

My Rights My Responsibilities

**Rights, Responsibilities
and the SAHRC**

English

CONTENTS

THE BILL OF RIGHTS

1. What are human rights?	4
2. Rights and responsibilities	4
3. What is the Bill of Rights?	4
4. What is the Constitution?	4
5. How the Bill of Rights works	5
6. The Bill of Rights	6
7. Can the rights in the Bill of Rights be limited?	21

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1. What is the SAHRC and what does it do?	23
2. What type of cases does the SAHRC deal with?	26
3. How to report a human rights violation to the SAHRC....	31
4. What happens to your complaint once it is received?	32
5. How else can human rights be protected?	33

DICTIONARY

Note: Words with this sign * next to them 34
are explained in the Dictionary

negotiation - This is another way of sorting out an argument without taking it to court. The people involved in the argument talk to each other and try to reach an agreement which they are both happy with.

petition - This is a document which sets out what you think about something. You then get many people to sign it to say that they agree with you. You then send it to the person who you are trying to convince to do something or change something.

picket - This is another way of trying to get someone to do something or change something. It involves standing outside their place of work. People who do this usually carry signs which say what they are unhappy about.

propaganda - This is information which you spread to try and get people to think the same way as you. 'Propaganda for war' is information which you spread to try and start a war or make sure a war continues.

servitude - This is when you are forced to work for someone and you have no freedom.

violation / violated - This means the same as abuse.

DICTIONARY

- abused -** Treated badly. A human rights abuse is when one of your rights are ignored.
- access -** Some of the rights in the Bill of Rights say you have 'access to' something. This does not mean that you have the right to the thing itself. Instead, it means that the government must do things to make it possible for you to get these things.
- democracy / democratic -** Democracy is a way of running a country. It is based on the idea that everyone in a country should have a say in how it is run. But, because it is not possible to have everyone attending meetings and making decisions, we choose people to do this for us during elections.
- detained -** To be kept in custody by the police or security forces.
- discriminate -** Treat unequally or unfairly.
- mediation -** This is a way of sorting out a problem with out having to take it to court. An independent person is chosen as the 'mediator'. The two sides to the argument then tell their stories. The mediator then comes to a decision which both sides are happy with.

The Bill of Rights



Equality:
You cannot be discriminated against. But affirmative action and fair discrimination are allowed.

Human dignity:
Your dignity must be respected and protected.

Life:
You have the right to life.

Freedom and security of the person:
You cannot be detained without trial, tortured or punished cruelly. Domestic violence is not allowed.

Slavery, servitude and forced labour:
Slavery and forced labour are not allowed.

Privacy:
You cannot be searched or have your home or possessions searched.

Freedom of religion, belief and opinion:
You can believe and think whatever you want and can follow the religion of your choice.

Freedom of expression:
All people (including the press) can say whatever they want.

Assembly, demonstration, picket and petition:
You can hold a demonstration, picket and present a petition. But you must do this peacefully.

Freedom of association:
You can associate with whoever you want to.

Property:
Your property can only be taken away from you if the proper rules are followed.

Housing:
The government must make sure people get access to proper housing.

Health care, food, water and social security:
The government must make sure you have access to food and water; health care and social security.

Children:
Children under the age of 18 have special rights, like the right not to be abused.

Education:
You have the right to basic education, including adult basic education, in your own language (if this is possible).

Language and culture:
You can use the language you want to and follow the culture that you choose.

Cultural, religious and linguistic communities:
Communities can enjoy their own culture; practice their own religion; and use their own language.

Access to information:
You have the right to any information which the government has.

Just administrative action:
Actions by the government must be fair.

Access to courts:
You can have a legal problem decided by a court, or a similar structure.

Know your rights Know where you stand

Political rights:
You can support the political party of your choice. If you are a citizen, and at least 18 years old, you can vote.

Citizenship:
Your citizenship cannot be taken away from you.

Freedom of movement and residence:
You can go and live anywhere in South Africa.

Freedom of trade, occupation and profession:
You can do whatever work you choose.

Labour relations:
You may join trade unions and go on strike.

Environment:
You have the right to a healthy environment.

Arrested, detained and accused persons:
This right protects people who have been arrested, imprisoned or accused.

NOTE:
All these rights can be limited if it would be fair to do so. For more information on your rights, see Chapter two of the new Constitution.

We are the South African Human Rights Commission and we are here to inform, advise and help protect your rights.

Head Office/Gauteng: Tel: 011 484 8300 Fax: 011 843 8472 Private Bag 2700 HOUGHTON 2041. Eastern Cape: Tel: 041 982 4094/2811 Fax: 041 982 2204 PO Box 1884 PORT ELIZABETH 6001. Free State: Tel: 051 447 1130 Fax: 051 447 1125 PO Box 4248 BLOEMFONTEIN 9300. KwaZulu Natal: Tel: 031 304 7323/4/5 Fax: 031 304 7323 PO Box 1486 DURBAN 4000. Limpopo Province: Tel: 015 281 3000/3064 Fax: 015 281 3068 PO Box 4811 POLOKWANE 0700. Western Cape: Tel: 021 426 2277 Fax: 021 426 2078 PO Box 3963 CAPE TOWN 8001

WEBSITE: www.sahrc.org.za

Building a culture of Human Rights



THE BILL OF RIGHTS

1. What are human rights?

Human rights are the basic rights that everyone has, simply because they are human. They do not have to be earned and they are not privileges which someone gives to you. You have them from the moment you are born. Because they are rights, they cannot be taken away (although they can sometimes be limited – see page 21).

2. Rights and responsibilities

Because everyone has human rights, we must make sure that we respect other people's rights. If we want our rights to be respected, we must not do anything that violates* another person's rights. Also, these rights do not replace the laws we already have, and so we must respect these laws as well.

3. What is the Bill of Rights?

The Bill of Rights is a list of human rights which everyone has. It can be found in Chapter 2 of our new Constitution.

(A summary is included in this booklet, but you should try to get hold of the full version in the Constitution.)

4. What is the Constitution?

The Constitution is the highest or supreme law of South Africa. It sets out how the government is made up and how the country must be run. Because it is the highest law, no other laws can contradict the Constitution. If they do, they will be scrapped or

5. How else can human rights be protected?

International instruments

In addition to the Bill of Rights, there are also documents known as 'International Instruments', which set out rights for special groups. Most of these have been written by the United Nations.

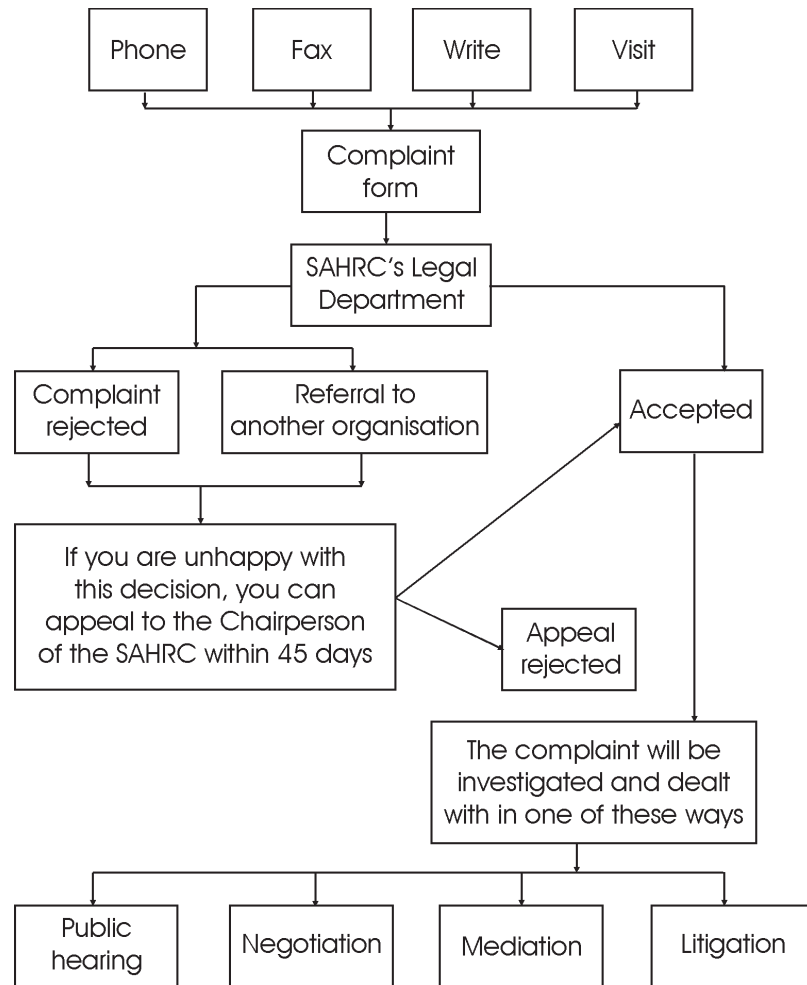
Examples

Universal Declaration of Human Rights, the Convention on the Elimination of all forms of Discrimination Against Women and the Convention on the Rights of the Child.

There are also documents like the African Charter on Human and Peoples' Rights, which is like a Bill of Rights for Africa.

When a country signs any of these documents, it agrees to protect the rights set out in them as well. So far, South Africa has signed all those mentioned above as well as declarations protecting refugees and outlawing racial discrimination.

4. What happens to your complaint once it is received?



Please do not worry if your case seems to take a long time to sort out, since the SAHRC receives many complaints. However, you can call or write to our offices at any time if you want to know what is going on with your case. If something happens to you and you are not sure whether your rights have been violated, you can call or write to us for advice.

changed. The Constitution is much harder to change than other laws.

The Bill of Rights is included in the Constitution to make it part of the highest law, and to make it difficult to change or take away the rights of the people. Because it is part of the law, it can be used in court to protect your rights.

5. How the Bill of Rights works

The Bill of Rights has to be followed by government, all the people and organisations in South Africa. It is mainly there to protect people from all types of abuse and to ensure that they enjoy their rights.

You can use the Bill of Rights to stop government, individuals and private companies from abusing your rights, and to realise your rights as well.

Example

The right to equality in the Bill of Rights says that no-one can unfairly discriminate against anyone else. This means people are not allowed to treat other people differently because of their race, gender, age and so on. If you apply for a job and you are told that you cannot have it because of your race, this will not be allowed. This is because the right to equality protects you from discrimination by the government and by anyone else.*

When people cannot agree whether someone's rights have been violated,* they can take the matter to the Courts to decide.

6. The Bill of Rights

This is a brief description of all the human rights protected in the Bill of Rights. The full version of these rights is in Chapter 2 of our Constitution.

Equality (Section 9)

All people are equal and must be treated equally. No one is allowed to discriminate* against you because of your race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth.

But discrimination is allowed, if it is fair.

Example

If a company wanted to employ bus drivers, it would be fair for them to discriminate against someone who is blind, because a blind person would be unable to drive a bus.

Affirmative action is also allowed. This is a policy which tries to make up for the wrongs of the past, where people were treated unfairly because of their race or gender, as well as current wrongs. Even though this sometimes means that people who received an advantage because of apartheid will now be placed at a disadvantage, it is allowed because it is necessary to set right the unequal situation which apartheid created.

Questions

- *Can a woman be asked to leave her job because she is pregnant?*
- *Can a shop owner refuse to serve gay people?*
- *Should an unmarried mother be told to leave a university, school or technikon?*

3. How to report a human rights violation to the SAHRC

If you think your case is one which the SAHRC will deal with, you can:

- Telephone an SAHRC office. A member of staff will write down your complaint in a statement; arrange an appointment for you to come to the SAHRC offices for your statement to be taken; or send you a Complaint Form for you to fill in and send to us;
- Write your complaint down in a statement and fax or post it to an SAHRC office; or
- Get a Complaint Form from one of our offices. You should then fill in this form and send it to us.

How to fill in the SAHRC Complaint Form

The SAHRC complaint form has information to help you fill it in. You will need to tell us:

- your personal details (address, phone number and so on);
- which right you think has been violated;
- details of what happened to you (including the date it happened and where);
- the names and contact addresses of any witnesses; and
- the names of the person or people who violated your rights (if you know this).

Once you have completed this form, you should mail it or bring it to one of our offices. Our addresses are in front of this booklet.



The Aids Consortium

The Aids Consortium is made up of a number of civil society bodies that focus on HIV/Aids related issues. They will give you free legal advice if you are living with HIV/Aids and help you if you are

discriminated* against because of your HIV status.

Tel: 011 403 0265

www.aidsconsortium.org.za



Education and Training Unit

This unit provides free advice on laws and procedures that affect poor communities in South Africa and provides free materials to NGOs and CBOs.

Tel: 011 648 9430

www.etu.org.za

Human dignity (Section 10)

You have dignity because you are a human being and your dignity must be respected and protected.



Questions

- *Can a woman be searched by a male police officer?*
- *Should people be allowed to use racist language?*



Life (Section 11)

You have the right to life. No-one should take your life away, not even the state.



Questions

- *Can a state hospital or clinic refuse to treat someone who is dying, even if they have no money?*
- *Should there be a death penalty if we all have the right to life?*

Freedom and security of the person (Section 12)

- You can only be imprisoned if there is a good reason.
- You cannot be detained without trial and torture is not allowed.
- You have the right to be free from all forms of violence, even in your own home.
This is to stop people abusing their wives, husbands, children, girlfriends or boyfriends.
- You cannot be treated or punished in a cruel, inhuman or degrading way. Corporal punishment (like caning or whipping) is not allowed, in schools or homes.
- You have the right to make decisions about whether you want to have children.

- You have control over your body. You cannot be forced to undergo medical or scientific experiments against your will.



Questions

- Should husbands be allowed to beat their wives?*
- Should abortion be allowed? If so, when? If not, why not?*
- Should the police be allowed to torture people to find out who committed a crime?*
- Are teachers allowed to hit their pupils?*

Slavery, servitude* and forced labour (Section 13)

These are not allowed.



Questions

- Should farmers be allowed to force people living on their farms to work for them?*
- If you work 7 days a week for someone and they pay you R20 a month, should this be allowed?*



Privacy (Section 14)

You cannot be searched or have your home or possessions searched. The government cannot take your things, open your mail or listen to your telephone calls.



Questions

- Can the police search you if they think you have committed a crime? (Remember, rights can sometimes be limited - see the example on page 21.)*
- Can someone who works for the post office open your letters?*

Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs) and Paralegals

There are many NGOs, CBOs and paralegals in South Africa, including in the rural areas. Perhaps you already know of one near you. If you need help with any legal matter, you should contact an NGO, CBO or paralegal to see if they can help you. They might even send your case to us. Examples of these are:



Black Sash

Black Sash helps all people to exercise their human rights. This organisation strives for social justice for the good of all South Africans.

Tel: 021 461 7818
www.blacksash.org.za

Lawyers for Human Rights

Lawyers for Human Rights ensures the enforcement of legal and human rights by providing legal services.

Tel: 012 320 2943
www.lhr.org.za



Legal Resources Centre (LRC)

The Legal Resources Centre provides free legal services to disadvantaged communities.

Tel: 011 403 1058
www.lrc.org.za

Legal Aid Board

This Board provides lawyers to people who cannot afford them and who qualify for legal aid. They do this in many different types of cases, including where you are charged with committing a crime. This Board has offices at every Magistrate's Court. Or you can call their head office for assistance:
Tel: 012 401 9200

Legal Aid Clinics

Most universities have Legal Aid Clinics to help people who cannot afford a lawyer. If you need someone to help you with a legal problem, you can telephone, write to, or visit the university closest to you. Ask at the reception desk whether they have such a clinic.



The Independent Electoral Commission (IEC)

This Commission makes sure that all elections are free and fair.

SOUTH AFRICA

Tel: 012 428 5700

<http://www.elections.org.za>



Independent Communications Authority of South Africa (ICASA)

ICASA makes sure that radio and television broadcasts are fair and that they represent the views of South African society. They are also

responsible for making laws and policies on broadcasting.

Tel: 011 321 8200

www.icasa.org.za

Freedom of religion, belief and opinion (Section 15)

- You can believe whatever you want and you can follow the religion of your choice.
- State institutions (like schools) can follow religious practices (such as prayers in the morning), but people cannot be forced to attend them.
- You can get married traditionally or under the laws of your religion, as long as these laws do not go against the Constitution.



Questions

- *If you are a Muslim at a Christian school, can you be forced to say the Lord's Prayer?*
- *Can you have more than one husband or wife?*

Freedom of expression (Section 16)

This is sometimes called 'freedom of speech'. Everyone, including the press, may say, write or print photographs of whatever they want. But no-one is allowed to spread propaganda* for war, or encourage people to use violence.



Language which tries to get people to cause harm to other people because of their race, ethnicity, gender or religion is not allowed.



Questions

- *Can you wear a T-shirt which says 'Kill the farmers'?*
- *Should pornography be allowed?*

Assembly, demonstration, picket* and petition* (Section 17)



You can:

- gather together with other people;
- hold a demonstration;
- picket;* and
- present a petition.*

But you must do this peacefully and you cannot carry a weapon.



Question

- *Can you carry a spear or a gun during a demonstration?*

Freedom of association (Section 18)

You can associate with whomever you want to. This means you can be friends or business partners with anyone you want to, and you can meet or form an organisation with anyone you want to.



Questions

- *Can you form a club for women only?*
- *Can you be discriminated* against because you belong to a particular club?*



Commission for Gender Equality (CGE)

This Commission investigates and challenges laws, practices and customs that discriminate against people because of their gender. If you are discriminated against because of your sex or gender, you should contact this Commission.

Tel: 011 403 7182

www.cge.org.za



Independent Complaints Directorate (ICD)

This ICD investigates all cases where the police have acted wrongly or have violated your rights.

Tel: 012 392 0400

www.icd.gov.za



Commission for Conciliation, Mediation and Arbitration (CCMA)

The CCMA helps anyone who is a victim of an unfair labour practice or whose labour rights are violated. However, you must first try to sort the matter out through the normal channels and procedures at your work.

Tel: 011 377 6625

www.ccma.org.za

Commission on Restitution of Land Rights

If you or your community lost land because of the apartheid laws, which made it impossible for black people to own land, or through forced removals, you can apply to this Commission for your land to be returned. If this is not possible, this Commission may find other ways of making good the wrong caused you. For example, they might offer you land somewhere else. Tel: 012 312 8911

2. What type of cases does the SAHRC deal with?

The SAHRC deals, free of charge, with cases known as human rights violations. A human rights violation is when any of your rights in the Bill of Rights are abused* or violated.* But we do not handle all violations. There are two reasons for this.

Firstly, we concentrate on the more serious types of violations. Examples of what we focus on are:

- discrimination on any of the grounds set out in the Right to Equality, except where you are discriminated against because of your sex or gender. In this case, you should refer your matter to the Commission for Gender Equality, which is discussed below;
- matters relating to socio-economic rights; and
- matters where your right to human dignity is violated.

Secondly, there are already a number of organisations and structures in place to deal with specific types of human rights violations, free of charge. These include:



The Public Protector

The Public Protector investigates complaints about government officials, such as pension payout clerks. If you have a complaint about a government official, you should contact the Public Protector rather than to the SAHRC.

Tel: 012 322 2916

<http://www.polity.org.za/html/govt/pubprot/index.htm>

Political rights (Section 19)

If you are a citizen, you can:

- join a political party;
- encourage other people to join this party; and
- start your own political party.



Elections for national, provincial and local government must be held regularly and they must be free and fair. If you are a citizen, and at least 18 years old, you can:

- vote in secret in any of these elections; and
- stand for election yourself.



Question

- *Can political parties be banned?*

Citizenship (Section 20)

Your citizenship cannot be taken away from you.

Example

Under apartheid, some people were told that they were citizens of so-called 'Independent States' (Transkei, Ciskei, Venda and Bophutatswana) and their South African citizenship was taken away from them. This happened to people even if they were born in South Africa and had never been to these 'States'. This right makes sure that this cannot happen again.

Freedom of movement and residence (Section 21)

- You can go or live wherever you want in South Africa.
- You can leave South Africa if you choose and come back at any time.
- The government cannot take away your passport.

Example

Under apartheid, there was a law which said different race groups must live in different areas. This was the Group Areas Act. Also, many political leaders had their passports taken away to stop them going overseas. This right makes sure these things can never happen again.

Freedom of trade, occupation and profession (Section 22)

You can choose to do whatever work you want, as long as you have the qualifications, skills or experience needed for the job.



Question

- *Can certain jobs be reserved for white or black people only?*

Labour relations (Section 23)

- You have the right to be treated fairly at work.
- Workers can form and join trade unions and can strike.
- Employers can form and join employers' organisations.
- Trade unions and employers' organisations can decide how they will be run. They can get together with other unions or organisations to bargain for what they want. They can also organise themselves by trying to get new members and they can join federations made up of other trade unions or employers' organisations.

Access to Information

The Promotion of Access to Information Act (PAIA) helps realise the right to access to information. It regulates how people go about getting information from government and private bodies. The SAHRC has been given a special role with regard to this Act. The Commission:

- monitors the implementation of the Act;
- gives advice to private and public companies to fulfil their duties under the Act;
- helps the public to make requests to access information; and
- if someone had been denied access to information, they can complain to the SAHRC, which can intervene.

Right to Equality

The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) was passed to ensure the achievement of the constitutional right to equality. It aims to address past and present forms of unfair discrimination and to promote equality.

The Act created a new system of courts known as Equality Courts specifically to deal with cases where people feel they have been discriminated* against or their right to equality has been violated*. The normal rules of courts have been relaxed in these courts in order to make them easily accessible to ordinary people. In terms of this Act, the SAHRC has various duties to carry out:

- the Commission monitors the Equality Courts;
- it reports to Parliament on what progress has been made to achieve equality; and
- it helps people, particularly from disadvantaged communities, to lodge complaints in the Equality Courts.

Protecting human rights

The SAHRC protects your rights by:

- intervening in cases of human rights violations.* When someone feels their rights have been ignored or abused,* they can complain to the SAHRC, which can take action, such as negotiation,* mediation* or taking the case to court (see page 32); or using the press to make people aware of these violations; and
- investigating human rights violations in vulnerable groups, like children or people with disabilities, and making suggestions on how these should be handled.

Monitoring human rights

To make sure that human rights are protected and promoted the SAHRC:

- monitors (checks) what the government, and people outside of government do, to make sure they support the Bill of Rights; and
- monitors laws to make sure they are in line with the Bill of Rights.

Socio-Economic Rights

The Bill of Rights also deals with your rights to education and a healthy environment, and your rights to access to housing, health care, food, water and social security. These rights are often called 'socio-economic rights'.

The SAHRC has a very important job to do with regard to these rights. Each year, the SAHRC has to ask all government departments to explain what they have done to make it possible for people to enjoy these rights. So, the SAHRC also protects and promotes your rights by making sure the government does things to improve the quality of your life.



Questions

- *Can employers lock striking workers out?*
- *Can your employer stop you joining a trade union?*

Environment (Section 24)

You have the right to a healthy environment. The government must do things (such as passing laws) to protect the environment.



Example

If a factory is polluting the air around your community, you can use this right to get them to stop.

Property (Section 25)

Your property can only be taken away from you by the government if:

- the law allowing this applies to people in general and not only one group;
- your property is going to be used for a public purpose or in the public interest (for example, if the government is going to build a dam and your property will be flooded); and
- you are paid for your property. The amount of money the government will pay can either be agreed between you and the government, or it can be decided by a court if you cannot agree. This section says what a court must look at when deciding how much money the government must pay.

Land reform is allowed. If you or your community lost land after 1913 (when laws were passed making it impossible for black people to own land) you can either apply to get the land back; get alternative land; or be paid for the land you lost.

The government must pass laws to make sure everyone is allowed to own land. People who are labour tenants on someone else's land must also be protected.

The government must try to make sure that everybody gets access to land.

Housing (Section 26)

You have a right to have access* to housing. You cannot be evicted from your home and your home cannot be broken down unless a court has heard your case.



'Access to housing' does not mean that you have a right to a house.

It only means that no-one can stop you getting a house. Or, if you already have a house, no-one can take it away from you. But this right does say that the Government, with the money it has, must try to make it possible for people to get proper housing.

Health care, food, water and social security (Section 27)

The government must do things, such as passing new laws, to make sure that you have access* to:



- health care services;
- food and water;
- social security, including assistance to people who cannot support themselves and their dependants.

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

1. What is the South African Human Rights Commission and what does it do?

The South African Human Rights Commission is a part of our democratic* South Africa. It was set up by the Constitution and the Human Rights Commission Act to help ensure that democracy* is protected. It was realised that the protection and promotion of human rights cannot be left to individuals or government alone. So the SAHRC was established as an independent organisation, separate from government, to make sure human rights are respected in South Africa.

The SAHRC's job is to promote, protect and monitor human rights in South Africa.

Promoting human rights

The SAHRC promotes human rights by:

- educating, training people and raising awareness about human rights, the Bill of Rights and the SAHRC;
- conducting research and providing information on human rights;
- running a Library and Documentation Centre;
- making policies on the rights in the Bill of Rights;
- providing advice on human rights to government and other organisations; and
- working with other human rights bodies (like the United Nations) to promote human rights.



Once again, you do not have the right to these things. Instead, you have the right to have access* to them. So no-one can stop you getting these things or take them away from you if you already have them. And the government must use the money it has to try and make sure you get these things.

This right also says that you cannot be refused medical care in an emergency, even if you cannot pay for it at that time.

Children (Section 28)

In addition to all the other rights in the Bill of Rights, children under the age of 18 have special rights. These include the right:



- to family care or other care if the child is removed from its family;
- to food, shelter and health care;
- not to be abused or neglected;
- not to be forced to work or given work which is not suitable for a child;
- not to be detained* unless this is absolutely necessary. In such a case, the child must be kept separate from adults;
- to be given a lawyer if necessary;
- not to be used to fight during armed conflict or war, but to be protected.



Questions

- *Can farmers force children of their workers to work on their farms?*
- *Do children have the right to human dignity?*
- *Should parents be allowed to beat their children?*

Education (Section 29)

You have the right to basic education, including adult basic education, in the language of your choice (if this is possible).



Although the Bill of Rights does not say what basic education is, the government's policy at the moment is that this is education up to Grade 9 and adult basic education is education up to Level 4. Although basic education is given free at the moment, the Bill of Rights does not say that this must be free.

The government must try to make sure that people are able to get further education (such as at a university or technikon). But this does not mean that this must be free.

Private schools, universities and technikons are allowed, but these cannot discriminate against students because of their race.

Questions

- *Can a school expel a pupil who cannot afford to pay his/her school fees?*
- *Can a private school say only children who speak a certain language will be allowed?*

7. Can the rights in the Bill of Rights be limited?

(See Sections 36 and 37 of the Bill of Rights)

It is important to remember that the rights in the Bill of Rights can sometimes be limited. This can only be done though:

- if the law which limits a right applies to people in general and not just one group;
- if there is a good reason to limit the right; and
- if limiting the right makes sense in an open, democratic* country.

Example

You have the right not to be searched or have your property taken by people who work for the government. But there is a law (the Criminal Procedure Act) which allows the police to search people and take their property if this is necessary for them to stop criminals. This is allowed because the law applies to everybody, there is a good reason for this law and all open and democratic countries allow the police to do this.*

Some rights can also be suspended during a state of emergency. A state of emergency is when the security of a country is threatened by war, invasion, or revolution, or when there has been a natural disaster (such as a flood). But there are some rights, like the right to life and the right to human dignity, which cannot be suspended at all, even during a state of emergency.



- to be kept in proper conditions and to be given free food, something to read and medical treatment; and
- to speak to and be visited by your husband, wife or partner; your family; a religious counsellor; and your own doctor.



Questions

- *Can the police torture people? What if the police catch someone who tells them that he has planted a bomb in a school which will go off in the next hour. Can the police torture this person to find out where the bomb has been planted?*
- *Can you be beaten until you sign a confession?*
- *Should you be given a lawyer paid for by the government in all cases, or only in serious cases?*

If the government gets evidence against you by going against one of your rights, this evidence will not be allowed in court if it would be unfair.

Example

The police think you have dagga at home. They torture you until you tell them where the dagga is. They will not be able to use this in court, because the Bill of Rights says you cannot be tortured.

Language and culture (Section 30)

You can use the language and follow the culture that you choose, but you must respect other people's human rights when you do so.

Example

If your culture says you must slaughter an animal on a certain day, and you live in a built up area, you will probably not be able to do this at your home. This is because it will go against other people's rights to a healthy environment.

Cultural, religious and linguistic communities (Section 31)

Communities can:

- enjoy their own culture;
- practice their own religion;
- use their own language; and
- set up their own organisations.

But they must respect other human rights when they do so.

Access to information (Section 32)

You have the right to:

- any information which the government has; and
- information that someone else (like a private company) has if you need it to protect one of your rights.

Example

If you are accused of committing a crime you will usually be allowed to see the statements of witnesses which the prosecutor has. This is because the prosecutor is employed by government and has information about you.

Just administrative action (Section 33)

Administrative action (that is, action by the government or government departments) must be allowed by the law, it must be reasonable, and the procedures used must be fair. You can ask for written reasons for any decision that is made by government which goes against one of your rights.

Access to courts (Section 34)

You can have a legal problem decided by a court, or a similar structure.



Arrested, detained and accused persons (Section 35)

This section sets out the rights which you have if you are arrested, imprisoned or accused of committing a crime. They include the right:



- to keep silent and not be forced to make a confession;
- to be taken to court within 2 days of your arrest;
- to be released, either on warning or on bail, unless there is a good reason to keep you in jail;
- to be given a lawyer paid for by the government if you cannot afford a lawyer and where an injustice might happen if you are not given a lawyer;

