPS INCLUDE:

- Abortion is not mentioned at all, despite it being a right enshrined by our laws
- The SLPs do not teach learners how and where to access SRH and rights services
- The SLPs do not cover how to report sexual abuse or violence
- The SLPs do not contain information on how to report sexual abuse, harassment or violence when it happens within the basic education sector.

OPPOSITION TO CSE

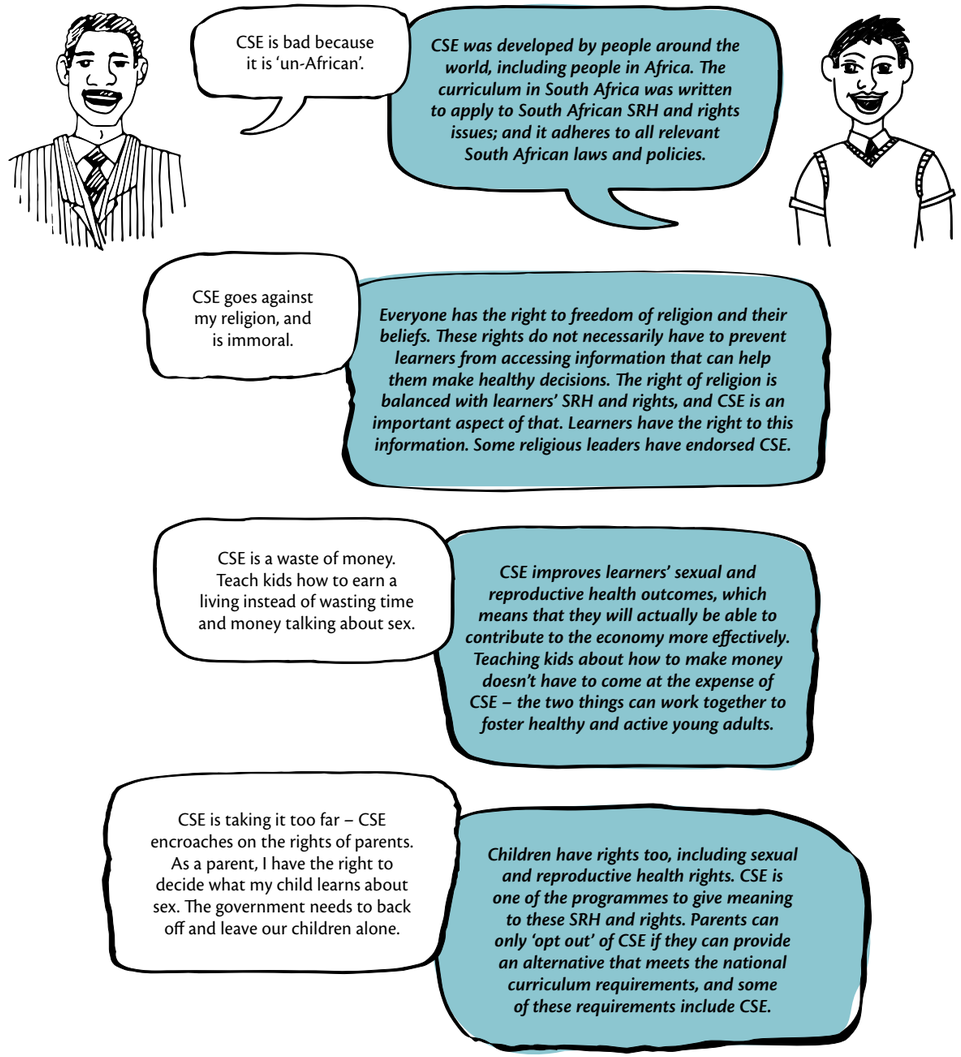
Although on the whole these SLPs contain clearer public health messaging about adolescent sexual and reproductive health rights, they became the subject of an outcry and heated debate over the course of 2019 and 2020.

Stakeholders including parents, teachers and their unions, religious groups and even political parties expressed outrage about the SLPs, labelling them inappropriate. These opponents of comprehensive sexuality education urged the DBE to stop the rollout of SLPs in schools. Many parents have demanded that they be given the right to opt out of CSE.

The DBE has called for consultation and dialogue but seems committed to retaining comprehensive sexuality education. Indeed, it has stated that because CSE forms part of the nationally adopted CAPS curriculum, it is not possible to 'opt out' of these lessons, unless parents can provide an alternative which complies with constitutional and CAPS requirements.

Part of the reason the DBE remains committed to the new scripted lesson plans is because CSE is endorsed by several national, regional and international policies which South Africa has signed.

The most common stances in opposition to CSE, and some responses to them:



SOUTH AFRICAN POLICIES IN SUPPORT OF COMPREHENSIVE SEXUALITY EDUCATION

At the local level, CSE is recognised as one of the crucial elements of fighting the HIV pandemic in South Africa, and of challenging the attitudes and behaviours which fuel our country's GBV crisis. CSE is informed by the following rights from the Constitution of the Republic of South Africa (1996):

- The right to equality (Section 9)
- The right to human dignity (Section 10)
- The right to life (Section 11)
- The right to freedom and security of the person (Section 12, particularly Section 12(2)(a) and (b) pertaining to the rights to bodily and psychological integrity)
- The right to privacy (Section 14)
- The right to access healthcare, including reproductive healthcare (Section 27(1)(a))
- The rights of children, particularly Section:
  - 28(1)(c): the right to basic nutrition, shelter, basic healthcare services and social services;
  - 28(1)(d): the right to be protected from maltreatment, neglect, abuse or degradation; and
  - 28(2), which states that "a child's best interests are of paramount importance in every matter concerning the child".
  - The right to basic education (Section 29).

Having a compulsory intra-curricular subject that teaches CSE in South Africa adheres to a number of international conventions, resolutions and policies, and to South Africa's obligations. These include, but are not limited to:

- The United Nations (UN) Convention on the Rights of the Child
- UN Sustainable Development Goals 1, 3, 4, 5, 8
- The UN Commission on the Status of Women Resolutions on Women, the Girl Child and HIV and AIDS
- The Convention on the Elimination of all Forms of Discrimination against Women
- The Convention on the Rights of the Child.

There are several national policies which endorse CSE, detailed in the table below.

Table 23.1: Policies and laws that support adolescent SRH and rights through the provision of CSE.

South African Schools Act (1996)	
This Act governs schools in South Africa, and states that schools must combat sexism and intolerance – a cause to which CSE contributes.	
Preamble	"This country requires a new national system for schools which will redress past injustices … advance the democratic transformation of society, **combat racism and sexism and all other forms of unfair discrimination and intolerance**, contribute to the eradication of poverty and the economic well-being of society … **uphold the rights of all learners**, parents and educators…"
The Choice on Termination of Pregnancy (CTOP) Act (1996)	
This Act gives women the right to terminate pregnancy, regardless of their age. According to the Act, women must have access to information about reproduction, access to SRH services and access to sexuality education.	
Preamble	"Recognising that the decision to have children is fundamental to women's physical, psychological and social health **and that universal access to reproductive healthcare services includes family planning and contraception, termination of pregnancy, as well as sexuality education and counselling programmes and services**; Recognising that the State has the responsibility to provide reproductive health to all, and also to provide safe conditions under which the right of choice can be exercised without fear or harm…"
Children's Act (2005)	
This Act gives meaning to Section 28 of the Constitution, and gives more detail on children's rights. The rights of children to access information on health and to access healthcare are explained in this Act.	
Preamble	"It is necessary to effect changes to existing laws relating to children in order to afford them the necessary protection and assistance so that they can fully assume their responsibilities within the community"
13(1)(a)-(d) and 13(2)	"13. (1) **Every child has the right to –** **(a) have access to information on health promotion and the prevention and treatment of ill-health and disease, sexuality and reproduction;** **(b) have access to information regarding his or her health status;** (c) have access to information regarding the causes and treatment of his or her health status and the health status of a parent, care-giver or family member, except when maintaining such confidentiality is not in the best interests of the child. (2) **Information provided to children in terms of this subsection must be relevant and must be in a format accessible to children**, giving due consideration to the needs of disabled children."
Department of Health and Department of Basic Education. Integrated School Health Policy (2012)	
This policy aims to contribute to the improvement of learners' health and prevent health barriers to accessing education. It also details how interventions about good health – including sexual and reproductive health – are implemented in the school sector with the assistance of health officials.	
Section 2.6 School health package of services	"Issues to be covered through Life Orientation and supplemented through co-curricular activities include… • Chronic illnesses (including HIV and TB) • Abuse (sexual, physical and emotional abuse, including bullying and violence) • Sexual and reproductive health • Menstruation • Contraception • Sexually Transmitted Infections (STIs) including HIV/AIDS • Male circumcision including Male Medical Circumcision (MMC) • Teenage pregnancy, Choice of Termination of Pregnancy (CTOP), PMTCT • HIV Counselling and Testing (HCT) and stigma mitigation… …emphasis is placed on ensuring that learners receive or have access to sexual and reproductive as well as mental health services where these are required… …All boys should be provided with information on the health benefits of male circumcision, and access to MMC should be facilitated through referral. All learners should be counselled with regard to sexual and reproductive health. For sexually active learners, this should include the offer of provision of dual protection contraception and HCT, and screening for STIs…" (p.12-13).

Department of Social Development. National Adolescent Sexual and Reproductive Health and Rights Framework Strategy, 2014-2019 (2015)	
This policy aims to strengthen the policy environment to meet adolescents' SRH needs and ensure their health. It aims to implement and coordinate efforts to empower young people about their SRH and rights.	
Introduction	"Sexual and reproductive health and rights (SRHR) are usually understood as the rights of all people, regardless of their nationality, age, sex, gender, health or HIV status, to make informed and free choices with regard to their own sexuality and reproductive well-being, on condition that these decisions do not infringe on the rights of others. This includes the right to access education and information, services and healthcare on SRHR…" (p.6) "The lack of comprehensive material around SRHR for all target groups and which ideally is informative, age, language and content appropriate, accessible and accurate to the needs of adolescents both within and out of school are of great concern. Therefore various methodologies should be explored through which comprehensive sexuality education can reach adolescent and youth. Involving both young men and women within gender-sensitive programmes on SRHR can possibly transform unequal power relations." (p.7)
Priority 2: Developing innovative approaches to comprehensive SRHR information, education and counselling for adolescents	• "To develop a comprehensive sexuality education curriculum and implementation framework for the country, including learning from international best practices • To increase awareness and provide non-conflicting, gender-sensitive, culturally appropriate and positive SRHR messaging to adolescents (including adolescents with disabilities) • To educate adolescents of their SRHR responsibilities and rights (as covered in national legislation, policies and guidelines)…"
Priority 3: Strengthening Adolescent Sexual and Reproductive Health and Rights (ASRH&R) service delivery and support on various health concerns	• "To strengthen ASRH&R service delivery and support on comprehensive health concerns • To increase access to ASRH&R services and information • To reduce incidents of STIs, HIV and AIDS and TB • To reduce incidents of unplanned, unintended pregnancy…"

The Presidency of The Republic of South Africa. The National Youth Policy 2015-2020 (2015)	
This policy recommends that the SRHR needs of youth be promoted and supported.	
Section 7.3.2: Promote sexual and reproductive health and rights	**"The sexual and reproductive health and rights of youth should be supported by both schools and the family to enable youth to have access to necessary information, to seek healthcare when necessary, and to practise positive behaviours.** a) Values void of gender stereotyping and prejudices should be instilled in young people to foster a sense of inner belief, self-respect and mutual respect, along with a deepened understanding [of] people's sexuality. People need to be taught to be assertive when making decisions about sexual and reproductive health and rights, and to report violations of these rights. This is a core responsibility of schools and families. b) **Access to services and information related to sexual and reproductive health and rights needs to be expanded. People should be able to make their own decisions about their healthcare** guided by non-judgmental and empathetic health, social and community workers. c) Barriers (self-imposed and contextual) should be broken down to allow people to seek healthcare, including through innovative campaigns to get youth to test for HIV and take an interest in personal health. d) People need to be protected from sexual and gender-based violence, sexually transmitted infections, substance abuse and unplanned pregnancies … **interventions that provide information and challenge taboos, myths, misperceptions, stereotyping and discrimination related to sexuality should be implemented…"** (p.24-25)

DBE National Policy on HIV, STIs and TB for Learners, Educators, School Support Staff and Officials in Primary and Secondary Schools in South Africa (2017)	
This policy details how HIV, STIs and TB should be addressed in school communities. This policy is unequivocal in its endorsements of CSE, access to information and SRHR services for young people.	
Guiding principle 5.3: Access to Information	"Every person in the Basic Education Sector has the right to access relevant and factual comprehensive sexuality education including the prevention of HIV, STIs, TB and pregnancy, as well as the knowledge and skills appropriate to their age, gender, culture, language and context, in order that they can make informed decisions about their personal health and safety."

South African National AIDS Council. Let Our Actions Count: South Africa's National Strategic Plan for HIV, TB and STIs 2017-2022 [National Strategic Plan] (2017)	
This plan outlines the country's response to HIV, STIs and TB. It includes specific goals and the coordination of responsible government agencies, and identifies key populations to be targeted through specific interventions.	
Goal 1: Accelerate prevention to reduce new HIV and TB infections and STIs	Sub-objective 1.1.3: "Provide sensitive and age-appropriate sexual and reproductive health services and comprehensive sexuality education."

Department of Health National Integrated Sexual and Reproductive Health and Rights Policy (2019)	
This policy defines the package of SRHR services that young people have access to, and consolidates numerous guidelines on aspects of SRHR into one document.	
3.3 Key Focus Areas	"…comprehensive sexuality education and friendly services for youth, community, and individual education on and support for cultural values that foster SRHR, and positive health-seeking behaviours" were identified as some of the guiding programmes of this policy.

South Africa has also championed the need for CSE across the Eastern and Southern African region, notably by hosting a ministerial convention on CSE and adolescent sexual and reproductive health services with Ministers of Health and Basic Education from 21 different countries.

This resulted in the adoption of the Ministerial Commitment on Comprehensive Sexuality Education and Sexual and Reproductive Health Services for Adolescents and Young People in Eastern and Southern Africa (ESA). Ministers promised to "ensure quality comprehensive sexuality education and youth-friendly sexual and reproductive health services in the ESA region".

CASE LAW

TEDDY BEAR CLINIC FOR ABUSED CHILDREN AND ANOTHER V MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT AND ANOTHER (2013)

This case, heard by the Constitutional Court in 2013, pertains to the sexual and reproductive rights of children and adolescents, especially the right to consent to sexual activity. The Teddy Bear Clinic for Abused Children (Teddy Bear Clinic) challenged Sections 15 and 16 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act as Constitutionally invalid for criminalising consensual sexual conduct between children.

These sections, the Teddy Bear Clinic argued, infringed on children's rights to dignity, privacy and bodily and psychological integrity, as well as the principle stated in Section 28(2) of the Constitution: that the child's best interests must be of paramount importance in all matters concerning the child.

Instead of protecting children, the Teddy Bear Clinic argued, Sections 15 and 16 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act criminalise children for behaviour that is developmentally normative (or natural), and that this in turn does not help young people make safer or more healthy sexual choices.

To support their arguments, the Teddy Bear Clinic brought experts to the court to give evidence. These experts, whose evidence was quoted widely in the judgment of the case, showed that criminalising consensual sexual conduct between adolescents does not help young people to make safer and more responsible decisions about sexuality – instead, it could deter them from seeking help or health services and can create feelings of shame. The experts demonstrated that open communication, guidance and "comprehensive sex education", rather than criminalising or punishing young people for consensual sexual activity, leads to safer sexual decision making:

> "[C]omprehensive sex education has been found to be more effective than abstinence-only or no sex education in reducing [risky sexual behaviour by young people], including delays in sexual debut, reductions in number of sexual partners, and reductions in pregnancy and diagnosed STIs among youth. Abstinence-only education programmes have been found to have no significant impact on adolescents' values or attitudes toward sexual activity." (Flisher and Gevers, quoted at para 99 of the Constitutional Court judgment, p.46).

The judgment ordered in favour of the Teddy Bear Clinic. The judgment supported arguments that some sexual experimentation is natural or healthy, and that young people need to be supported to make healthy decisions, rather than being silenced or punished:

> "During adolescence children ordinarily engage in some form of sexual activity, ranging from kissing to masturbation to intercourse. Exploration of at least some of these activities is 'potentially healthy if conducted in ways for which the individual is emotionally and physically ready and willing'. What is of utmost importance is ensuring that children are appropriately supported by the adults in their lives, to enable them to make healthy choices … If children are not made to feel that there are safe environments within which they can discuss their sexual experiences, they will be stripped of the benefit of guidance at a sensitive and developmental stage of their lives." [para 45]

The judgment declared sections 15 and 16 of the Act were unconstitutional. These sections were only declared invalid to the extent that they criminalise consensual sexual conduct between adolescents. Criminal laws against non-consensual conduct with children of any age, as well as against sexual conduct involving adults and children, were ordered to remain in place.

This case has shaped our understanding of the age of consent in South Africa:

- Children under the age of 12 cannot consent
- Children between the ages of 12 and 16 can consent to sexual conduct
- Although children between the ages of 12 and 16 can consent to sexual conduct, if it involves sex with a partner who is 18 years or older, it is still considered statutory rape
- Older children – between the ages of 16 and 17 – can only engage in consensual sexual activity with children between the ages of 12 and 15 if they are 'close in age'. In other words, an older child (16 or 17 years old) can have sex with a younger child (12 to 15 years old) only if the total age difference between the two consenting partners is not more than two years. (For examples of this, consult Chapter 19 of this handbook.)

Just because children *can* consent, it doesn't mean they *have* to consent to sexual conduct. A child's right to say no is protected.

This Constitutional Court judgment adds an important authority to the need for comprehensive sex education, guidance and open communication about sex and sexuality to help young people make safer and more healthy choices.

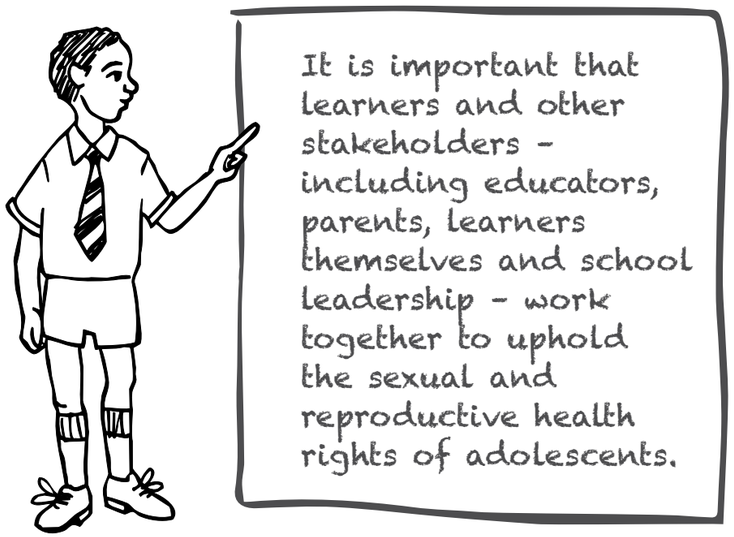
THE FUTURE OF CSE IN SOUTH AFRICAN SCHOOLS

Before the SLPs could be rolled out nationally in all schools, the COVID-19 pandemic hit South Africa. This had several knock-on effects on the delivery of CSE to learners.

First, the HIV and Aids/Life Skills conditional grant – which is responsible for funding CSE programmes in schools – was reduced by R60 million in the Supplementary Budget tabled in June 2020 to address the COVID-19 pandemic's impact on the South African economy. This budget also reprioritised R40 million of the grant's remaining funding to pay for the printing and distribution of learning support material on protecting oneself from COVID-19. While protection against COVID-19 is crucially important, it is disappointing that these materials were paid for at the expense of strengthening the CSE programme in South African schools.

The reductions and reprioritisations of money in this grant meant that the planned 2020 teacher training sessions on CSE for 20 000 teachers were cancelled. Although teacher training is a vital component for the success of CSE, this money was not recovered in 2021. The delay of teacher training for CSE will inevitably have knock-on effects on the material that learners have access to, and in turn delay their access to potentially life-saving information about their SRH and rights.

Learners lost at least 55 school days due to the COVID-19 lockdown closure of schools between 2020 and 2021. Many learners lost even more school time because their grades were phased back into schools later in the year. In order to catch up the lost learning time, government 'trimmed' learning curricula for all subjects. In this curriculum revision process, some important CSE topics were cut.



For example, the adjusted teaching plan for Life Orientation for Grade 10 (for 16-year-old learners) for 2020 removed all teaching about 'Physical changes: hormonal, increased growth rates, bodily proportions, secondary sex/gender characteristics, primary changes in the body (menstruation, ovulation and seed formation) and skin problems' and 'violence, HIV and AIDS, safety, security, unequal access to basic resources'.

While these curriculum points were reintroduced into the teaching plan for 2021, thousands of learners across the country missed out on this important information because of the pandemic, and curriculum recovery plans do not detail how these gaps will be addressed. In the context of constrained timetabling allocations and curriculum revisions for LO, it is likely that many thousands of learners were not given crucial age-appropriate, scientifically accurate and non-judgmental information about their SRH and rights over the course of 2020 and 2021.

Against the backdrop of a well-organised lobby group opposing the delivery of CSE in South African schools, and with the additional challenges of decreased funding, delayed teacher-training programmes and substantial curriculum revisions, the success of CSE in South African schools is threatened. It is important that learners and other stakeholders – including educators, parents, learners themselves and school leadership – work together to uphold the sexual and reproductive health rights of adolescents.

And it is important that the CSE programme in schools be supported, so that young people can be equipped to make informed, responsible decisions with respect to their bodies and sexualities. CSE is crucial to give meaning to and deliver the adolescent sexual and reproductive health rights enshrined in South African laws; therefore, young people should stand up and demand that it is delivered.

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