



# Alliance for Children's Entitlement to Social Security

## THE RIGHT TO BASIC EDUCATION November 2002

Section 29 (1)(a) of the South African Bill of Rights states that:-

***“Everyone has the right to a basic education, including adult basic education”***

### **Why do we have the right to basic education in our Bill of Rights?**

Under apartheid, the government forced an unequal and inferior education on black communities by not providing proper schooling facilities to black communities, and by teaching a curriculum of a lower standard than that provided to whites. They did this to ensure that black communities could not compete in the job market, but would instead serve the South African economy through the provision of manual labour and other poorly paid jobs.

Today, this history of apartheid education continues to haunt us. Many schools in black communities remain poor and are without enough teachers, classrooms and books. Many of these schools are also without water, electricity and sanitation. The extent to which our schools continue to be riddled with historic inequalities can be seen in the lack of basic facilities. The Minister of Education, Prof Kader Asmal, in Parliament in May 2001, gave the following information:

- 45% (12 257) of the country's 27 148 schools remain without electricity;
- 27% (7 409) are without clean water;
- 66% (17 907) of schools were without adequate sanitation;
- 11,7% (3188) did not have any sanitation at all; and
- 34 % did not have telephones.

The Minister also noted that none of the nine provinces had completed the delivery of learning materials by the first day of the 2001 school year and that by early May 2001 most provinces had still not completed delivery of learning materials. He also stated that in 2000 there were 67 000 un- or under-qualified teachers in South African schools.

Under such conditions schools cannot provide education of a standard adequate to meet vocational needs of learners to enable them to participate as equals in society, and to be able to choose their work of choice and create a livelihood with dignity. The drafters of the Bill of Rights recognised this historical legacy, through the

inclusion of the right to basic education in the Bill of Rights. As a result, the government now has a constitutional duty to provide basic education of a quality standard to all.

## What does the right to basic education mean?

Our Courts have yet to interpret what this right means. However for learners to have a quality education, the right to education must mean:

- That our schools are functioning institutions. For this to happen, schools must have teachers to teach learners, as well as classrooms so that learners can learn in any, and all kinds of weather. Schools must also have electricity, sanitation and running water.
- Education must be “accessible” to all. Accessibility means that;-
  - Schools must be close enough for learners to be able to attend schools.  
***“We walk, we don’t use a car. We walk so long. Sometimes we are late because we are far away from school. We try to change the road thinking we will arrive earlier, but we don’t “(Boy, 11 NP).***
  - Education must be affordable so that any learner, no matter how poor, can attend school. Where a learner cannot afford to pay school fees and therefore cannot attend school, education is not accessible.  
***“I am not in school. There isn’t anyone to take me to school... My father is not working, and when my mother sends money he drinks it, buys dagga and alcohol.” (Boy, 16, WC).*** Likewise, education is not accessible to those children who cannot afford uniforms, books and stationery.  
***“My problem is I am not having pens. The teacher sends us home to ask for school fees and my aunt doesn’t have money to pay.” (Girl, 10, NP)***
  - No school must discriminate against a particular group, or individual, and must be open to all learners.  
***“The teachers shout at you. They say that we cannot sit on the seats at school because we don’t pay school fees. People who sit on the chairs are those who pay school fees. The teachers like to swear at us... they keep on teasing us about the school fees. It is not nice because we also like to pay, we just don’t have any money.” (Girl, 11, NP)***
- Education must be of an acceptable standard for all. This means that the curricula taught and the teaching methods used must be of a high quality so as to ensure that all learners are taught skills that give them access to a livelihood.

## What are the problems faced by learners today?

There are many problems faced by learners today that prevent learners from enjoying the right to basic education. The most common problems are:

- Schools are very poor and without basic and essential facilities. In some instances learners have to learn under trees.
- Learners are sexually harassed and / or abused by teachers or other learners.
- Learners are being taught in languages they find difficult to understand.
- Learners have to walk long distances to get to school because there is no school in the area or transport is too expensive.

- Where parents are unable to pay the schools fees, many schools are unlawfully turning learners away from school and discriminating against them in other ways.

### **What can you do if you suspect a learner's right has been abused?**

You can approach a body such as the South African Human Rights Commission (SAHRC), or the Legal Resources Centre (LRC) to assist or advise. You can also approach the Education Rights Project that has been established specifically to deal with issues relating to the right to basic education. Their contact details are:

The Education Rights Project,  
Centre for Applied Legal Studies  
Private Bag 3  
Wits University  
2050

(011) 717 8600 (Tel)  
(011) 403 2341 (Fax)

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**Task Team: Children's Institute (UCT), Children's Rights Centre**  
**Reference Team: Soul City, Community Law Centre (UWC), Gender Advocacy Programme, Black Sash, South African National Council for Child and Family Welfare, Johannesburg Child Welfare**