

The Equal Education Law Centre (EELC) uses legal advocacy, research, and litigation to advance the struggle for equal and quality education and early childhood development in South Africa. The EELC Education Monitoring Brief is a digital newsletter highlighting key legal and policy developments in education and early childhood development and providing the latest updates from Parliament and our courts.



EDUCATION MONITORING BRIEF

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IN THE SPOTLIGHT:

NATIONAL BUDGET 2026 TO BE TABLED ON 25 FEBRUARY



Minister of Finance Enoch Godongwana is scheduled to deliver the National Budget Speech and table the 2026 Budget on 25 February 2026. The budget process involves several key components that determine funding for education and early childhood development over the coming financial year. In particular, it will set out whether the Government intends to continue to cut spending on social services to reduce national debt levels. It will also explain how much money government expects to collect through taxes and other sources, and how this will be allocated across different sectors.

The *Estimates of National Expenditure* details the budgets of each national department, including the Department of Basic Education (DBE). These estimates break down exactly how much each department will receive and how they plan to spend it over the next three years (the medium term).

The *Division of Revenue Bill* sets out how money will be shared between national, provincial and local government. This is particularly important for education, as provinces are responsible for delivering the bulk of basic education and early childhood development services. Provincial budgets are tabled separately by provincial finance Ministers in the weeks following the national budget. These provincial budgets show how each province will allocate its share of revenue, including funding for teacher salaries, school infrastructure, learner support materials, and other education programmes.

The upcoming budget will be significant as it must address several pressing challenges. There is a [growing education funding crisis](#). The real value of education budgets has declined while learner numbers have grown – meaning real spending per learner has fallen. Provinces are facing a projected R176 billion shortfall by 2027/28, [according](#) to the Minister of Basic Education.

In addition, provinces will be expected to implement the roll-out of compulsory Grade R, possibly without the money to fund it. Provincial Education Departments have still not met education infrastructure standards as required by the Uniform Minimum Norms and Standards for Public School Infrastructure. For example, in response to a [question to the Minister](#) by Member of Parliament Ms M. Dlamini, the Minister of Basic Education noted that 448 schools still had illegal pit latrines as of 31 July 2025.

Budget pressures continue to manifest at provincial level. For example, the Gauteng Department of Education (GDE) has [reduced](#) per-learner allocations to quintile 5 schools from 1 April, moving them from their current funding levels directly to the national minimum funding threshold. The department attributes this to a R444 million shortfall in the current financial year and a projected R160 million shortfall over the medium term, driven by national budget reductions. While the GDE has, for several years, paid quintile 5 schools more in per-learner allocations than the national target, the adjustment represents a sharp reduction that will affect over 400 schools.

The DBE's 2025 [presentation](#) on per-learner funding showed that three provinces – KwaZulu-Natal, Mpumalanga, and Northern Cape – are funding schools far below the national targets, with Northern Cape schools receiving only 48% of the required amount. This chronic underfunding affects over 3.5 million no-fee learners in these provinces alone (2.3 million in KwaZulu-Natal, 1 million in Mpumalanga, and 212 000 in Northern Cape).

Education advocates will be watching closely to see whether the 2026 Budget provides the necessary resources to address these challenges or continues the trend of fiscal constraint that risks undermining South Africa's constitutional commitment to quality education for all. For more information, watch the Equal Education Law Centre's [explainer video](#) on budgets and human rights.

DBE LEKGOTLA

From the 20 to 22 January, the Department of Basic Education (DBE) held its annual Basic Education Sector Lekgotla, bringing government, civil society and international organisations together in Johannesburg. The EELC, together with EE representatives, attended and formed part of the Commissions on Early Learning and Nutrition. The Lekgotla, with the theme 'Strengthening Foundations for a Resilient and Future-Ready Education System', engaged with systemic barriers in education such as underfunding, while exploring avenues for innovation and protection of learners in an increasingly digital space. More information on the Lekgotla can be found [here](#).

CONFERENCE CALL FOR SUBMISSIONS

The South African Education Law Association (SAELA) has released a [call for abstracts](#) for its 30th Annual International Education Law Conference in 2026. The theme, *Pothole or Speed Bump? Balancing Rights, Resources and Responsibilities in Education* invites delegates to "explore the critical tension between what the law requires, what the system can afford, and what our learners deserve."

The conference will take place in the Eastern Cape, from 2 to 5 August, 2026. Abstracts should be between 300 and 500 words, and should be submitted on the SAELA [website](#) by 16 March 2026. Queries can be directed to saela2023@gmail.com.



LAW AND POLICY SUBMISSIONS

Call for Comments: Draft Revised White Paper on Citizenship Immigration and Refugee Protection

The Department of Home Affairs has published the Draft Revised White Paper on Citizenship, Immigration and Refugee Protection and is inviting public comment. The submission deadline has been extended to 15 February 2026.

The White Paper adopts the First Safe Country Principle as the guiding principle for refugee policy in South Africa. According to this principle, asylum seekers who have been granted refugee status or lawful protection in another country, or who pass through safe third countries to reach South Africa, are ineligible for asylum in South Africa. Lawyers for Human Rights has [described](#) the First Safe Country Principle as “highly contested and context-specific,” warning that it raises constitutional concerns, including arbitrary exclusion from the asylum system without individualised assessment, constructive refoulement, and violations of rights to dignity, equality, just administrative action, and access to courts. The organisation cautioned that African asylum seekers and refugees are likely to be disproportionately affected by the adoption of this policy.

The Scalabrini Centre has also raised [concerns](#) about the proposed policy, warning that there is no standardised approach to determine what constitutes a “safe country,” noting that a majority of African countries still criminalise homosexuality and many lack legal protections against gender-based violence comparable to those in South Africa. Comments can be emailed to Whitepaper@dha.gov.za by no later than **Sunday, 15 February 2026**. More information can be found [here](#).

Call for Comments: Budget Tips 2026

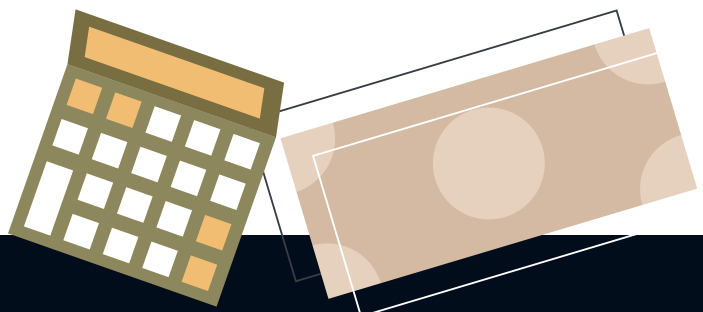
The Minister of Finance, Mr Enoch Godongwana, has invited South Africans to share their suggestions on the 2026 Budget ahead of the National Budget Speech on 25 February 2026. The National Treasury says it welcomes views on government spending priorities.

The Budget Tips initiative, launched in 1999, has seen varying levels of public participation over the years. National Treasury reads every input and selects ten of the “[most impactful](#)” tips, which are narrowed down to five and eventually one winning tip that is included in the Minister’s speech.

This call for input provides an opportunity for education stakeholders to highlight funding priorities for the basic education sector. South Africa continues to face significant infrastructure backlogs in schools, with many learners learning in unsafe or inadequate conditions. The implementation of compulsory Grade R under the BELA Act requires substantial additional funding for classrooms and qualified practitioners, yet no dedicated budget allocation has been announced.

However, the Budget Tips process has limitations. Submissions are capped at 300 words, which restricts detailed input on complex policy issues. Additionally, the selection process means only one tip is ultimately incorporated into the budget speech, raising questions about how meaningfully other submissions influence budget priorities. More substantive opportunities for public participation will arise after the budget is tabled when the Finance and Appropriations committees in both Houses of Parliament will hold hearings, receiving both written and oral comments from the public.

Submissions for the budget tips should not exceed 300 words and must be received by **16 February 2026** through the National Treasury’s [Budget Tips portal](#). More information can be found [here](#).



INTERNATIONAL TREATY BODIES

CALL FOR INPUT:

Eliminating Racism and Xenophobia in Implementation of the Durban Declaration

The Office of the High Commissioner for Human Rights is seeking submissions to inform the UN Secretary-General's 2026 report on global efforts to eliminate racism, racial discrimination, xenophobia and related intolerance. The report will be presented to the UN General Assembly later this year.

The consultation marks the 25th anniversary of the Durban Declaration and Programme of Action, adopted in 2001 at the World Conference Against Racism in South Africa. OHCHR welcomes information on concrete actions taken between June 2025 and June 2026 to combat racism and xenophobia.

The Office is particularly interested in hearing about steps taken to address contemporary forms of racial discrimination, especially xenophobia, and efforts to strengthen national human rights institutions. Other areas include collecting data to inform anti-racism laws and policies, and working to restore dignity to victims of historical injustices, including slavery, colonialism, apartheid, and genocide. OHCHR also seeks information on efforts to support reparatory justice initiatives for Africans and people of African descent, and on placing victims and their descendants at the centre of processes addressing historical injustices.

The consultation seeks information on national action plans to combat racism, education and awareness-raising programmes, accountability measures, and promising practices from different countries. Submissions should address how racism and xenophobia affect different groups, including relevant perspectives on gender and intersecting forms of discrimination.

This consultation has relevance for South Africa's education sector, where xenophobia continues to manifest in threats to exclude foreign learners from schools. In November 2025, the Johannesburg High Court [declared](#) Operation Dudula's conduct unlawful and xenophobic, specifically prohibiting the organisation from interfering with school access, disrupting operations, or intimidating learners, teachers and parents.

Submissions must be received by **30 April 2026** and should be emailed to ohchr-registry@un.org. More information can be found [here](#).

CALL FOR INPUT:

Impact of Mental Health Challenges on Young People's Human Rights

The Office of the High Commissioner for Human Rights is seeking submissions to inform a study on the impact of mental health challenges on the enjoyment of human rights by young people. The study, requested by Human Rights Council resolution 57/30, will be presented to the Council's sixty-third session in September 2026.

The consultation recognises that young people's mental health is essential to their ability to enjoy their human rights fully. Mental wellbeing enables young people to participate actively in society, access education and decent work, and exercise their rights. However, mental health challenges can create significant obstacles, leading to discrimination, exclusion, and limited or no access to essential services. For marginalised youth and those in vulnerable situations, these challenges are often compounded, further restricting their rights and opportunities.

The study aims to explore the legal and policy framework concerning young people's human rights in relation to mental health, identify main barriers and challenges faced by young people experiencing mental health difficulties in fully enjoying their human rights, and highlight promising practices and solutions to promote young people's right to mental health.

A key focus is on barriers to the right to mental health, including issues of availability, accessibility, acceptability and quality of mental health care. The consultation also requests information on public expenditure allocated to mental health services for young people, including any changes in funding for programmes and services.

Submissions of up to 5 pages must be received by **20 February 2026** at 18:00 CET and should be emailed to ohchr-registry@un.org with a copy to helen.griffiths@un.org. More information can be found [here](#).



CALL FOR INPUT:

Preventing Adolescent Girls' Pregnancy

The Office of the High Commissioner for Human Rights is seeking submissions to inform a report on accelerating progress towards preventing adolescent girls' pregnancy. The report, requested by Human Rights Council resolution 56/21, will be presented to the Council's sixty-second session.

The consultation seeks information on the root causes of adolescent pregnancy, including social, economic, cultural, legal and structural factors. OHCHR is requesting information regarding effective measures for preventing adolescent pregnancy, including laws, policies, programmes, and resource investments that have proven successful in addressing root causes.

A key area of focus is access to sexual and reproductive health information and services. OHCHR seeks details on measures ensuring adolescents can access age-appropriate, evidence-based comprehensive sexuality education within school curricula in both public and private schools. The Office is particularly interested in understanding barriers adolescents face in accessing sexual and reproductive health information and services, including legal, financial, social barriers, stigma, and lack of confidentiality. This includes whether minimum ages exist to access services and specific barriers faced by at-risk groups.

This consultation has significant implications for South Africa's education sector, where pregnant learners continue to face discrimination and barriers to continuing their education. OHCHR specifically seeks information on measures preventing stigma and discrimination against pregnant adolescents, including policies that prevent school drop-out, ensure they can continue education throughout pregnancy, and support re-entry into school. The consultation asks whether countries have documented practices by schools that restrict pregnant girls' access to education and what has been done to address such situations.

Additional topics include minimum age of consent laws and data on criminalisation of consensual sexual activity among adolescents, measures ensuring meaningful participation of adolescents in policy development related to preventing adolescent pregnancy, and collection and use of disaggregated data on adolescent pregnancy.

Submissions must be received by **9 March 2026** and should be emailed to ohchr-registry@un.org with a copy to masiha.ghafory@un.org. More information can be found [here](#).

CALL FOR INPUT:

Violence and Discrimination Experienced by Lesbian, Bisexual, and Queer Women

The United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity is seeking written submissions to inform a thematic report on violence and discrimination experienced by lesbian, bisexual, and queer (LBQ) women worldwide, to be presented to the 62nd session of the Human Rights Council in June 2026.

The call for input states that preliminary research suggests that LBQ women experience unique vulnerabilities that may not be adequately addressed within traditional women's rights or LGBT rights frameworks. The report aims to centre LBQ voices and experiences to better understand how various systems (economic, social, cultural, political, and civil) impact their ability to live free from violence and discrimination.

The Independent Expert is particularly interested in hearing from local feminist collectives led by LBQ women, LBQ regional networks and grassroots organisations, organisations working at intersections where LBQ women are present but may not be centred (such as environmental justice, indigenous rights, land rights, economic justice, disability rights, racial justice, and migrant rights), service providers who work with LBQ women, academic researchers, individual LBQ activists and community leaders with lived experience, and allied organisations that have documented challenges facing LBQ women. The call for inputs seeks information on significant challenges and forms of violence and discrimination impacting LBQ women, how these experiences differ from those of other women or other LGBT individuals, systemic factors that contribute to these challenges, intersectional experiences shaped by race, ethnicity, class, age, disability, immigration status, gender identity, religion or other factors, laws and policies that create barriers or vulnerabilities, and community-generated solutions and strategies for change.

This consultation has particular relevance for South Africa's education sector, as LBQ learners and educators often face compounded barriers to accessing quality education, from exclusion and bullying in schools to discriminatory attitudes within educational settings and inadequate support services.

Submissions of up to 2,500 words must be received by **15 February 2026 at 18:00** Geneva time and emailed to hrc-ie-sogi@un.org. More information can be found [here](#).



CALL FOR INPUT:

Call for Input: Violence Against Mothers

The United Nations Special Rapporteur on violence against women and girls is seeking input to examine the forms and manifestations of violence experienced by women and girls because of their status as mothers for the first report on this subject to the UN Human Rights Council at its 62nd session.

Women's status as mothers often becomes a factor on which they are subjected to discrimination and violence. Within families, perpetrators of domestic violence often weaponise a woman's status as a mother to continue exercising control by threatening to cut her link with her children. In workplaces, mothers face the "motherhood penalty" - discrimination and a considerable pay gap. Groups facing particular vulnerabilities include migrant and stateless mothers, mothers with disabilities, single mothers, adolescent mothers, and incarcerated mothers.

The report will examine manifestations, causes and perpetrators of violence against mothers, barriers mothers face when seeking protection and justice, and good practices in preventing and responding to violence against mothers. This consultation has particular relevance for South Africa's education sector. Violence and discrimination against mothers impacts learners' access to education, including when mothers face barriers to supporting their children's schooling. Critically, adolescent mothers (who are themselves learners) face discrimination and violence that directly infringes on their right to basic education, including pressure to leave school, stigma, and lack of adequate support to continue their education while pregnant or after giving birth.

Input is sought from States, civil society organisations, academia, and national human rights mechanisms. Submissions must be received by **6 February 2026** and emailed to hrc-vaw-sr@un.org. More information can be found [here](#).



**EQUAL EDUCATION
LAW CENTRE**

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