



SAHRC Charter of Children's Basic Education Rights

2012

SAHRC

Charter of Children's Basic Education Rights

The right of children to basic education

2012

Foreword

Commissioner Lindiwe Mokate, South African Human Rights Commission, South Africa

The right to a basic education is a constitutionally protected right that is unequivocally guaranteed to all children in South Africa. It is considered a central facilitative right that is not qualified by expressions such as 'available resources', 'progressive realisation', or 'reasonable legislative measures' which are applicable to other socio-economic rights enshrined in our Constitution.

The South African Human Rights Commission has a constitutional mandate to monitor the realisation of the right to a basic education in South Africa. Monitoring this right has not been made easy by the absence of a common and consolidated statement on the scope and content of the right to basic education. The courts have avoided specifying the content of socio-economic rights, including the right to a basic education.

Debates among human rights practitioners, including academics, identified the Commission as an independent body with the necessary human rights mandate to embark on and lead a consultative process that would culminate in the development of a Right to Basic Education Charter.

It has increasingly been recognised at an international level that national human rights institutions are best placed to determine the monitoring indicators for economic and social rights due to their independent nature and knowledge of local conditions.

The Charter is a culmination of an extensive engagement process and research by the Commission and stakeholders. It aims to provide a common legally grounded planning, monitoring and advocacy framework that is child-centred and recognises the interconnectedness of human rights. Whilst the Commission intends using the Charter as a monitoring tool, it can also be potentially used by all relevant stakeholders in their advocacy work.

The Charter provides a statement of the various obligations of the State to ensure the realisation of the right to basic education; notes key shortcomings and inequities; revisits commitments made to address the gaps in achieving quality education; and the key role-players are identified.



In the Charter there is acknowledgement of the progress that has been achieved by the democratic government in addressing the grossly inequitable and racially determined apartheid education policies. Despite all these achievements, huge challenges remain in this sector, and they impact most negatively on the poor and vulnerable in our society thus reinforcing the existing inequality patterns.

The Charter provides a benchmark of where we are in terms of fulfilling the right to a basic education and where we need to go to ensure that every child receives a quality education.

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South African Human Rights Commission Charter of Children's Basic Education Rights, 2012

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Message of Support

Aida Girma, UNICEF Representative, South Africa

Section 29 of the South African Constitution enshrines the right to education and defines the positive responsibilities of the state in this respect. The section states, "Everyone has the right to a basic education, including adult basic education."

It is a common assertion that education is the basis for development, and therefore a country like South Africa desiring to foster its development is concerned with the long-term investment in the education of her people as articulated in the Constitution excerpt above. This includes the right to access to education by children with disabilities and investment in early childhood development from birth to school-going age. South Africa is progressing well towards the achievement of the MDG two (universal access to primary education) currently at 99.6% and at about 89% for transition to secondary education (EMIS 2011). However, there are challenges in the provision of quality education — the Annual National Assessment results in 2011 show an average of 35% and 28% pass in literacy and numeracy respectively for Grade 3 learners.

As a government South Africa prioritizes education, with education receiving 5.6% of GDP and 22% of the national budget. The development of the basic education rights charter provides the South Africa Human Rights Commission with an invaluable tool to provide oversight and support the monitoring of quality basic education in the South African context. In UNICEF, as articulated by the Convention on the Rights of the Child, we are cognizant that the right to education is a fundamental right. Civil, political, economic and social rights can be effectively exercised by individuals when they have received a certain minimum education, without which their access to such rights remains illusory and theoretical.

Today, in South Africa as in many other countries globally, we are increasingly faced with serious problems such as: poverty and illiteracy; the widening gap between rich and poor; proliferating acts of violence; and social exclusion, with high numbers of children living below the poverty line. The right to education is invaluable in a bid to eradicate poverty and tackle these challenges. It is my hope that this charter will contribute to renewal of, and re-commitment, to quality basic education for all children in South Africa.

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ACRONYMS AND ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child	NCPR	National Child Protection Register
ANA	Annual National Assessments	NEEDU	National Education and Evaluation Development Unit
ASIDI	Accelerated Schools Infrastructure Delivery Initiative	NEIMS	National education infrastructure monitoring system
CEDAW	Convention on the Elimination of all forms of Discrimination against Women	NRSO	National Register for Sex Offenders
DBE	Department of Basic Education	NSNP	National School Nutrition Programme
DHET	Department of Higher Education and Training	PDOU	Planning and Delivery Oversight Unit
DSD	Department of Social Development	QLTC	Quality Learning and Teaching Campaign
DPME	Department of Performance, Monitoring and Evaluation	SACMEQ	Southern and Eastern Africa Consortium for Monitoring Educational Quality
DOH	Department of Health	SADC	Southern African Development Community
DHA	Department of Home Affairs	SAHRC	South African Human Rights Commission
DWCPD	Department of Women, Children and People with Disabilities	SASA	South African Schools Act
EFA	Education for All	SIAS	National Strategy on Screening, Identification, Assessment and Support Strategy
FET	Further Education and Training	UD	Universal Design
GDP	Gross Domestic Product	UDHR	Universal Declaration on Human Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination	UNCRC	United Nations Convention on the Rights of Children
ICSECR	International Covenant on Social Economic and Cultural Rights	UNCRPD	United Nations Convention of the Rights of People with Disabilities

INTRODUCTION

1 The SAHRC's mandate

The South African Human Rights Commission (SAHRC) is mandated to:¹

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

It has developed the Charter of Children's Basic Education Rights in South Africa for use in fulfilling this mandate.

2 Basic education: A legal and developmental priority

Legal and development instruments recognise basic education as both a fundamental human right and a developmental priority.

On the legal front, the Universal Declaration of Human Rights (UDHR) (1948), the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) (1969), the United Nation's (UN) Convention on the Elimination of Discrimination against Women (CEDAW) (1979), the United Nation's Convention on the Rights of the Child (UNCRC) (1989), the Convention of the Rights of Persons with Disabilities (CRPD) (2006), the African Charter on the Rights and Welfare of the Child (ACRWC) (1989), and the Constitution of the Republic of South Africa (1996) recognise the right to basic education. The Constitution elevates the status and urgency of the right. It makes the right to basic education immediately realisable; it is not, as in the case of a number of other socio-economic rights, made subject to progressive realisation within available resources (*Governing Body of Juma Masjid Primary School and another v Essay N.O.*, 2011) (*Section 27 and 2 Others v Minister of Education and Others*, 2012).

On the development front, UNESCO's Education for All (EFA) (2000), the UN's Millennium Development Goals (2000), the African Union's New Partnership for African Development agenda (2001), and the Southern African Development Community's (SADC) Regional Indicative Strategic Development Plan recognise the fundamental link

between the right to education and sustainable social and economic development. In addition, they require special and focused measures to secure the education rights of the most marginalised children. More locally, access to quality education enjoys priority status on the national development agenda. Education was identified as an Apex Priority in the 2008 presidential State of the Nation Address; it featured prominently in the National Medium Term Strategic Framework (The Presidency, 2009); and improving the quality of basic education was identified as one of the 12 priority development outcomes on which government will focus between 2010 and 2014 (Department of Basic Education: Delivery Agreement for the Basic Education Sector, 2010). Most recently, the National Development Plan 2030, which maps out South Africa's development trajectory for the next two decades, places quality basic education at the centre of the realisation of the dual national goals of reducing poverty and inequality. It specifically targets improving the quality of education and equalising educational opportunities for children marginalised through apartheid policies, including black African children, girl-children and children with disabilities (National Planning Commission, 2012).



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South Africa has responded to these imperatives by developing a host of education policies with a strong equity focus. These have, in the main, sought to address the inequitable apartheid policies which excluded most black children, children with disabilities and children living in rural areas from access to quality education. Some of the policies include:

- those targeting poverty, such as the pro-poor funding allocations and the “No-Fee” schools provided for in the National Norms and Standards for School Funding (2006) (as amended) which have seen learners in poor quintiles receive more funding than learners in wealthy areas;
- the Language in Education Policy (1997) which sought to address language barriers by promoting home language teaching and learning;
- Education White Paper 6: Special Needs Education (2001) and the Screening, Identification, Assessment and Support Strategy (SIAS) (2008), which committed to the development of an inclusive education system for children with disabilities and other learning barriers;
- the National Framework for Quality Education in Rural Areas (2007) which focused on improving the quality of education in rural schools; and,
- the Accelerated Schools Infrastructure Delivery Initiative (ASIDI) and the Quality Improvement, Development, Support and Upliftment Programme, which sought to improve infrastructure and access to quality teaching and learning materials in under-resourced schools.



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The education budget has increased progressively over the last decade to support these policies, and amounted to approximately 6% of the Gross Domestic Product (GDP) in 2011. Consequently, South Africa has seen improvements in access to education and funding equity to benefit previously disadvantaged children. Since 1994 enrolment rates have improved, reaching 98% in Grades 1-9 and 83% in Grades 10-12 in 2011 (Department of Basic Education, 2011). Whilst many children with disabilities remain excluded, by 2011 there was a substantial increase (20%) in the number of children with disabilities aged 15-17 years attending school, and an even larger increase of more than 51% for children aged 16-18 years (Department of Basic Education, August 2011). Equity in school funding has improved substantially. A higher per capita amount is paid for black children living in poverty than for other groups, and priority has been given to the provision of school books, teacher support materials, equipment and school meals in poor schools. In 2011 more than 8 million children benefited from the “No-Fee” policy and approximately 10 million children benefited from the National School Nutrition Programme (NSNP) (Statistics South Africa, 2012). Moreover, on average, class sizes have improved, with many falling below internationally prescribed limits, and the number of qualified teachers increased from 65% in 1994 to almost 94% in 2009 (Department of Basic Education, 2011a).

Despite these developments, there is a shared recognition, as articulated by the Minister of Education in 2011, that “the challenges confronting us remain substantial” (Department of Basic Education Annual Report, 2011). Challenges include equalising access for the vulnerable groups of children that remain disproportionately excluded from school, such as children with disabilities and children in rural areas. An estimated 476 000 children with disabilities of school-going age were out of school in 2010 (Department of Basic Education, 2011c). Access to education for children in rural areas is poorer as a result of a number of inequities, including aggravated infrastructure backlogs, insufficient numbers of teachers, poorer access to learning and teaching support materials, ongoing language barriers, higher levels of household poverty and consequent lower educational outcomes among learners in these areas (Department of Basic Education, 2011e) (Spaull, 2011). More generally, high drop-out rates and consequent low rates of completion of basic education, sporadic daily attendance rates, and most significantly, the poor quality of education and the inefficient use of educational resources, are features of the current education system. These challenges present themselves along racial and socio-economic fault lines, and continue to drive the high levels of inequity, poverty and patterns of under-development that mark the national legal and developmental landscape. In short, the poor quality of education and educational outcomes, especially for poor, rural black children, remains one of the key development impediments facing South Africa in 2012 (National Planning Commission, 2011).



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The problems with quality are starkly illustrated by the poor educational outcomes of children in South Africa. In 2011, numeracy and literacy levels at Grades 3 and 6 were extremely low. Only 20% of Grade 3s had adequate grade-appropriate literacy skills, and only 12% had grade-appropriate numeracy skills. 12% of learners in Grade 6 had adequate grade-appropriate literacy skills, and only 9% had the necessary numeracy skills (Department of Basic Education, 2010d). In addition, the number of learners that pass their final year exams is low. In 2009, only 60% of learners passed their National Senior Certificate examinations. This has since increased to 73% in 2011 (Department of Basic Education, 2011a). The pass rate is even lower in subjects such as mathematics and science. The number of learners passing mathematics in their final examinations dropped from 133 505 in 2009 to 104 033 in 2011 (The Presidency, DPME, 2012).

A comparative review of regional educational data collected by the Southern and Eastern Africa Consortium for Monitoring Educational Quality (SACMEQ) confirms not only that South Africa performs poorly in comparison to other SACMEQ countries, but also that it provides education of a much poorer quality to the majority of black and rural children living in poverty in comparison to their wealthier white, coloured and Asian peers (SACMEQ III, 2010) (Department of Basic Education, 2011a). In sum, after 17 years of progressive educational policies and programmes, "South Africa remains a tale of two schools: one which is wealthy, functional and able to educate students, while the other is poor, dysfunctional, and unable to equip students with the necessary numeracy and literacy skills they should be acquiring in primary schools" (Spaull, 2011).

3 The multiple causes of the failure of basic education rights

Numerous commentators such as Spaull, Strasburg and Taylor recognise that a variety of underlying factors drive the poor quality of education and educational outcomes. These include social and economic factors such as poverty and low literacy levels and low levels of formal education in children's families; insufficient levels of educational support at home; insufficient school infrastructure and basic services at schools such as water, sanitation and electricity; lack of learning resources and materials such as libraries, laboratories and text books; the cost of schooling; poorly trained teachers and insufficient subject knowledge by teachers; and lack of access to early childhood education, amongst others (Centre for Development and Enterprise (CDE), 2011) (Spaull, 2011) (Strasburg, Meny-Gibent, & Russell, 2010) (Taylor, 2011).

4 Recent developments to better realise the right to education

The Department of Basic Education (DBE) is acutely aware of these shortcomings. It has, in response, in addition to the numerous pro-equity education laws promulgated over the last fifteen years, introduced an array of innovations in the period 2010-2012. These include:

- a review of the National Curriculum Statement as well as the publication of the National Policy Pertaining to the Programme and Promotion Requirements of the National Curriculum Statement Grades R-2 (2011) and the National Protocol for Assessment Grades R-12 (2011);
- the introduction of Annual National Assessments (ANA) as part of an integrated learner assessment strategy to facilitate regular testing of learners against international benchmarks and the use of results to remedy gaps and inadequacies;
- a new Strategic Planning Framework for Teacher Education and Development in South Africa (2011) which makes provision for revised minimum qualifications, support to educators, and incentives to attract young quality educators into the sector;
- the development and distribution of literacy and numeracy learning and support materials such as workbooks and text books, including the translation of these into Braille for blind children;
- programmes such as the Accelerated Schools Infrastructure Delivery Initiative (ASIDI) for improved infrastructure development;
- improved planning, monitoring and evaluation against quality-focussed indicators in the form of the long-term Action Plan to 2014: Towards the Realisation of Schooling 2025;

- the establishment of coordinating, evaluation and planning units such as the Planning and Delivery Oversight Unit (PDOU) with the mandate to improve coordination between the national and provincial departments, and the National Education Evaluation and Development Unit (NEEDU) which will review the status of education policies, implementation, coordination and quality of educational inputs and outcomes (Department of Basic Education, 2011b) (Department of Basic Education, 2011a) (Department of Basic Education, 2010) (Department of Basic Education's Quality Learning and Teaching Campaign).



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5 Role of the Charter: A common legal framework to guide and monitor role-players

The SAHRC is mandated to monitor progress made by all organs of State in the realisation of the constitutional rights of children. One of the challenges experienced in fulfilling this role is the lack of a consolidated statement of the scope and content of the right, and correlating obligations, to basic education.

The SAHRC has thus developed this Charter. The Charter will provide a statement of what is required in law (internationally, regionally and nationally) of the State to give effect to the right to all children in South Africa to basic education. The Charter aims to provide a statement of:

- a select number of legal obligations on the State to realise the right to basic education;
- child-focused indicators which would mark the fulfilment of the various obligations;
- the role-players responsible for realisation of the obligations; and,
- the relevant commitments made by the State and recommendations to ensure optimal realisation of the right to basic education for all children in South Africa.

The Charter thus aims to provide a common legally-grounded planning, monitoring and advocacy framework for use by the SAHRC in fulfilling not only its monitoring but also its research, investigative and educational roles in relation to the right of children to basic education.

Moreover, the Charter aims to provide support to all responsible role-players for the further realisation of the right. The government's Quality Learning and Teaching Campaign (QLTC) recognises that the "achievement of quality education for all depends on the actions of members of Parliament, the Basic Education Ministry, provincial members of executive councils, departmental officials, school principals, teachers, learners, parents, school governors and members of the community" (Department of Basic Education, 2008a). The Charter serves as an informational and advocacy tool to aid this wide range of stakeholders to know their rights and responsibilities. The information in the Charter will provide:

- an indication of what children, their parents and other caregivers may expect of the education system;
- an educational tool for parents and caregivers as to the role they may be required to play to enable children to enjoy their right to basic education;

- a planning and educational tool for schools, principals and teachers on what their obligations are vis-à-vis children, and hence what their rights are vis-à-vis the departments of Basic Education to enable them to meet their obligations to children;
- a summative planning and monitoring tool for the departments of Basic Education as to their respective obligations;
- a planning tool for institutions of higher learning and the DBE on their roles and responsibilities in relation to improving the quality of teachers, teaching and learning in the classroom;
- an information tool for other relevant departments such as Finance and Women, Children and People with Disabilities (DWCPD), the Departments of Performance, Monitoring and Evaluation (DPME), Health, Water, Sanitation and Local Government on their obligations and how these may be fulfilled;
- an information tool for Members of Parliament to aid in their legislative development role and oversight role in respect of implementation and budgeting by the national and provincial departments of Basic Education;
- a planning, educational, monitoring and advocacy tool for civil society (including trade unions, NGOs, CBOs, research and other academic institutions);
- a planning and monitoring tool for development partners and donors on the interventions that should receive priority funding and technical support to realise the legal and developmental basic education obligations of the State.

6 The scope of the Charter

Section 29 (1) (a) of the Constitution recognises the right of everyone to “basic education, including adult basic education”. Article 1 of the World Declaration on Education for All defines basic education as an education which provides “essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decision, and to continue learning” (UN CESCR. General Comment No. 13, 8 December 1999). In addition, basic education includes fundamental education for adults who have not yet had their basic learning needs satisfied (UN CESCR. General Comment No. 13, 8 December 1999).

There are various vehicles for the delivery of basic education. These include early child education, primary, secondary and further education and vocational training, and adult basic education and training. The World Declaration on Education for All views



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primary education as the main vehicle for “the basic education of children outside the family”, and secondary education as the primary vehicle for the “completion of basic education and consolidation of the foundations for life-long learning and human development” (UN CESCR. General Comment No. 13, 8 December 1999).

Thus, not only children but adults enjoy the right to basic education, and it extends beyond schooling. This Charter will, however, primarily focus on the rights of children to basic education through pre-primary, primary and secondary schools which the DBE is expressly mandated to realise. This does not mean that the SAHRC does not recognise the right of adults to basic education or the obligations on the State to deliver basic education through vehicles other than schools, such as Further Education and Training (FET) colleges.

The State’s obligations include the duty to respect, protect and fulfil the rights of children to basic education (UN CESCR. General Comment No. 13, 8 December 1999). Within this continuum, this Charter will endeavour to provide a detailed Statement of what these obligations entail in the context of South African children and in the context of international, regional and national commitments.

7 The 4A legal framework

Katarina Tomaševski, the former UN Special Rapporteur on the right to education, constructed what is known as the 4A framework which maps out the scope and nature of the obligations on the State to fulfil the right to education as guaranteed by international laws (Tomaševski, 2002). The 4A Framework stipulates that to meet the prescribed legal standards, State action must ensure that education is:

1. *Available*: This requires that the State provide:
 - a. a government-funded education system;
 - b. adequate infrastructure; and,
 - c. trained teachers able to provide an education.
2. *Accessible*: This requires that the State ensure that:
 - a. education is not discriminatory;
 - b. education is made accessible to all by addressing economic and physical barriers; and,
 - c. positive steps are taken to include the most marginalised communities and children.
3. *Acceptable*: This requires that:
 - a. the content of education is non-discriminatory;
 - b. the content is culturally appropriate;
 - c. education is of a sufficiently high quality; and,
 - d. the school environment is safe.
4. *Adaptable*: This requires that education is:
 - a. flexible and able to respond to the different needs of children; and,
 - b. able to respond to the changing needs of society (Tomaševski K. , 2001) (UN CESCR. General Comment No. 13, 8 December 1999) (Right to Education Project, 2010).

This Charter will be premised on the 4A framework, given that it is legally grounded in international law, that it recognises the multiple dimensions of the right to education, that it recognises the inter-connectedness of the right to education and other rights, and that it recognises that multiple organs of state are responsible for the realisation of the right to education.

The framework not only surfaces the common elements and obligations implicit in the various international legal instruments, but is also child-centred. It requires that “[w]hen considering the appropriate application of these “interrelated and essential features”,

the best interests of the student shall be the primary consideration” (UN CESCR. General Comment No. 13, 8 December 1999).

Moreover, the 4A Framework emphasises and echoes the priority education goals and objectives of the South African education system — access, equity, quality and efficiency (Department of Basic Education, 2011).

8 The substance of the right: Indicators marking progress and success

Tomaševski recognised that there was a need to develop the 4A framework further so as to translate the right to basic education into “a language that can be understood and applied in education statistics”. She thus developed a body of indicators to provide substantive direction to guide States on the steps and outcomes necessary to realise the various components of the right. Her objective was to develop a holistic framework for guiding role-players in fulfilling the right to basic education (Tomaševski, 2002).





The Right to Education Project (a joint Global Campaign for Education, Amnesty International and Action Aid initiative) continued the work started by Tomaševski and developed a comprehensive and inclusive set of Education Right Indicators to evaluate compliance with the various obligations linked to the right to basic education (Right to Education Project, 2010).

The 4A framework and these indicators together provide a holistic framework that combines the legal and developmental educational imperatives on the State.

Moreover, both the 4A framework and accompanying indicators emphasise the attainment of equality in education. They recognise that the right to equality is essential and that the 4A's must be realised not only for the majority of children but especially for children previously excluded from enjoying their full right to education. This means that planning, budgeting and reporting on education obligations within this framework will require an express and conscious indication of the measures and successes made in ensuring the 4As for children living in poverty, with disabilities, refugees and unaccompanied minors, those living in rural areas, the girl child, and others.

For these reasons, the SAHRC Charter will be premised on the 4A Framework and expanded Education Right indicators. The Framework and indicators have, however, been specifically shaped, through a process of research and consultation with education stakeholders in South Africa, to articulate national legal and developmental educational priorities, objectives, and obligations that will meet the unique situation in South Africa. A list of stakeholders that participated in the development of this Charter is provided in Annexure A.

9 Choice of indicators

There is a vast array of possible indicators that could be chosen to assess the realisation of the right to basic education for children in South Africa. The indicators in the Charter have been specifically selected to align with international and regional obligations as well as, so far as possible, the development commitments made by the State and the DBE to address historically patterns of inequity in South Africa.

One of the purposes of the Charter (and the choice of indicators which will contribute to achieving this purpose) is to support improvements in the realisation of the right to education through the development of a framework that will facilitate ongoing monitoring and advocacy. Through the choice of indicators that are rooted in law and the national development context, the Charter will at one and the same time provide a road map that the State is required (and has already committed) to follow, provide a framework for an annual evaluation of the progress that has been made on this journey, and provide guidance on the way forward to complete the journey.

10 SAHRC process for conducting the annual evaluation

The annual process that will be followed by the SAHRC to measure progress against the Charter will include a review of the national and provincial data sources generated by, inter alia, Statistics South Africa and the DBE as well as reports submitted to the SAHRC by the DBE in fulfilment of its statutory reporting obligations. This will be supplemented, where relevant, by research conducted by academic institutions and NGOs. In addition, the SAHRC will engage with representatives from parent associations, teacher unions, school governing bodies, learners and NGOs. Where it is deemed necessary, the review process will include public submissions.

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1. Available Education

Basic education must be made available by the State to all children. “Availability of education refers to what must be in place before the right is accessed” (South African Human Rights Commission, 2006). This requires that the State develops and funds a pre-primary, primary and secondary education system and that there are trained teachers and adequate infrastructure to support the delivery of education (Right to Education Project, 2010) (Tomasevski K., 2001).

This obliges the State to take legislative, administrative and other steps to ensure a national education system that:

- 1 Is founded on an overarching national recognition of the right to education.²
- 2 Provides early childhood education.³
- 3 Makes primary education universal and compulsory for all children.⁴
- 4 Makes different forms of secondary education generally available to all children.⁵
- 5 Ensures the provision of functional educational institutions in sufficient quantity.⁶
- 6 Ensures the provision of sufficient, qualified and available teachers.⁷
- 7 Ensures the provision of teaching and learning support materials and equipment.⁸
- 8 Ensures the availability of sufficient funds to sustain the availability of schooling.⁹



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1.1 National recognition of the right to basic education

State’s obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
Legally recognise, respect, protect and promote the right to basic education. ¹⁰	National and provincial policies and laws are enacted that guarantee, respect, protect and fulfill the right to basic education of all children. ¹¹	<ol style="list-style-type: none"> 1 Section 29(1) of the Constitution of the Republic of South Africa (1996) provides that “[e]veryone has the right to basic education”. 2 The right is immediately realisable. It is not subject to progressive realisation within available resources (Governing Body of Juma Masjid Primary School and another v Essay N. O., 2011) (Section 27 and 2 Others v Minister of Education and Others, 2012). 3 Thus, in moving forward to fill the gaps as measured against the Charter, the State must act without delay. 	<p>National Assembly</p> <p>National Council of Provinces</p> <p>National and provincial departments of Basic Education</p>

1.2 Provide early childhood education

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>1 Provide universal early childhood education for children through centre- and school-based stimulation and development programmes.¹²</p> <p>2 Make early childhood education compulsory.</p>	<p>1 National policies and laws that universalize early childhood development (ECD) by obliging the State to ensure the provision of at least two years of early childhood education or pre-school for all children.</p> <p>2 National policies and/or laws that make at least two years of pre-school (Grade R plus one more year) compulsory.¹³</p>	<p>1 The National Development Plan: 2030: Our Future-Make it work (2012) places the highest priority on ensuring two years of ECD exposure before Grade 1 in order to meet national developmental goals.¹⁴</p> <p>2 Whilst various policies commit the DBE to providing universal access to one year of pre-school (known as Grade R) through the public school system (including the White Paper on Early Childhood Education (2001) and the Delivery Agreement for Outcome 1: Improved quality of basic education; Action Plan to 2014: Towards the Realisation of Schooling 2025 (2010)), there is no comparable commitment to make it compulsory.</p> <p>3 The South African Schools Act (SASA) (1996) and associated ECD legislation should be amended to:</p> <ul style="list-style-type: none"> a make the universal Grade R year compulsory; and, b universalise and make one additional year of early childhood education compulsory for all children from the age of 4 years. [National and provincial departments of Basic Education] 	<p>National and provincial departments of Basic Education</p> <p>Department of Social Development</p> <p>National Assembly and the National Council of Provinces.</p>

1.3 Make primary education available and compulsory

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>1 Make primary school compulsory for all children, including children with disabilities, through laws that ensure that "neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education".¹⁵</p>	<p>1 A national law that imposes an obligation on duty-bearers to ensure that all children within a determined age-range are enrolled at and attend primary school and oblige systems to monitor and enforce compliance.¹⁷</p>	<p>1 Section 3(1) of the SASA (1996) makes primary and lower secondary schooling compulsory for all children between the ages of 7 and 15 years (or until the completion of Grade 9, whichever occurs first). It obliges every parent to ensure that every learner for whom he or she is responsible attends school every day during the compulsory phase. In addition, the Policy on Learner Attendance (2010) obliges schools to monitor daily attendance of learners and take supportive action where they are unlawfully absent.</p>	<p>The Minister of Basic Education</p> <p>The national and provincial departments of Basic Education</p> <p>The Department of Social Development</p> <p>Schools and principals</p>

1.3 Make primary education available and compulsory *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>2 Legislate the ages of compulsory attendance for learners with disabilities.¹⁶</p>	<p>2 A national law stipulating the ages of compulsory attendance for learners with disabilities.¹⁸</p>	<p>2 The ages stipulated in section 3(1) do not apply to children with disabilities. Section 3(2) of the SASA provides that the Minister must, by notice, determine the ages of compulsory attendance for learners with special educational needs.</p> <p>The Constitution (1996) and the UNCPRD guarantee the right of children with disabilities to equal enjoyment of the right to education. More specifically, article 24(2)(a) of the UNCPRD guarantees their right to compulsory education.</p> <p>As at 2012, this right has been frustrated by the failure to determine the ages of compulsory attendance for learners with disabilities. The Minister is urged to take the prescribed action without delay.</p>	



1.4 Make secondary education generally available to all children

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>Make secondary education in its different forms, including through secondary schools and vocational education, generally available to all children.¹⁹</p>	<ol style="list-style-type: none"> 1 A public education system that makes available different forms of secondary education, including secondary school and vocational training. 2 Secondary education is available for all children with disabilities.²⁰ 	<ol style="list-style-type: none"> 1 The current system makes secondary education available through schools and colleges. The senior phase (Grades 7-9) of the General Education and Training (GET) band is provided at schools and is the responsibility of the DBE. The Further Education and Training (FET) band includes Grades 10-12 at schools (the senior secondary phase) and vocational programmes at further education and training (FET) colleges. Responsibility for the FET band is shared by the DBE (Grades 10-12 at schools) and the Department of Higher Education and Training (DHET). 2 Whilst the current public education system makes secondary education available through both schools and FET colleges, Taylor argues that there is scope for improvement through the introduction of an additional certificate programme after Grade 9.²¹ The DBE should engage with, consider and publish its consideration of the feasibility of this proposal. 3 Secondary schooling options are very limited for children with moderate to severe disabilities in special needs schools. Most special needs schools go no further than Grade 9, whereafter children are referred to schools of skills which are also very limited in number.²² The DBE and the DHET should take pro-active measures to realise the right of children with moderate to severe disabilities to secondary education as guaranteed by article 24(2)(b) of the UNCRPD through the provision of secondary education at special schools and by making more vocational training options available for them. 	<p>National Department of Basic Education</p> <p>The Department of Higher Education and Training</p>

1.5 Provide sufficient, safe, functional educational institutions

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>Provide sufficient schools and classrooms to accommodate all children at pre-primary, primary and secondary levels of education in classes of a size amenable to providing an enabling learning and teaching environment.²³</p>	<ol style="list-style-type: none"> 1 All children from Grades R-12 are accommodated in a school from the start of the school year. 2 All schools have the minimum number of classrooms required to adequately accommodate all learners to create an enabling learning and teaching environment: <ol style="list-style-type: none"> a Primary schools with 135-310 learners have: 1 Grade R classroom and 7 classrooms; b Primary schools with 311-620 learners have: 2 Grade R classrooms and 14 other classrooms; c Primary schools with 621-930 learners have: 3 Grade R classrooms and 21 other classes; d Secondary schools with 200-400 learners have: 10 classrooms; e Secondary schools with 401-600 learners have: 15 classrooms; f Secondary schools with 601-1000 learners have: 25 classrooms.²⁴ 3 All children from Grade R-12 are accommodated in a class that does not exceed the prescribed learner: teacher ratio, which is: <ol style="list-style-type: none"> a 1:30 for Grade R; b 1:40 for all other Grades.²⁵ 4 There is equal compliance with prescribed class sizes across the nine provinces. 5 All schools provide adequate space for every learner with a disability (2,4 square metres) to support effective teaching and learning.²⁶ 	<ol style="list-style-type: none"> 1 The most recent data provided by the DBE indicates that the average class reduced in size from 38 in 2008 to 29 in 2010. Whilst this reflects a substantial improvement, there is provincial variation in class sizes, with children in provinces with high poverty levels, such as the Eastern Cape and Limpopo, continuing to be taught in overcrowded classrooms.²⁸ In 2010 a substantial number of primary and secondary schools had average class sizes well in excess of the prescribed 40 learners. Six percent of schools had an average class size in excess of 60. The majority of these were in the Eastern Cape and Limpopo. Ten percent of schools had average class sizes exceeding 50; 40% of schools had class sizes above the 40 norm.²⁹ 2 In addition, a large number of public school Grade R classes are overcrowded. A three-province study in 2011 found that 55% of classes exceeded the 30:1 learner-teacher ratio.³⁰ 3 The DBE has committed to addressing all backlogs. It is constructing 49 new schools, with priority being given to marginalised communities, scheduled for completion on 31 August 2012. The schools include small and medium-sized primary schools that include Grade R spaces, science laboratories, multi-media centres, rainwater tanks, ablution facilities, assembly and play areas.³¹ 4 Education White Paper 6 (2001), together with the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) and its accompanying Guidelines, oblige the DBE to ensure access for all children with disabilities by "providing adequate spaces to support teaching and learning". Whilst the guidelines specify the physical space that is required per child, there is no specification for the appropriate number of learners per class in the case of children with disabilities. This will vary, depending on the needs of the learners in question. Schools and the provincial departments of education are urged to take these varying needs into account in determining class sizes in schools accommodating learners with disabilities and other barriers to learning. 	<p>National and provincial departments of Basic Education.</p> <p>Schools</p> <p>Department of Public Works and Administration.</p>

1.5 Provide sufficient, safe, functional educational institutions *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>1 Ensure all schools have essential and basic services including safe structures, fencing, ventilation, lighting, safe potable water, adequate and hygienic sanitation, electricity, and information communication technology so as to create a safe and enabling learning and teaching environment.³²</p> <p>2 Ensure that all schools and school infrastructure comply with Universal Design (UD) standards for children with disabilities to ensure equal access to, and the enjoyment of, all school facilities and buildings.³³</p>	<p>1 All public ordinary schools comply with the infrastructure standards for basic services outlined in the National Policy for the Equitable Provisioning of the Enabling School Physical Teaching and Learning Environment (2010) and the Guidelines Relating to Planning for Public School Infrastructure (2012) through:</p> <ul style="list-style-type: none"> a the eradication of all mud structures and other unsafe buildings; b the provision of a safe basic potable water supply to all schools; c the eradication of plain pit and bucket latrines and the provision of sanitation facilities that promote health and hygiene standards; d the provision of perimeter fencing; e the provision of a reliable and safe source of electricity; and, f the provision of a form of connectivity for communication and a telephone, fax machine and PA system.³⁴ <p>2 All public schools comply with UD standards to ensure accessibility to all school buildings and facilities for children with disabilities through, for example, the provision of ramps, automated doors, accessible toilets, and technologies.³⁵</p> <p>3 The DBE develops, legislates and implements national education infrastructure norms and standards, which include UD infrastructure standards for learners with disabilities, for an enabling teaching and learning environment. The norms require all provincial departments of Basic Education to align their plans and budgets with the prescribed norms and standards.³⁶</p>	<p>1 The National Policy for the Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) recognises that infrastructure is critical to quality learning and teaching and good educational outcomes, and that “[e]quity in the provision of an enabling physical teaching and learning environment is ... a constitutional right and not just a desirable state” (Paragraph 2.6.1).</p> <p>2 In 2011/2012 there were significant infrastructure backlogs and provincial inequities in the rate of access to basic services and UD infrastructure at public schools. The situation is worse in provinces with high poverty levels and which are predominantly rural, such as the Eastern Cape, KwaZulu-Natal (KZN), and Limpopo. Of the 24 793 ordinary public schools:</p> <ul style="list-style-type: none"> a 496 are unsafe mud structures; b 2402 have no water. (1 152 are in the Eastern Cape, 1580 are in KZN, and 200 in Limpopo, Mpumalanga and the Free State Province lack this basic amenity); c 913 have no sanitation facilities and substantially more use pit latrines — the largest numbers of schools without adequate sanitation are in the Eastern Cape and KZN; d 2730 have no fencing — half of the schools with no fencing are in the Eastern Cape and 473 are in KZN; e 3544 have no electricity (1 152 are in the Eastern Cape and 1580 are in the KZN); f 409 schools have no communication facilities; and, g only 3167 have internet access.³⁷ <p>3 The National Policy for the Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) specifically seeks to ensure and equalise provisioning of infrastructure across all the provinces.³⁸ In order to ensure provincial equity, the policy commits the national DBE to develop national norms and standards for the physical teaching and learning environment. It provides that these norms will explicitly define what constitutes minimum and optimum provisioning, and obliges all provinces to comply with the minimum norms. The policy commits to the adoption of norms and standards by the end of the 2010/2011 financial year.³⁹</p>	<p>National Department of Basic Education.</p> <p>The national Department of Basic Education’s Planning and Delivery Oversight Unit.</p> <p>Provincial Departments of Basic Education working together with local government.</p> <p>Presidential Infrastructure Coordinating Committee</p> <p>Department of Public Works and Administration</p> <p>Local government</p>

1.5 Provide sufficient, safe, functional educational institutions *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
	<p>4 All provincial departments of Basic Education allocate and spend their full annual infrastructure budgets in line with the national DBE's Improvement Plan.</p> <p>5 Data on levels of compliance with infrastructure standards and facilities for children with disabilities at all public schools are collected and reported on by the DBE nationally and provincially as part of its annual school infrastructure monitoring and reporting processes.</p> <p>6 The Presidential Infrastructure Coordinating Committee develops, monitors implementation of, and reports on a national school infrastructure plan aimed at filling provincial and district-level school infrastructure gaps and inequities.</p> <p>7 The provincial differences in the rate of public school access to safe school structures, water, sanitation and electricity and infrastructure and facilities for children with disabilities do not exceed 10%.</p> <p>8 The National and Provincial Parliamentary oversight committees call for, and comment on, at least two departmental reports per year, on infrastructure budgets, expenditure, backlogs, plans to address backlogs and the state of infrastructure for all children, including children with disabilities.</p>	<p>Draft norms and standards were developed in 2008. However, they have never come into effect. Instead, on the instruction of the Council of Education Ministers in 2012, they have been converted and downgraded in legal status to a set of guidelines.⁴⁰</p> <p>The Guidelines Relating to Planning for Public School Infrastructure (2012) provide that a "school environment will not meet basic safety requirements where there is "a lack of access to potable drinking water and sanitation facilities", "toxic substances in the school environment", "extremely unsafe building structures that could collapse on top of learners", and "inadequate fencing".⁴¹ In addition, a number of basic services are recognised as essential for meeting the "minimum functionality requirements", including ablution facilities and electricity.⁴²</p> <p>As such, the Guidelines provide direction to all provincial departments on the necessary basic services that ought to be provided. However, the downgrading of the norms into guidelines potentially frustrates the realisation of the key equity objective of the policy, given the weaker legal status of guidelines. The National Planning Commission notes that, whilst the content of the Guidelines is sound, they ought to be legislated to ensure that they are adhered to: "Legislated guidelines will help to ensure they are not deliberately ignored by officials involved in planning, constructing and improving school infrastructure."⁴³</p> <p>It is thus critical that National Uniform Minimum Norms and Standards for School Infrastructure be legislated and implemented as required by the governing policy.</p> <p>4 The National DBE is keenly aware of the backlogs in the provisioning of basic services at schools, and announced an Accelerated Schools Infrastructure Delivery Initiative (ASIDI) in its 2011 - 2014 Strategic Plan. In terms of this programme, it has committed to:</p> <ul style="list-style-type: none"> a Eradicate all 496 mud schools by 2014. Fifty will be eradicated by 2011/12; 100 by 2013/14; and 346 by 2013/14. b Supply potable water to 1257 schools by 2014; 188 will be serviced by 2011/12 and 1069 by 2012/13. 	

1.5 Provide sufficient, safe, functional educational institutions *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
		<p>c Supply electricity to 878 schools by 2014, with 164 receiving electricity by 2011/12 and 714 by 2012/13.</p> <p>d Supply adequate and hygienic sanitation facilities to 868 schools by 2014. Three-hundred-and-fifty-four schools will have sanitation by 2011/12 and 514 by 2012/13.⁴⁴</p> <p>5 ASIDI is supported by two dedicated infrastructure grants. The first is the Education Infrastructure Grant of R5.498 billion in 2011/12, increasing to R6.207 billion in 2013/14. The second is the School Infrastructure Backlogs Indirect Grant of R700 million for 2011/12, increasing to R5.189 billion in 2013/14.</p> <p>6 The DBE reported in February 2012 that significant delays in procurement processes for basic services had held back the realisation of the 2011/12 targets and resulted in significant under-expenditure of allocated budgets in the Eastern Cape and Limpopo provinces.⁴⁵ The 2012 parliamentary analysis of the Department's budget notes with concern that only 63% of the total adjusted Basic Education budget of R9,1 billion allocated for infrastructure backlogs in 2010/11 was spent.⁴⁶ The expenditure was significantly lower in the Eastern Cape, where only 24% of the infrastructure budget was spent. In addition, in the Eastern Cape and Limpopo, lack of fiscal discipline resulted in the frustration of policy priorities and deepened inequity in these provinces.⁴⁷</p> <p>In its briefing to Parliament in February 2012, the Department recognised these challenges and reassured the Portfolio Committee on Basic Education that "sufficient plans are in place to ensure improved delivery in terms of progress and expenditure on the [ASIDI and other] programme[s] and that set targets are met".</p>	

1.5 Provide sufficient, safe, functional educational institutions *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
		<p>7 The 2012 Parliamentary education budget analysis calls on Parliament to rigorously monitor the performance and progress of the national and provincial departments' delivery and financial management, especially:</p> <ul style="list-style-type: none"> a the implementation of the Education Infrastructure Grant; b progress made in inclusive education; c measures that have been put in place to assist provinces to remedy the concerns raised by the Auditor-General in 2011; d measures in place to improve provincial fiscal discipline; and, e strengthened provincial monitoring and evaluation systems that will ensure performance and spending. <p>8 In addition, improvements in the planning and equitable delivery of infrastructure has received national priority attention in the Presidential Infrastructure Coordinating Committee's National School Build Programme. The nationally coordinated programme will be "driven by uniformity in planning, procurement, contract management, provision of basic services, replacement of inappropriate school structures, and addressing basic service backlogs. In addition, [it will] address national backlogs in classrooms, libraries, computer labs and admin buildings."⁴⁸</p> <p>9 It is not possible, in 2012, to assess the adequacy of infrastructure against UD standards for children with disabilities as the current infrastructure monitoring system (NEIMS) does not collect and report on information on the level of infrastructure in place to meet the needs of learners with disabilities. The DBE is urged to strengthen the NEIMS system to monitor levels of UD compliance at all schools.</p>	

1.6 Provide sufficient teachers that are qualified and available to teach

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>Provide a sufficient number of teachers.⁴⁹</p>	<ol style="list-style-type: none"> 1 All learners are in classes that fall within the prescribed age-appropriate learner: teacher ratio: <ol style="list-style-type: none"> a Grade R: 30:1 b Other: 40:1 2 All allocated teacher posts are filled, especially in rural areas. 	<ol style="list-style-type: none"> 1 The DBE recognises that many schools have overcrowded classrooms. It acknowledged that in 2011 about 15% of public school classes have more than 50 learners.⁵⁰ A key reason for overcrowding is the insufficiency of teachers. 2 The new Strategic Planning Framework for Teacher Education and Development in South Africa (2011) makes provision for revised minimum qualifications, support to educators, and incentives to attract young quality educators into the sector. 3 The DBE has committed to improving the number of teachers in rural areas through more effective implementation of the policy for better pay for teachers in rural areas. In addition, it has committed to revise the policy on teaching posts to ensure a closer match between demand and supply. 4 In order to remedy the shortage of Grade R teachers, the DBE should consider the development of provincial staffing plans that identify the numbers of teachers required, as well as a comprehensive training strategy and implementation plan for Grade R educators with short, medium and longer-term targets.⁵² 	<p>National and provincial departments of Basic Education.</p>
<ol style="list-style-type: none"> 1 Ensure teachers are qualified to teach all learners with different learning abilities.⁵³ 2 Ensure that all teachers are appropriately qualified and equipped with the necessary skills to teach learners with disabilities.⁵⁴ 	<ol style="list-style-type: none"> 1 All teachers (including Grade R teachers) have the minimum qualifications prescribed in the National Qualifications Framework Act No. 67 of 2008: Policy on the Minimum Requirements for Teacher Education Qualifications (2011). 2 All teachers at rural primary schools teaching multi-grade classes have been trained in multi-grade teaching strategies as required by the Policy on the Minimum Requirements for teacher Education Qualifications (2011). 	<ol style="list-style-type: none"> 1 Even though there was a vast improvement in the number of qualified teachers between 1990 and 2008 (from 53% to 94, 4%), in 2012 there are a number of inadequacies regarding the qualifications and competencies of teachers to teach all learners, including those with disabilities.⁵⁷ 2 The gains made in the number of qualified teachers may be reversed with the introduction of the revised Policy on the Minimum Requirements for Teacher Education Qualifications in 2011. 	<p>National and provincial departments of Basic Education</p> <p>DHET</p> <p>Tertiary institutions such as universities and teacher training colleges</p>

1.6 Provide sufficient teachers that are qualified and available to teach *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
	<p>3 All teachers are trained on inclusive education, to identify and address barriers to education, and are trained in curriculum differentiation for multiple learning levels within one grade as required by White Paper 6 (2001), the Policy on the Minimum Requirements for teacher Education Qualifications (2011), and the National Strategy on Screening, Identification, Assessment and Support (SIAS) (2008).</p> <p>4 All teachers of deaf and blind children and children with multiple disabilities have received specialist training in appropriate teaching strategies and sign language, and teachers in special needs schools hold specialist qualifications, as required by the Policy on the Minimum Requirements for Teacher Education Qualifications (2011).</p> <p>5 All unqualified teachers are in the process of upgrading their qualifications as per the legally prescribed minimum qualification norms.</p> <p>6 All teachers undergo regular evaluations to determine levels of curriculum knowledge and competence for the subjects they are teaching and receive regular support to improve areas of weakness.⁵⁵</p> <p>7 Ninety percent of teachers attain a minimum standard in anonymous and sample-based assessments of their subject knowledge.⁵⁶</p>	<p>3 Whilst improvements have been made in the number of qualified teachers, the same progress has not been made in ensuring the adequate training and qualifications of teachers to teach learners with disabilities. By 2011, only 5000 district and school based officials had received training on SIAS and only 200 officials had been trained in visual and hearing impairment to support 66 schools.⁵⁸</p> <p>4 Even though there was a vast improvement in the number of qualified teachers between 1990 and 2008, there was not a corresponding improvement in learner performance. This disjuncture reveals "a sharp distinction between qualifications and competence".⁵⁹ The evidence indicates that the majority of teachers know little more about the subjects they teach than the children they teach; some teachers know even less.⁶⁰ A study conducted by JET Education services in 2008 in 268 schools in eight provinces found that only 53% of Grade 4 maths teachers answered a simple fraction question based on the Grade 6 curriculum correctly. In 2009, only 72% of the Grade 5 maths teachers got the same question correct.⁶¹ The full extent of the problem is not accurately documented as teachers are not regularly tested on content knowledge and competency levels. There has been resistance amongst some teachers to the introduction of testing.</p> <p>5 A number of recommendations have been made to address these inadequacies, including:</p> <ul style="list-style-type: none"> a The implementation of a meaningful and effective programme of ongoing in-service training for content-focused professional development and pre-service programmes for teachers. Taylor notes that the introduction of the DBE's Integrated Strategic Planning Framework for Teacher Education and Development for South Africa 2011-2025, which is aimed at improving the theoretical and practical competence of the new teacher and improve the in-service component of initial teacher training, "is likely to have a positive influence on the quality of new teachers entering the system".⁶² b The introduction of regular testing of teachers in the subjects that they teach to determine levels of knowledge and competence.⁶³ 	

1.6 Provide sufficient teachers that are qualified and available to teach *(continued)*

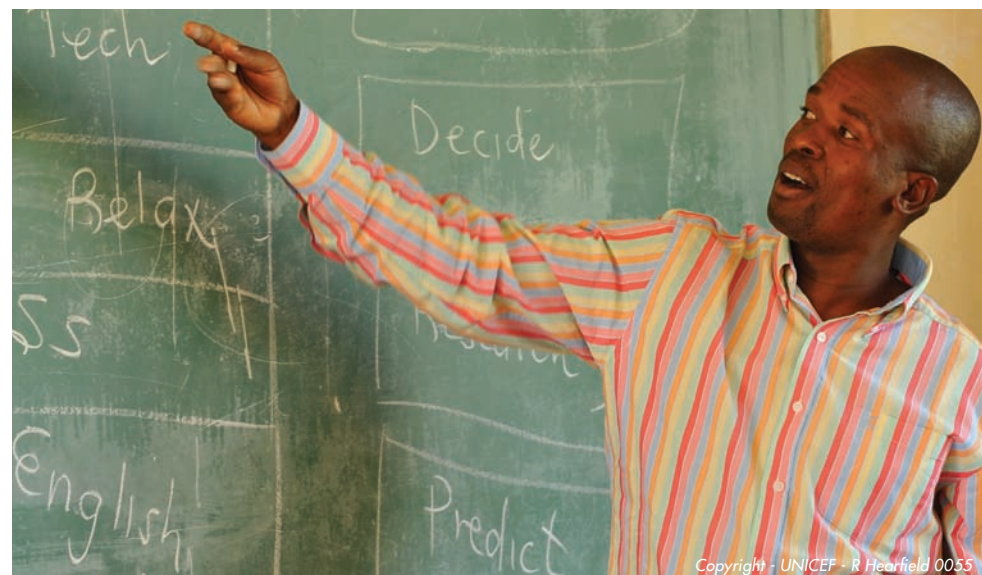
State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
		<p>c The National Planning Commission recommends that the DBE consider introducing a system of teacher professional certification which will allow for regular monitoring and upgrading of teacher competencies and subject knowledge (2012).</p> <p>6 Taylor (2011) and others have expressed concern with the resistance that organised labour has shown to the professionalisation of teachers and the introduction of effective monitoring and management systems.</p> <p>The DBE and others recognise that the introduction of a system for monitoring and improving teacher content knowledge and competence depends on overcoming teacher trade union resistance to this development.⁶⁴</p> <p>Given the obligation on the State to prioritise the best interests of the child in the event of competing interests, the DBE is obliged to negotiate an agreement with all stakeholders that recognises the centrality of the best interests of the child. The DBE is urged to implement educator monitoring, testing and support measures, preferably through a negotiated agreement with the unions, which will create a strong legal foundation for holding all educators accountable to their teaching obligations and commitments.</p> <p>7 The DHET and tertiary institutions have a key role to play in building the competencies of teachers as prescribed. For example, universities and other tertiary institutions are required, in terms of the Policy on the Minimum Requirements for Teacher Education Qualifications (2011), to develop qualification programmes that comply with the minimum qualification requirements.</p> <p>In 2012, only three teacher-training programmes are available for training teachers of deaf children at the Free State University, the University of the Witwatersrand and UNISA. There is an urgent need for more programmes to be offered at more universities.</p>	

1.6 Provide sufficient teachers that are qualified and available to teach *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>Ensure teachers are in the classroom teaching learners and covering the curriculum.⁶⁵</p>	<ol style="list-style-type: none"> 1 All learners have a qualified teacher present and teaching in class for seven hours per day every school day.⁶⁶ 2 The curriculum for each grade is completed in the teaching year. 3 A management and monitoring system is implemented to ensure teachers are present, teaching and completing the curriculum.⁶⁷ 	<ol style="list-style-type: none"> 1 Various studies note that in 2011/12 the South African education system is marked by high levels of teacher absenteeism and late-coming. The problem is most pronounced in schools in the lowest four quintiles, although many schools in the highest quintile experience the problem too.⁶⁸ In addition, when teachers are at school, they spend only half their time, or less, in class teaching.⁶⁹ Not surprisingly, therefore, often teachers reach the end of the year without having covered the curriculum.⁷⁰ 2 The problem has been aggravated by inadequate management and monitoring systems. However, a revitalised management and monitoring system is being developed at various levels, including district level and through national structures like the Planning and Delivery Oversight Unit (PDOU) and the National Education Evaluation and Development Unit (NEEDU). The PDOU and NEEDU have been established to support delivery of the improved curriculum and other policies designed to improve the quality of teaching and learning. The PDOU has been set up to improve curriculum delivery and learner achievement through strengthened support through and by district offices. The NEEDU has been established in terms of the National Education Evaluation and Development Unit Act (2011) as an independent evaluation and oversight body tasked with reviewing and making recommendations relating to poor educational practices and develop the capacity of teachers.⁷¹ 3 The Department has committed to ensure that, through these innovations, basic management processes will be followed, and to improve the frequency and quality of the monitoring and support services provided by district offices to schools. More specifically, it has undertaken to introduce a new system to monitor schools and teachers through district-level visits to the school at least once a year to check on curriculum progress and quality of teaching. 	<p>National and provincial Departments of Basic Education</p> <p>Organised labour in the education sector</p> <p>Schools, principals and teachers</p>

1.6 Provide sufficient teachers that are qualified and available to teach *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
		<p>4 The DBE has also implemented a Strategic Planning Framework for Teacher Education and Development (2011) to improve teacher capacity and practices. In addition, it has begun a process of supporting and collaborating with teacher unions on teacher professional development.⁷³</p> <p>5 Teachers have pledged to “be punctual, enthusiastic, well prepared for lessons and of sober mind and body” and principals have committed to “monitor teacher attendance”.⁷⁴</p> <p>6 The National Planning Commission recommends that each school develop its own monitoring and evaluation plan for each year that should map out its goals for the academic year. Performance indicators should include the rate of improvement on ANA results, curriculum coverage, teacher and learner attendance. These should be monitored and regular reports provided to parents (2012, page 311).</p>	



1.7 Provide sufficient teaching and learning support materials and equipment

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
<p>Provide basic learning and teaching support materials (LTSM) and equipment such as stationery and textbooks in a timely fashion to all learners, including appropriate materials for learners with disabilities.⁷⁵</p>	<ol style="list-style-type: none"> 1 All learners from Grades R-12 have a basic minimum package of learning support materials from the start of the school year to ensure effective learning of literacy and numeracy, including:⁷⁶ <ol style="list-style-type: none"> a a standardised workbook for literacy and numeracy,⁷⁷ b one textbook of their own for every subject;⁷⁸ c wall charts; d number and phonic friezes; and,⁷⁹ e basic learning materials, meaning at least one exercise book to write in, a pen or pencil, and a ruler.⁸⁰ 2 All blind learners have access to workbooks and textbooks in Braille, and they and other learners with disabilities have access to other forms of alternative communication.⁸¹ 3 The materials and texts are properly used to ensure effective teaching and learning. 	<ol style="list-style-type: none"> 1 Historically, South African learners have not enjoyed access to core text- and workbooks. The SACMEQ III (2010) study found that, in 2007, on average only 45% of learners had reading books and 36% had mathematics textbooks. 2 The DBE has recognised and responded to the need for textbooks and related teaching and learning support materials through its "3T" campaign which focuses on Texts, Time and Teaching. It has prioritised the development and delivery of textbooks and numeracy and literacy workbooks for all learners in Grades 1-9. In addition, the DBE has committed to translating workbooks into Braille for all blind learners at special schools.⁸³ 3 As in the case of infrastructure, in 2012 there is significant inequity in access to adequate workbooks and textbooks, with poorer provinces experiencing the greatest shortages.⁸⁴ Learners with disabilities are prejudiced by the fact that, whilst workbooks are translated into Braille, textbooks are not translated. In addition, in 2011, "books, magazines and puzzles were available in [only] about 70-75% of public school Grade R classes".⁸⁵ 4 Where materials such as textbooks are provided, they are not used appropriately.⁸⁶ 5 The SACMEQ III study emphasised that effective participation in learning activities depends on each learner having at least one exercise book to write in, one pen or pencil and a ruler. The study found that only 82% of Grade 6 learners had this essential package. In other words, in 2007, one in five learners did not have access to basic learning materials. The rate of access varied across the provinces, with the lowest number (67%) recorded in the Eastern Cape and the highest in Limpopo (93%).⁸⁷ <p>Similarly, the 2011 PETS study found that, whilst Grade R facilities at public schools were better equipped than their community-based counterparts, a significant number lacked essential learning and teaching support materials:</p> <ol style="list-style-type: none"> a 4% did not have chairs; b 12% did not have tables; 	<p>National and provincial departments of Basic Education</p>

1.7 Provide sufficient teaching and learning support materials and equipment *(continued)*

State's obligations	Indicators/rights	Commitments and recommendations for optimal realisation of the right	Responsible role-player(s)
	<p>4 In addition to the above, all Grade R classes are to have the following basic minimum package of learning and support materials and equipment deemed necessary to enable "a school to carry out the prescribed curriculum without obstacles":</p> <p>a indoor equipment — scissors, floor mat, paint and brushes, wax crayons, paper, 10 story books, paper glue, teacher resource book (poetry/rhyming), 1 pack of shapes, 1 set of blocks, 6 pegboards, and 3 balls;</p> <p>b outdoor equipment — balls, skipping ropes, balance beam and bean bags.⁸²</p>	<p>c 39% did not have a blackboard;</p> <p>d 32% did not have playblocks;</p> <p>e 12% did not have crayons; and,</p> <p>f 36% did not have paper.</p> <p>6 The DBE has committed to developing a Minimum School Bag Policy which will describe and require the provision of the minimum quantity and quality of learning and teaching materials required by all learners.⁸⁹ It has not as yet developed the policy. It is urged to do so in order to secure the equitable provision of essential teaching and learning materials to all learners across all provinces.</p> <p>7 The National Policy for the Equitable Provision of an Enabling School Physical Teaching and Learning Environment (2010) obliges the provision of "basic facilities that enable [schools] to carry out [their] core functions of teaching and learning. Examples include textbooks and basic supplies of fundamental teaching aids like rulers."⁹⁰ As in the case of infrastructure, the policy commits to the development of national norms and standards which will prescribe minimum levels of LTSMs.</p> <p>These have not been developed. Instead, the Guidelines Relating to Planning for Public School Infrastructure (2012) have been developed and stipulate that a "school environment is considered to be meeting the minimum functionality requirements...if it....[has] textbooks and basic supplies of the most important teaching aids".⁹¹</p> <p>In order to strengthen the framework regulating the equitable provision of essential LTSMs, the Minister of Basic Education is urged to adopt national norms and standards which include a minimum basic package of essential teaching and learning support materials.</p> <p>The DBE has committed to engage in ongoing and in-depth reviews with regard to how effectively workbooks are being used in classrooms.⁹²</p>	