

# What does the South African Constitution say about your Human Rights?



The Constitution of the Republic of South Africa, 1996



the **doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA





Human  
rights are  
the rights  
everyone  
has...

# Know Your Human Rights

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This booklet was last updated in February 2014.



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# KNOW YOUR HUMAN RIGHTS

## INTRODUCTION

The Constitution of the Republic of South Africa is the highest law of the land and any law or conduct that is in conflict with it is invalid. According to the Constitution, South Africa is one, sovereign, democratic state founded on the following values: human dignity, the achievement of equality and the advancement of human rights and freedoms. The obligations flowing from the Constitution must be followed and respected by every person in South Africa. It is the guiding document for all our laws, and the foundation for lasting freedom and democracy. Our Constitution was adopted by Parliament on 8 May 1996, signed into law by the first President of a free and democratic South Africa, Mr Nelson Mandela, in Sharpeville on 10 December 1996. During the Constitution making process, the people across the length and breadth of South Africa were invited to make submissions on what should be reflected in the Constitution. This was a unique, exciting and vibrant process where people were given an opportunity to have their say.

### **The purpose of the Constitution is to:**

- heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;
- lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;
- improve the quality of life of all citizens and free the potential of each person; and
- build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.

Chapter 2 of the Constitution contains the Bill of Rights which protects our human rights. The Bill of Rights is the cornerstone of our democracy. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. Whilst every person is entitled to these rights, they also have a responsibility to respect these rights. The Government has a duty to respect, protect, promote and fulfil the rights in the Bill of Rights. The rights in the Bill of Rights are explained in the following paragraphs in the light of the rulings of the Constitutional Court, useful information from the Constitutional Court website and other relevant resources.

# Know Your Human Rights

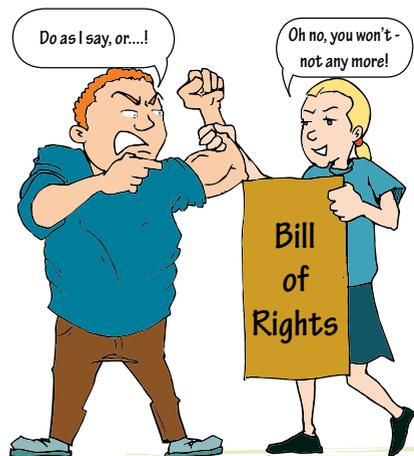


## THE RIGHT TO EQUALITY (SECTION 9)

- Everyone is equal before the law and has the right to equal protection and benefit of the law. Every person is therefore entitled to equal treatment by our courts. No one is above the law and all persons are impartially subject to the law. However, the conduct of the law or government (the executive) that differentiates between people or categories of people may be justified if it reasonably serves a legitimate government purpose.

## USEFUL INFORMATION

- In order to promote the achievement of equality, the State is empowered to make laws and take measures aimed at protecting or advancing persons, or categories of persons, disadvantaged by unfair discrimination (those that are disadvantaged as a result of apartheid laws). For example 'affirmative action' is one such measure. The Employment Equity Act 55 of 1998 seeks to, amongst others, ensure the implementation of employment equity in the workplace to redress the effects of discrimination, and achieve a diverse workforce broadly representative of the people of South Africa.
- No person, including the State, may unfairly discriminate against anyone on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. This is not a closed list of grounds. Any action that treats persons differently in a way that impairs their fundamental dignity as human beings or that affects persons negatively in a comparably serious manner may amount to unfair discrimination. For instance, no person may unfairly discriminate against any person because of his or her HIV status. People who are living with HIV and AIDS must be treated with compassion and understanding and be shown ubuntu, and they must not be denied equal opportunities in employment.



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- Parliament passed a law to promote equality and prevent unfair discrimination. The law is called the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. The Act seeks, amongst others, to:
  - promote equality;
  - prohibit and prevent unfair discrimination;
  - prevent and prohibit hate speech;
  - prevent harassment;
  - establish equality courts so that any person who feels he or she is being unfairly discriminated against may approach these courts; and
  - provide remedies for victims of unfair discrimination, hate speech and harassment and persons whose right to equality has been infringed upon.

## USEFUL INFORMATION

The Department of Justice and Constitutional Development has established equality courts to deal with complaints on unfair discrimination, hate speech and harassment.

## WHAT ARE EQUALITY COURTS AND WHERE TO FIND THEM?

Equality courts are specialised courts designated to hear matters relating to unfair discrimination, hate speech and harassment. In terms of the Act all High Courts are equality courts for their area of jurisdiction.

The Department of Justice and Constitutional Development has designated all magistrates' courts to serve as equality courts in all the 9 provinces. Although the equality court is a formal court sitting, the rules and procedures are more relaxed than in normal courts e.g. the court room itself is usually not as intimidating as an ordinary court, the proceedings are held in a room that is arranged in boardroom style where the complainant and the respondent sit on either side. Normal rules of the magistrates' court apply but the presiding officer does not apply them in a rigid manner when conducting the proceedings.

## WHO CAN INSTITUTE PROCEEDINGS AT THE EQUALITY COURT?

In order to institute proceedings in the equality court it is not a requirement that one must have legal representation. Proceedings in the equality court may be instituted by:

- any person acting in his/her own interests;
- any person acting on behalf of another person who cannot act in his/her own name;
- any person acting as a member of, or in the interests of a group or class of persons;
- any person acting in the interest of the public;
- any association or organization or body acting in the interests of its members; or
- the South African Human Rights Commission or the Commission on Gender Equality.

The Act places specific duties on the South African Human Rights Commission, the Commission on Gender Equality and other bodies that have been set up in terms of the Constitution. They are required to assist complainants in bringing complaint to the equality courts and to conduct investigations into cases and advise complainants.

## DOES ONE HAVE TO PAY TO INSTITUTE PROCEEDINGS AT THE EQUALITY COURT?

The equality courts are free of charge in other words the complainant does not have to pay any court fees.

The South African Human Rights Commission (SAHRC), established by Chapter 9 of the Constitution, may also be approached to take a complaint based on unfair discrimination to the equality courts. This Commission may also be approached to investigate any complaint of unfair discrimination. The Commission on Gender Equality (CGE), also established by Chapter 9 of the Constitution, may also be approached when the complaint of unfair discrimination is based on gender or sex, and it may also take the complaint to the equality courts.

# Know Your Human Rights

The right to equality requires people to respect one another despite the fact that they are different, and they should also acknowledge and accept their differences and celebrate the diversity that brings them together. This means that people should be tolerant. Each person has the capacity to free his or her potential without being limited by race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age disability, religion, conscience, belief, culture, language and birth.

## THE RIGHT TO HUMAN DIGNITY (SECTION 10)

Everyone has an inherent (inborn) dignity and the right to have his or her dignity respected and protected. No person should be perceived or treated merely as instruments or objects of the will of others. Every person is entitled to equal concern and to equal respect. This right is related to our constitutional purpose of establishing a society in which all human beings will be given equal dignity and respect.

## THE RIGHT TO LIFE (SECTION 11)

Everyone has a right to life. The courts can no longer sentence convicted persons to death, as the death penalty has been declared to be in conflict with the Constitution by the Constitutional Court.

## THE RIGHT TO FREEDOM AND SECURITY OF THE PERSON (SECTION 12)

- Everyone has the right to freedom and security of the person, which includes the right:
  - not to be deprived of their freedom without good reason;
  - not to be locked up in prison without trial;
  - to be free from all forms of violence;
  - not to be tortured in any way;
  - not to be treated or punished in a cruel, inhumane or degrading way;
  - to make decisions concerning reproduction;
  - to security in and control over their body; and
  - not to be forced to participate in medical or scientific experiments.

This right also places a duty on every person not to abuse anyone (such as partners, children and the elderly).

## **THE RIGHT AGAINST SLAVERY, SERVITUDE AND FORCED LABOUR (SECTION 13)**

No one may be subjected to slavery, servitude or forced labour. This means that no person may be forced to work for anybody else.

## **THE RIGHT TO PRIVACY (SECTION 14)**

- Everyone has the right to privacy, which includes the right not to have:
  - their body or home searched;
  - their property searched;
  - their possessions taken from them; or
  - their private communications infringed upon.

This right includes the right to be free from interference by the State and others in a person's personal life. This right, like any other right, is limited. The law provides that a person may be searched if he or she has been arrested, or a search may be conducted if a search warrant has been issued. There may be instances where a search without a warrant may be conducted, such as when there is a compelling need for the State to protect the public interest, or when a police official searches a person, container or premises if he or she has reason to believe that a search warrant will be issued to him or her if he or she applies for such warrant and the delay in obtaining such warrant would defeat the object of the search.

## **THE RIGHT TO FREEDOM OF RELIGION, BELIEF AND OPINION (SECTION 15)**

Everyone has the right to freedom of conscience, religion, thought, belief and opinion. This means, amongst others, that every person has the right to practise the religion of their choice, and furthermore that no person should force his or her religious beliefs on others. Every person is entitled to his or her own belief, thought and opinion, even if they are different from those of others.

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## THE RIGHT TO FREEDOM OF EXPRESSION (SECTION 16)

- Everyone has the right to freedom of expression, which includes:
  - freedom of the press and other media;
  - freedom to receive or impart information or ideas;
  - freedom of artistic creativity; and
  - academic freedom and freedom of scientific research.
- Every person has the right to express how they feel, even if those expressions are not the same as others. This may be done by, for example, participating in a public protest in accordance with the relevant laws.
- No person is allowed to make expressions of hatred based on race, ethnicity, gender or religion and expressions that encourage violence or constitute incitement to cause harm.





## THE RIGHT TO ASSEMBLY, DEMONSTRATION, PICKET AND PETITION (SECTION 17)

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions. This right gives people an opportunity to show their dissatisfaction or demands in a peaceful manner. However, the Regulation of Gatherings Act 205 of 1993 provides that organisers of a demonstration must give the local authority concerned at least seven days' notice. This notice must have, amongst others, the names of the convener, the purpose and place of the gathering, and the expected number of participants.

## THE RIGHT TO FREEDOM OF ASSOCIATION (SECTION 18)

Everyone has the right to freedom of association. Every person may therefore choose to associate with whomever he or she wishes. Any person is therefore free to join, for instance, a club, workers' union, church, etc. of his or her choice.

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## POLITICAL RIGHTS (SECTION 19)

- Every citizen has the right to freely make political choices, such as the right:
  - to form a political party; and
  - to participate in the activities of a political party.



Join a political party



Encourage other people to join a political party



OR Start your own political party

- Every citizen has the right:
  - to free and fair elections;
  - to vote in secret during the elections; and
  - to stand for public office and, if elected, to hold office.
- The Electoral Commission (IEC), established by Chapter 9 of the Constitution, is tasked with the responsibility of preparing for, and monitoring elections.

## THE RIGHT NOT TO BE DEPRIVED OF CITIZENSHIP (SECTION 20)

- No citizen may be deprived of citizenship. Citizenship may not be taken away from a citizen.
- However, since this right, like any other right, is not absolute, the South African Citizenship Act 88 of 1995 provides for, amongst others, loss of citizenship.

## **THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE (SECTION 21)**

- Everyone has the right:
  - to move anywhere in South Africa; and
  - to leave South Africa if they so choose.
- Every citizen has the right:
  - to enter, to stay in and to live anywhere in South Africa; and
  - to have a passport.

## **THE RIGHT TO FREEDOM OF TRADE, OCCUPATION AND PROFESSION (SECTION 22)**

Every citizen has the right to choose their trade, occupation or profession freely. This right protects activities by means of which a livelihood is pursued and is aimed at enabling individuals to live profitable, dignified and fulfilling lives.

## **WORKERS' AND EMPLOYERS' RIGHTS (LABOUR RELATIONS) (SECTION 23)**

- Everyone has a right to fair labour practices. The Labour Relations Act 66 of 1995 is the most important law regulating employment relationships. Another important law is the Basic Conditions of Employment Act 75 of 1995, which gives effect to the right to fair labour practices by providing for the regulation of employment conditions such as leave, working hours (ordinary hours, Sundays and public holidays), employment contracts, employee records, salary deductions, pay slips, overtime work and termination of employment.
- Every worker has the right:
  - to form and join a trade union;
  - to participate in the activities and programmes of a trade union; and
  - to strike.

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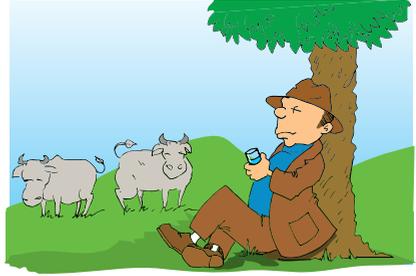
- As is the case with any other right, the right to strike is not absolute. For instance, certain workers, whose duties are classified as 'essential services', such as members of the South African Police Service (SAPS), are not allowed to strike.
- Employers have the right to form and join an employers' organisation. They also have a right to participate in the activities of an employers' organisation. Workers' unions, employers' organisations and employers can bargain collectively.

## ENVIRONMENTAL RIGHTS (SECTION 24)

- Everyone has the right to an environment that is not harmful to their health or wellbeing.
- The environment should be protected for the benefit of present and future generations through reasonable measures:
  - to prevent pollution and damage to natural resources;
  - to promote conservation; and
  - to ensure that natural resources are developed, while also promoting the justifiable economic and social development of people.

## PROPERTY RIGHTS (SECTION 25)

- No one may have their property taken away from them unless it is in terms of the law of general application, and no law may allow arbitrary deprivation of property. Property may be expropriated (taken away) only in terms of the law of general application for a public purpose or in the public interest; and subject to compensation, which has either be agreed to or decided by a court. The amount of the compensation and the time and manner of the payment must be just and fair. The public interest includes the nation's commitment to land reform, and to reforms to bring about equal access to all South Africa's natural resources; and the State must take reasonable measures to enable citizens to gain access to land on an equitable (fair and just) basis.
- A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, either to tenure which is legally secure or to a comparable redress.
- A person or community who has been occupying land insecurely because of past apartheid laws or practices is now, to an extent allowed by an Act of Parliament, entitled to either legally securely occupy the land or to comparable redress (in other words to be paid out).
- A person or community dispossessed (whose property has been taken from them) of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled either to restitution of that property or to equitable redress. No provision of this section may prevent the State from taking legislative and other measures to achieve land, water, and related reform in order to redress the results of past racial discrimination.
- Parliament passed the Restitution of Land Rights Act 22 of 1994 which, amongst others:
  - entitles persons whose land was taken from them after 19 June 1913 due to apartheid laws to lodge claims not later than 31 December 1998; and
  - established a Commission on Restitution of Land Rights and the Land Claims Court. This Commission is empowered to investigate claims and to mediate and settle disputes. If such disputes cannot be settled, the Commission must refer the claim to the Land Claims Court.



# Know Your Human Rights

## THE RIGHT OF ACCESS TO HOUSING (SECTION 26)



Everyone has the right to have access to adequate housing. This does not mean that the Government is obliged to immediately provide each and every South African with the actual housing, but it must devise and implement a comprehensive plan that will achieve the goal of access to housing over a period of time. Government must create the conditions for access to adequate housing for all people. This means that, amongst others, for a person to have access to housing, there has to be land, there has to be services, and there has to be a dwelling. It also means that other agents in our society, including individuals themselves, must be assisted by laws and other measures to provide housing. A duty is also placed on the Government, all other entities and persons not to prevent or weaken the right of access to adequate housing.

The State has a duty to make reasonable laws and take reasonable steps, within its available resources, to achieve the progressive realisation of this right. Reasonable measures means that government must promote laws, adopt and implement policies and programmes that will give effect to people gaining access to this. Progressive realisation means that Government must

move forward and ensure that the rights are realised over a period of time. The phrase “within its available resources” means that government cannot be expected to do more than what its available resources permit. “The progressive realisation of this right” means that government must implement this right over time; it must take steps to achieve the goal of the Constitution, which is to effectively meet the basic needs of all in our society.

No one may be forced out of their home or have their home destroyed without a court order made after taking into account all the relevant facts. No laws may allow forced removals to be made without sufficient reason or without a fair procedure.

## **THE RIGHT OF ACCESS TO HEALTH CARE, FOOD, WATER AND SOCIAL SECURITY (SECTION 27)**

- Everyone has the right to have access to:
  - health care services, including reproductive health care;
  - sufficient food and water; and
  - social security, including, if they are unable to support themselves and their dependents, appropriate social assistance. Social security refers to schemes to which workers and employers contribute for old-age pensions, medical and unemployment insurance. Social assistance means assistance from the government to certain groups such as the elderly, children in foster care, etc. Examples of such assistance are old-age grants, disability grants, child support grants and foster care grants.
  
- No one may be refused emergency medical treatment. This means that a person who suffers from a sudden catastrophe, which calls for immediate medical attention, should not be refused ambulance or other emergency services that are available and should not be turned away from a hospital that is able to provide the necessary treatment.

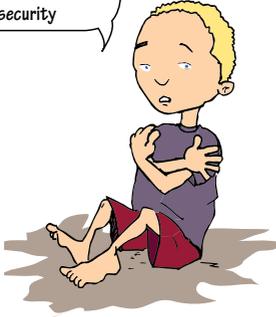
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## THE RIGHTS OF CHILDREN (SECTION 28)

- Every person under the age of 18 has the right:
  - to a name and to a nationality from birth;
  - to family care or parental care or appropriate alternative care when removed from the family environment;
  - to basic food, shelter, basic health care services and social services;
  - to be protected from maltreatment, neglect, abuse or degradation;
  - to be protected from exploitative labour practices;
  - not to do work that would interfere with his or her wellbeing, education, physical or mental health or spiritual, moral or social development;

Children need love and security

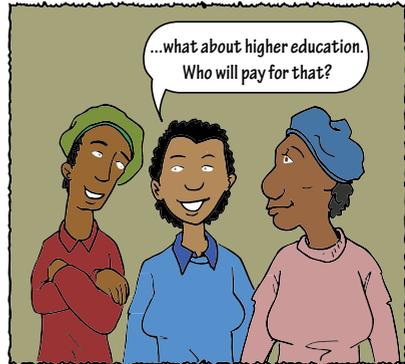
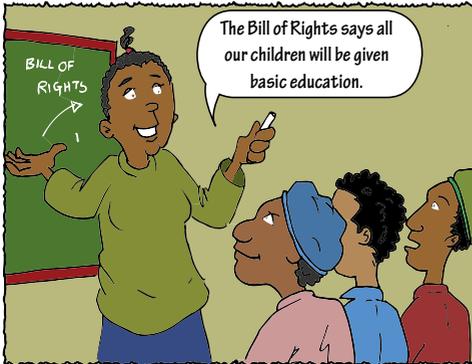


They need the basic necessities of life...



- not to be detained, except as a measure of last resort and for the shortest period of time and separately from other detained persons over the age of 18 years;
  - to a free lawyer, through the Legal Aid Board, in civil proceedings affecting the child if substantial injustice would otherwise result; and
  - not to be used to take part in wars and to be protected in times of armed conflict.
- The best interests of a child is the most important concern when it comes to any matter affecting him or her. These include matters such as custody of and access to children.
  - Section 28 makes special reference to the rights of children in addition to the rest of the rights, except where the Constitution has specifically limited the right to adults, such as the right to vote.
  - The purpose of Section 28, which deals with the rights of children, is to protect children in situations where they are particularly vulnerable. The right to 'family care' includes the right to be cared for by the extended family; and the right to alternative care includes the right to adoptive or foster care and the right to be cared for by the state where the child concerned is in need of care.

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## THE RIGHT TO EDUCATION (SECTION 29)

- Everyone has the right:
  - to a basic education, including adult basic education; and
  - to further education, which the Government, through reasonable measures, must make available and accessible over time.
- Everyone has the right to be taught at public schools in their own language where that education is reasonably practicable taking into account fairness, practicability and the need to address the imbalances of past racially discriminatory law and practices.
- The official languages are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.
- Everyone has the right to establish independent educational institutions that do not discriminate on the basis of race. These institutions must be registered with government and they must also maintain the same standards as comparable public educational institutions.

## THE RIGHT TO LANGUAGE AND CULTURE (SECTION 30)

Everyone has the right to use the language and to participate in the cultural life that they choose. A responsibility is placed on everyone, in exercising this right, to respect other human rights when they practice this right.

## THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES (SECTION 31)

- Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community:
  - to enjoy their culture, practise their religion and use their language; and
  - to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- These rights may not be exercised in a manner that infringes upon or threatens any provisions contained in the Bill of Rights.
- This is one of the provisions that emphasises the principle of diversity and pluralism in our country.

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## USEFUL INFORMATION

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities is established by Chapter 9 of the Constitution to, amongst others, promote respect for the rights of cultural, religious and linguistic communities, and therefore any complaint regarding these rights may be taken to this Commission.

## THE RIGHT OF ACCESS TO INFORMATION (SECTION 32)

- Everyone has the right to have access to:
  - information held by the government; and
  - information held by another person that is required for the exercise or protection of any of their rights.

## USEFUL INFORMATION

Parliament passed a law to give effect to this right called the Promotion of Access to Information Act 2 of 2000 (PAIA). This Act is aimed at, amongst others, promoting a transparent, accountable and effective governance of all public and private bodies.

The South African Human Rights Commission has, as required by this Act, compiled, in each official language, a guide for a person who wishes to access records and exercise the right of access to information.

## THE RIGHT TO JUST ADMINISTRATIVE ACTION (SECTION 33)

- Everyone has the right to 'just administrative action'. This means everyone in South Africa has the right:
  - to fair and reasonable administrative action that is allowed by law; and
  - to be given reasons for administrative action that affects them in a negative way.

## USEFUL INFORMATION

Parliament has enacted national legislation required as in s33 of the Constitution, namely, the Promotion of Administrative Justice Act, 2000. This Act has provided a useful instrument to citizens to challenge administrative decisions they find negative or otherwise procedurally unfair to them. And courts are discharging their duty of adjudicating those disputes.

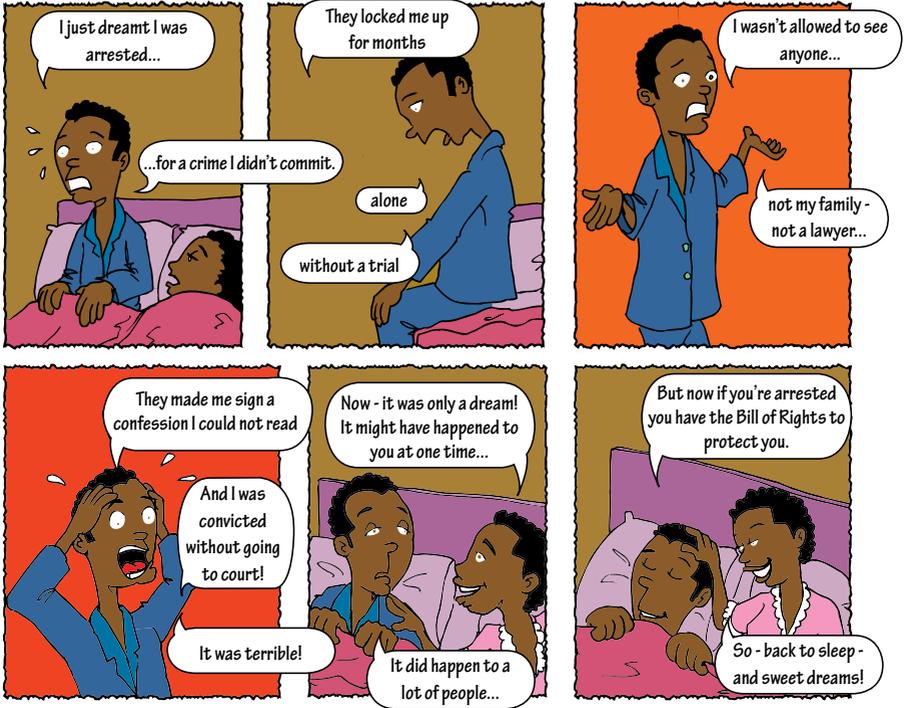
## THE RIGHT OF ACCESS TO COURTS (SECTION 34)

Everyone has the right to have any legal dispute decided by a court or, where appropriate, another independent and impartial tribunal or forum.

## THE RIGHTS OF ARRESTED, DETAINED AND ACCUSED PERSONS (SECTION 35)

- Everyone who is arrested has the right:
  - to remain silent;
  - to be informed of this right and of the results that will follow if they do not remain silent;
  - not to be forced to confess or to admit anything that could be used against them during their trial;
  - to be taken to court within 48 hours of their arrest; and
  - at the first court appearance after being arrested, to be charged or to be informed of the reason for their continued detention or to be released, either on warning or on bail.
  
- Everyone who is detained or imprisoned has the right:
  - to be told why they are being detained;
  - to choose, and to consult with, a lawyer, and to be informed of this right immediately;
  - to a lawyer paid by government if they cannot afford one and, if substantial injustice would otherwise result; to be informed of this right immediately;
  - to be detained in conditions that are in line with human dignity, which includes being allowed to exercise and to be provided with adequate accommodation, food, reading material and medical treatment;
  - to be visited and to communicate with visitors; and
  - to challenge the lawfulness of their detention in court and to be released if the detention is unlawful.

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- Every person accused of having committed a crime must be given a fair trial, which includes the right:
  - to be informed of the charge against them;
  - to be given enough time to prepare for the case;
  - to a public trial in an ordinary court;
  - to have their trial begin and finish without unreasonable delay;
  - to be present during their trial;
  - to a lawyer of their choice and to be informed of this right immediately;
  - to a lawyer paid by the government if they cannot afford one and, if substantial injustice would otherwise result; to be informed of this right immediately;
  - to be treated as an innocent person, to remain silent and not to testify during the trial;
  - to call witnesses and to challenge any witnesses who testify against them;
  - not to be forced to give evidence that may incriminate them;

- to use the language that they understand or to have the use of an interpreter;
  - not to be convicted for something that was not a crime at the time it was committed;
  - not to be tried for a crime in respect of something for which that person has previously been either acquitted or convicted; and
  - of appeal or review by a higher court.
- The courts are required not to allow evidence that was obtained in a manner that violates any right in the Bill of Rights if the admission of such evidence would render the trial unfair or would be detrimental to the administration of justice.

## THE LIMITATION OF RIGHTS (SECTION 36)

The rights in the Bill of Rights may be limited by law of general application if it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. This means that the rights in the Bill of Rights are not absolute.

Section 36 of the Constitution may be regarded as a necessary feature of life in society: people



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inevitably have competing and conflicting rights. One person's dignity, for example, may clash with another's freedom of expression. One citizen's right to be protected from violent suspected criminals will conflict with that suspect's right to freedom of movement. It is an established principle, then, that rights can be limited. The challenge, though, is to allow them to be limited only under strict conditions. If the Bill of Rights simply allowed any kind of restriction, its very purpose would be undermined.

As a result, section 36 of the Constitution, known as the limitation clause, lays down a test that any limitation must meet. The two central concepts in this test are reasonableness and proportionality. Any limitation on a right must be proportional in that the impact or extent of the restriction must match the importance of the aim served by the limitation of the right.

## ENFORCING YOUR RIGHTS

Section 38 gives a person who believes an infringement has occurred on his right to take the matter to court. This section makes it clear that it is not only people acting for themselves who may use the law to protect their own rights. Class action suits by people acting for a group or in the public interest are also allowed.

## CONCLUSION

### ACCESSING AND ENFORCING YOUR RIGHTS

Any person who feels that his or her rights have been threatened or violated may approach the following institutions established by the Constitution to support constitutional democracy:

#### South African Human Rights Commission (SAHRC)

The SAHRC is an independent national institution established by the Constitution to promote respect for, observance of and protection of human rights for everyone without fear or favour. It has the powers:

- to investigate and report on the observance of human rights;
- take steps to secure appropriate redress where human rights have been violated; and
- educate people about their rights.

#### Contact details

Head Office:	Braampark Forum 3, 33 Hoofd Street, Braamfontein
Tel:	(011) 877 3600 (Switchboard)
FreeCall:	0800 701 701
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>
General information:	<a href="mailto:info@sahrc.org.za">info@sahrc.org.za</a>
Complaints:	<a href="mailto:complaints@sahrc.org.za">complaints@sahrc.org.za</a>

#### The Commission for Gender Equality (CGE)

The CGE was also established by the Constitution to promote respect for gender equality and to advise and make recommendations to Parliament or any other legislature on any laws that affect the status of women. The CGE strives to establish a society free from gender discrimination, and all forms of oppression, in which people will have the opportunity to realise their full potential, regardless of race, class, sex, religion sexual orientation, disability or geographical location.

## Contact details

The contact details of the CGE (Gauteng):

Physical Address: 2 Kotze Street, Old Women's Jail, East Wing, Constitution Hill,  
Braamfontein, Johannesburg  
Postal Address: P.O. Box 32175, Braamfontein 2017, South Africa  
Tel: (011) 403 7182  
Fax: (011) 403 7188  
Web Address: [www.cge.org.za](http://www.cge.org.za)

## The Office of the Public Protector

The Office of the Public Protector (OPP) is also one of the independent institutions established by the Constitution which fulfils its mandate by investigating, either at its own initiative or on receipt of complaints from aggrieved persons, allegations of improper conduct by organs of State. The OPP has the power to:

- investigate any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice;
- report on that conduct; and
- take appropriate remedial action.

## Contact details

The contact details of the office of the Public Protector:

Physical Address: 175 Lunnon Street, Hillcrest Office Park, 0083  
Postal Address (Head Office): Office of the Public Protector, Private Bag X677,  
Pretoria, 0001  
Tel: (012) 366 7000  
Fax: (012) 362 3473  
Toll Free: 0800 11 20 40  
Fax2email: 086 575 3292  
Website: [www.pprotect.org](http://www.pprotect.org)

## The Commission for the Protection of the Rights of Cultural, Religious and Linguistic Communities

The Commission for the Protection of the Rights of Cultural, Religious and Linguistic Communities (hereafter the CRL Commission) is also an independent institution established by the Constitution to promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities. Its primary functions are to:

- promote respect for the rights of cultural, religious and linguistic communities;
- promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities, on the basis of equality, non-discrimination and free association; and
- recommend the establishment or recognition, in accordance with national legislation, of a cultural or other council or councils for a community or communities in South Africa.

The CRL Commission has the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning the rights of cultural, religious and linguistic communities.

### Contact details

The contact details of the CRL Commission:

Postal address: Private Bag X 90 000, Houghton, 2041  
Physical Address: 158 Jan Smuts Avenue, 1st Floor, West Wing, Rosebank, JHB  
Telephone: (011) 537 7600  
Fax: (011) 880 3495  
Web address: [www.crlcommission.org.za](http://www.crlcommission.org.za)  
[info@crlcommission.org.za](mailto:info@crlcommission.org.za)  
[complaints@crlcommission.org.za](mailto:complaints@crlcommission.org.za)

# Know Your Human Rights

## Legal Aid South Africa (Legal Aid SA)

Legal Aid South Africa obtains its mandate from section 35 of the Constitution. In terms of this section, every person who is arrested, detained or accused has a right to a fair trial, which includes the right to have a legal practitioner assigned by the State and at State expense.

Legal Aid South Africa's role is to provide legal aid to those who cannot afford their own legal representation. The function of Legal Aid South Africa is to provide legal aid to as many poor people as possible, including vulnerable groups such as women, children and the rural poor.

Legal Aid South Africa provides assistance in both criminal and civil matters.

## Who qualifies for assistance from the Legal Aid SA

In order to determine if a person can or cannot afford his or her own legal representation, Legal Aid South Africa uses the "means test". A "means test" helps determine if a person qualifies for legal aid from Legal Aid South Africa. The main factor in the test is the income of the applicant. If his or her income exceeds the laid down requirements, he or she does not qualify for legal aid. This means test also considers both movable (cash and money-related assets) and immovable property. If the total of these assets is sufficiently large to cover the expected legal costs, legal aid will be refused even if the applicant has little or no income.

An applicant for legal aid must also show that he or she is a natural person and not a juristic person such as a company.

**For a Justice Centre near you, contact Legal Aid South Africa.**

Physical address: 29 De Beer Street, Braamfontein, Johannesburg, 2017,  
South Africa

Postal address: P/B X76, Braamfontein, 2017

**Head Office**

Telephone: (011) 877 2000

Fax number: (011) 877 2222

Advice Line toll free: 0800 110 110

Web address: [www.legal-aid.co.za](http://www.legal-aid.co.za)  
[Communications2@legal-aid.co.za](mailto:Communications2@legal-aid.co.za)

For more copies of this booklet, write to:  
Department of Justice and Constitutional Development  
Private Bag X81  
PRETORIA  
0001

Telephone number: (012) 357 8813  
Fax number: 086 501 8018  
Email: [nseleka@justice.gov.za](mailto:nseleka@justice.gov.za)

OR

Telephone number: 012 357 8866  
Fax number: 086 569 9018  
Email: [tdzhaudzhau@justice.gov.za](mailto:tdzhaudzhau@justice.gov.za)



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