



my rights,
my responsibilities



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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. As it is the highest law, no other laws can contradict the Constitution. Laws that contradict the Constitution have to be changed and sometimes new laws are made so that the ideals in the Constitution may be realised.

The Bill of Rights in the Constitution records all of the rights to which people in South Africa are entitled. These rights cannot be easily changed by laws as they are specially protected in the Constitution. The rights in the Bill of Rights are often used by the courts together with laws about the rights to decide cases about human rights.



What is the Bill of Rights?

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



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 given by a person or government. You have them from the moment you are born and, they cannot be taken away.

The Bill of Rights provides for the following rights:

1 Section 9 provides for the right to equality

This section states that everyone is equal before the law and has the right to equal protection and benefit of the law. No one may be unfairly discriminated against.

The Bill of Rights lists certain grounds of discrimination and states that discrimination against any of these rights is considered unfair unless it is proved to be fair.

The grounds listed include: 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 equality is further protected by the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA).

The following institutions can assist anyone who feels they have been unfairly discriminated against:

Equality Courts

- Complaints of unfair discrimination may be lodged with any Equality Court. Did you know? Every Magistrates Court also sits as an Equality Court!
- More information about the Equality Court is available on the Department of Justice website:
www.justice.gov.za

The Commission for Gender Equality (CGE)

The CGE is an independent institution created in terms of Chapter 9 of the Constitution. In terms of the Constitution this institution is mandated to promote, protect, monitor and evaluate gender equality. More information on the CGE is available at their website www.cge.org.za

Report Gender Discrimination and Abuse on (0800) 007 709

The South African Human Rights Commission

The SAHRC works on equality by:

- promoting the right to equality through education, workshops, materials to increase awareness
- protecting the right to equality by investigating complaints and taking steps to provide redress where violations have occurred
- monitoring the right to equality in respect of persons with disabilities, foreign nationals, older persons and race, and reports about the state of equality in South Africa, including to international bodies dedicated to the right to equality like the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

Reports, findings and materials by the Commission are accessible on request to the Commission and on its website www.sahrc.org.za

2 Section 10 provides the right to human dignity

This section states that everyone has inherent dignity and the right to have their dignity respected and protected.

This means that everyone is entitled to equal respect.

The right to dignity is deeply to connected to other basic rights, and when other rights like the right to access water and sanitation are violated, the right to dignity is also often violated.

3 Section 11 provides for the right to life

This section provides that everyone has the right to life. No one is allowed to end the life of another human being.

The right to life is regarded as requiring the highest possible protection by the State and by all people in the country.

The court can no longer sentence people to death because the Constitutional Court declared the death penalty unconstitutional.

Threats to the right to life are regarded as criminal in South Africa, and such threats must immediately be reported to the South African Police Services (SAPS) .

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Section 12 provides for the right to freedom and security of the person

This right provides that everyone has the right to freedom and security of the person which includes:

- 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.

Rights come with responsibilities, and no one is allowed to infringe on the rights of others. It is necessary that we are particularly careful to exercise vigilance in respect of rights of people who may more easily be abused such as children, persons with disabilities and older persons, by contributing to the protection of the rights of such persons.

Anyone who is being abused or who witnesses an abuse of someone else should contact the South African Police Services. The Domestic Violence Unit of every Magistrate's Court can also assist with protection orders.

5 Section 13 provides for the right against slavery, servitude and forced labour

This right provides that no one may be subjected to slavery, servitude or forced labour. While the incidence of such violations are low in South Africa, people who are vulnerable often experience difficulties in reaching help when they subjected to forced labour. The Department of Labour, certain civic organisations, and the SAHRC should be alerted to violations indicating slavery, servitude or forced labour.

6 Section 14 provides for the right to privacy

Everyone has a right to privacy which includes the right not to have:

- Their body or home searched;
- Their property searched;
- Their possession taken from them or;
- Their private communication infringed upon.

DID YOU KNOW?

Unless the police have a reasonable suspicion that a crime is being committed or is about to be committed the police are not allowed to search you or your house without a search warrant!

Lawyers can assist when this right has been violated. For more information you can contact your legal representative.

Free legal advice and legal representation is available through Legal Aid South Africa www.legal-aid.org.za or through various paralegal advice offices at www.nadcao.org.za

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Section 15 provides for the right to freedom of religion, belief and opinion

South Africa is a *secular state*, which must respect the diverse religious, customary and traditional practices within it. People should not be prejudiced because of differences within their thoughts, beliefs and opinions. Instead differences and diversity should be encouraged so that they flourish and enrich society.

More information on these rights is available through the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities www.crlcommission.org.za

8 Section 16 provides the right to freedom of expression

Everyone has the right to freedom of expression. This right 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.

This right means everyone is free to express themselves through information and ideas, with special recognition and protection for the rights of expression through scientific research, the media and academic expression.

This right must be allowed to be exercised to its maximum, and is limited where the expression actually encourages violence or incites harm to others. Hate speech is commonly complained about in South Africa, usually on the grounds of race, ethnicity, gender or religion, social origin, causing both the Commission and the equality courts to pronounce on such complaints.

Bodies such as the Broadcasting Complaints Commission of South Africa, the Press Ombudsman, the CCMA also deal with complaints regarding the right to freedom of expression.

9 Section 17 provides for the right to assembly, demonstration, picket and petition

This section provides that everyone has the right, peacefully and unarmed:

- To assemble, to demonstrate,
- To picket and
- To present a petition.

This right gives people an opportunity to express dissatisfaction or demands in a peaceful manner. You do not need permission to protest, but you must give notification to authorities at least 7 days before the day of the protest.

More detailed information about the right to protest is available in an SAHRC pamphlet: *Human Rights and Community Protest* through our website www.sahrc.org.za.

10 Section 18 provides for the right to freedom of association

This section provides that everyone has the right to freedom of association.

Unless required by law, which for example requires membership of certain professional bodies, or prohibits the formation of criminal associations, people may join and create any formation, group or organisation.

11

Section 19 provides for political rights

Everyone 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.

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 Independent Electoral Commission (IEC) website and offices nationally provide detailed information about the right to vote, elections and participation.

The IEC website is www.elections.org.za

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Section 20 provides for the right not to be deprived of citizenship

No citizen may be deprived of citizenship.

This right means that citizenship may not be taken away from citizens. The South African Citizenship Act 88 of 1995 provides for instances where citizenship may be withdrawn.

The Department of Home Affairs is the custodian of this right. For more information visit: www.dha.gov.za

13 Section 21 provides for the right to freedom of movement and residence

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.

To apply for a passport contact your local office of the Department of Home Affairs.

14 Section 22 provides for the right to freedom of trade, occupation and profession

Every citizen has the right to choose their trade, occupation or profession freely.

This right means every citizen is free to choose any job he or she wants to do, or to choose to start his/her own business. The right is limited in our law to work that is lawful and additional conditions are placed on people who are not citizens.

For more information on careers, you can contact any institution of higher learning.

For more information on starting a business and applying for funding contact the Department of Small Business Development through their website www.dsbdd.gov.za

15 Section 23 provides for workers' and employers rights (labour relations)

Everyone has a right to fair labour practices.

The main legislation governing labour relations includes:

- The Labour Relations Act 66 of 1995; and
- The Basic Conditions of Employment Act 75 of 1995;

The Department of Labour is the custodian of this right. For more information visit www.labour.gov.za

Other institutions and structures work with disputes arising in the labour environment such as the CCMA, and labour courts. Special bargaining councils are in place for each employment sector in South Africa. These councils engage on conditions of employment, policies, norms and standards and disputes which impact on labour.

16 Section 24 provides for environmental rights

Everyone has the right to an environment that is not harmful to their health or wellbeing. Rights to a safe environment are becoming increasingly important to monitor as businesses and other stakeholders conduct work such as mining which can contribute to pollution and destruction of natural resources. Pollution of the environment can cause serious health conditions in communities exposed to such pollution. As a result this right creates a duty on the state to ensure that the environment is properly managed.

The Department of Environmental Affairs is the custodian of this right. For more information visit www.environment.gov.za

17 Section 25 provides for property rights

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 permit arbitrary deprivation of property.

18 Section 26 provides for the right of access to housing

Everyone has the right to have access to adequate housing.

The SAHRC receives a number of complaints around the right to housing. These range from complaints about delays in the provision of housing, evictions and the quality of housing.

Our courts have ruled extensively about the right to housing and is particularly careful about protecting this right especially where people could be left homeless through evictions.

Some of the key legislation impacting on the right to housing are:

- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE)
- Extension of Security of Tenure Act 62 of 1997 (ESTA)

The Department of Housing in each province and within metropolitan municipalities in each province; and at the national level are custodians of this right.

19 Section 27 provides for the right of access to health care, food, water and social security

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 dependants, appropriate social assistance.
- No one may be refused emergency medical treatment.

The SAHRC has produced a significant body of work on each of these rights through its reports, investigations, and monitoring. This information together with a fact sheet on the right to food and a pamphlet on water and sanitation are available on the SAHRC website www.sahrc.org.za

The following bodies are responsible for the protection, realisation and promotion of these rights:

- The Department of Health www.health.gov.za
- The Department of Social Services www.dsd.gov.za
- South African Social Security Agency www.sassa.gov.za

20 Section 28 provides for children's rights

Every person under the age of 18 has the right:

- To a name and 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 practises;
- Not to do work that would interfere with his or her wellbeing, education, physical or mental health or spiritual, moral or social development;
- Not to be detained, except as a measure of last resort and for the shortest period of time and to be kept separately from other detained persons over the age of 18 years;
- To a free lawyer;
- The best interest of the child is the most important concern when it comes to any matter affecting a child. This includes matters such as custody of and access to children.

The SAHRC is child friendly, has child friendly spaces, and has special procedures to receive complaints from children and works to improve awareness of the rights of children and to strengthen protections for their rights.

Internationally a special convention protects the rights of children and the State and the SAHRC submit reports to this body about the rights of children in South Africa.

Fact sheets, pamphlets, posters and other tools are freely available on the SAHRC website. www.sahrc.org.za

Other bodies which have a dedicated focus on the rights of children are the following:

- Department of Social Development www.dsd.gov.za
- The Child Protection Unit in the SAPS - contact any police station for assistance.

One of the most important laws about the rights of children is the Children's Act and Regulations to the Act.

21 Section 29 provides for the right to education

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.

The Department of Basic Education and Department of Higher Education and Training are the custodians of these rights. For more information visit the following websites:

- www.education.gov.za
- www.dhet.gov.za

22 Section 30 provides for the right to language and culture

Everyone has the right to use the language and to participate in the cultural life that they choose.

The following institutions are custodians of these rights. For more information visit the following websites:

- The Pan South African Language Board at www.pansalb.org
- CRL Commission www.crlcommission.org.za

23 Section 31 provides for the right of cultural, religious and linguistic communities

Persons belonging to a cultural, religious or linguistic community may not be denied the right:

- 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.

For more information on this right visit the CRL Commission on www.crlcommission.org.za

24 Section 32 provides for the right of access to information

Everyone has a 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.

The SAHRC works with the Promotion of Access to Information Act [PAIA] which deals with the right to freedom of information. This right is vital in healthy democracies to bring transparency, expose corruption, and to ensure people are provided information needed to conduct their lives and to participate in decision making in an informed way.

Through new legislation which protects personal information, South Africa has put in place the Information Regulator. The Information Regulator will monitor compliance with the PAIA legislation and provide relief when access to information is denied by information holders.

25 Section 33 provides for the right to just and administrative action

Everyone has the right to just administrative action. This means everyone has the right:

- To fair and reasonable administrative action that is allowed by law; and
- To be given reasons for administrative actions that affects them in a negative way.

Parliament has passed a law called the Promotion of Administrative Justice Act 3 of 2000 (PAJA). This Act states the timeframes within which decision making bodies must provide responses to people, together with reasons for their decisions. Administrative decisions such as refusals to grant licenses may be challenged through the courts through review processes.

26 Section 34 provides for the right of access to courts

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

For more information on this right visit the Department of Justice. A number of bodies have dispute resolution mechanisms in place in the form of tribunals and ombuds. Such bodies are intended to provide quicker resolution of disputes to protect rights. The decisions of such bodies may reviewed through the courts. Examples of such tribunals are the tribunal at the Competition Tribunal, the Housing Rental Tribunal and the Consumer Tribunal.

27 Section 36 provides for the limitation of rights

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. People have competing rights and conflicting rights. One person's dignity for example may clash with another's freedom of expression, and as a result the Constitution provides for the limitation clause. This clause lays down a test that any limitation must meet before basic rights may lawfully be limited.



How can human rights be protected

In order to protect and monitor the progressive realisation of the rights in the Bill of Rights, Chapter 9 of the Constitution provides for the establishment of institutions that are independent and subject to the Constitution and the law. These institutions are impartial and exercise their powers and perform their functions without fear, favour or prejudice.



The South African Human Rights Commission

The SAHRC is an institution independent of government, created by the constitution to promote, and protect respect for a culture of human rights in South Africa. The Commission has a special “A” status to work with international human rights bodies to protect rights.

The Commission must therefore advise government about its policies and procedures, work with other stakeholders to promote a deeper understanding of human rights and take steps where rights have been violated, without fear or favour or prejudice in the interests of all people in South Africa.



The function of the SAHRC

In terms of Section 184 of the Constitution, the SAHRC must:

- Promote respect for human rights and a culture of human rights;
- Promote protection, development and attainment of human rights;
- Monitor and assess the observance of human rights in the Republic.



What does the SAHRC do?

- The SAHRC investigates complaints of human rights violations and monitors human rights complaints;
- Monitors and reports annually to Parliament on the State's progress in bringing socio-economic rights to all South Africans;
- Conducts advocacy and outreach awareness to educate the general public about human rights and the Constitution;
- Monitors the development of new legislation to ensure such legislation takes into account human rights standards;
- Interacts with the media to provide information of interest to human rights and to advance awareness of human rights; and
- Conducts public inquiries around systematic human rights violations.
- Creates spaces for experts and other stakeholders to discuss human rights issues, needs and developments
- Works with a diverse group of stakeholders to secure appropriate redress where rights are violated, or to promote better practices, policies and laws in the interests of human rights



Complaints investigated by the SAHRC

The SAHRC has the jurisdiction to conduct any investigation on receipt of a complaint into any alleged violation of a fundamental human right. The SAHRC has powers to investigate on its own accord any violation of or threat to a fundamental right.



Where complaints can get lodged

A complaint may be lodged at any provincial office of the SAHRC in the province where the alleged violation of a fundamental right took place.



Who can lodge a complaint?

- Any person acting in his/her own interests;
- Any person acting on behalf of another person who cannot act in his or her own name;
- Any person acting as a member of or in the interest of a group or class of persons;
- Any person acting in the public interest or;
- Any association or organisation acting in the interest of its members.



How complaints can get lodged?

- An oral complaint in person or by telephone.
- A complaint can also be submitted in writing.
- Complainants can also complete the online complaint form available at: www.sahrc.org.za



Other Chapter 9 Institutions that monitor the protection and realisation of human rights:

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Commission)

The primary objects of the CRL Commission are:

- To promote respect for the rights of cultural, religious and linguistic communities;
- To 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
- To 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 powers to monitor, investigate, research, educate, lobby, advise and report on issues concerning the rights of cultural, religious and linguistic communities.

The CRL Commission can be contacted on the following details:

Forum 4, Braampark Office Park

33 Hoofd Street Braamfontein

Johannesburg

Email address: info@crlcommission.org.za

Tel No: (011) 358 9100

The Commission for Gender Equality (CGE)

The CGE has a mandate in terms of the Constitution to promote respect for gender equality and the protection, development and attainment of gender equality.

In terms of the Constitution the CGE has powers to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality.

The CGE can be contacted on the following details:

**2 Kotze Street, Women's Jail
East Wing, Constitutional Hill
Braamfontein 2017
Tel No: (011) 403 7182**

The Public Protector

The Public Protector has the powers 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.

The Public Protector can be contacted on the following details:

**175 Lunnon Street
Hillcrest Office Park, Hatfield, Pretoria,0083
Tel No: (0800) 11 20 40**

The Independent Electoral Commission (IEC)

The IEC is mandated in terms of the Constitution to:

- Manage elections of national, provincial and municipal legislative bodies in accordance with national legislation and,
- Ensure that those elections are free and fair.

The IEC can be contacted on the following details:

Election House

Riverside Office Park

1303 Heuwel Avenue

Centurion

0157

Tel No: (011) 622 57 00

Email: info@elections.org.za

How else are human rights protected?

In addition to the Bill of Rights, international and regional bodies from time to time develop norms and standards about particular rights which states who agree to them, must honour in their countries. These norms and standards take the form of conventions and treaties. Examples of such instruments are The 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.

The African Charter on Human and Peoples' Rights is a regional instrument which is like a Bill of Rights for the whole African region. 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. The United Nations website provides information about all Treaties, Conventions, Protocols and Declarations that South Africa has signed at www.un.org

How to Contact the SAHRC

Forum 3, Braampark Office Park, Braamfontein
Johannesburg
Tel No: 011 877 3600
www.sahrc.org.za
E-mail: info@sahrc.org.za
complaints@sahrc.org.za
Twitter: @SAHRCommission
Facebook: SA Human Rights Commission

Contact Details

PROVINCIAL OFFICES

Eastern Cape

Address: 4th Floor Oxford house,
86 Oxford street, East London, 5200
Tel: 043 722 7828/21/25 | Fax: 043 722 7830

Provincial Manager

Mr Abongile Sipondo

Contact: Yolokazi Mvovo
E-mail: ymvovo@sahrc.org.za

Free State

18 Keller Street, Bloemfontein
Tel: 051 447 1130 | Fax: 051 447 1128

Provincial Manager

Mr. Thabang Kheswa

Contact: Alinah Khompeli
E-mail: akhompeli@sahrc.org.za

Limpopo

First Floor, Office 102, Library Garden Square,
Corner of Schoeman and
Grobler Streets, Polokwane
Tel: 015 291 3500 | Fax: 015 291 3505

Provincial Manager

Mr Victor Mavhidula

Contact: Mahlatse Ngobeni
E-mail: mngobeni@sahrc.org.za

Northern Cape

45 Mark and Scot Road,
Ancorley Building, Upington
Tel: 054 332 3993/4 | Fax: 054 332 7750

Provincial Manager

Ms Chantelle Williams

Contact: Zukiswa Louw
E-mail: zlowu@sahrc.org.za

Western Cape

7th Floor ABSA building,
132 Adderley Street, Cape Town
Tel: 021 426 2277 | Fax: 021 426 2875

Provincial Manager

Adv Lloyd Lotz

Contact: Shafeeqah Salie
E-mail: ssalie@sahrc.org.za

Gauteng Office

2nd Floor, Braampark Forum 3,
33 Hoofd Street, Braamfontein
Tel: 011 877 3750 | Fax 011 403 0668

Provincial Manager

Mr Buang Jones

Contact: Nthabiseng Kwaza
E-mail: nvkwaza@sahrc.org.za

KwaZulu-Natal

First Floor, 136 Margaret Mncadi, Durban
Tel: 031 304 7323/4/5 | Fax: 031 304 7323

Provincial Manager

Ms Tanuja Munnoo

Contact: Kathleen Boyce
E-mail: kathleenboyce@sahrc.org.za

Mpumalanga

4th Floor Carltext Building,
32 Bell Street, Nelspruit
Tel: 013 752 8292 | Fax: 013 752 6890

Provincial Manager

Mr Eric Mokonyama

Contact: Carol Ngwenyama
E-mail: cngwenyama@sahrc.org.za

North West

25 Heystek Street, Rustenburg
Tel: 014 592 0694 | Fax: 014 594 1069

Provincial Manager

Ms Mpho Boikanyo

Contact: Poppy Mochadibane
E-mail: pmochadibane@sahrc.org.za



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