

Date Printed: 04/23/2009

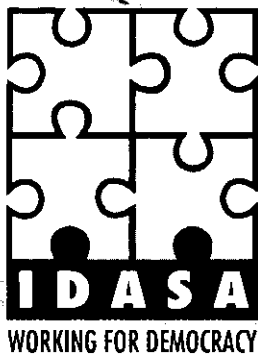
---

JTS Box Number: IFES\_72  
Tab Number: 75  
Document Title: Citizenship and Democracy  
Document Date: 1997  
Document Country: South Africa  
Document Language: English  
IFES ID: CE01826

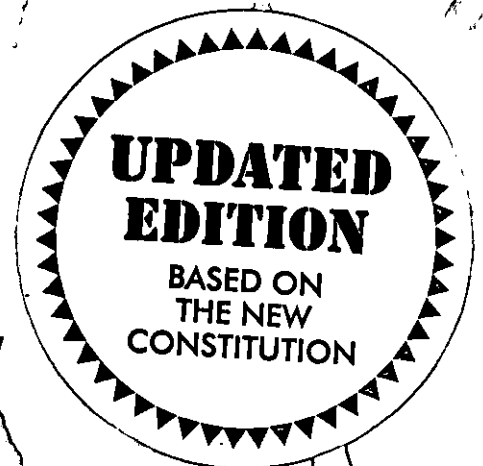


\* B 5 7 9 6 0 B B - 0 A 1 5 - 4 3 A 8 - A D 2 2 - 8 2 C 1 0 B B 2 6 2 9 D \*

# CITIZENSHIP AND DEMOCRACY



**Training Centre for Democracy**



# TRAINER'S MANUAL

## Citizenship and Democracy

Updated version

Curriculum Development and Citizenship Education Unit  
Institute for Democracy in South Africa (IDASA)  
P.O. Box 56950  
ARCADIA 0007

Tel: (012) 320 3820  
Fax: (012) 320 2414/5

© IDASA May 1997 All rights reserved.

ISBN 1-874864-16-0

Cover design: MANIK DESIGN

Photograph: Kevin Carter, Southlight

## HOW TO USE THIS MANUAL

### COLOURED PAGES

These are materials for you, the trainer.

They include:

- a set of detailed workshop objectives
- a step-by-step programme
- notes relating to certain aspects of the workshop

### WHITE PAGES

These are master copies of the handouts that you will need during the workshop. They are printed on white paper to ensure easy photocopying.

In some instances, the white pages also include group activity exercises. After printing, these pages should be cut up into separate slips.

## **CITIZENSHIP AND DEMOCRACY**

### **WORKSHOP OBJECTIVES**

This workshop will promote critical reflection on the relationship between the individual and society and the workings of democracy so that participants will


- understand the relationship between the state, government, political parties and the citizen
- be familiar with the Bill of Rights and have some experience in applying it
- have greater confidence to exercise their rights as citizens of a democratic country
- understand and accept their responsibilities as citizens
- identify challenges to democracy in post-election South Africa
- consider options for citizen participation in the consolidation of democracy in South Africa
- make a personal commitment to building democracy through involvement in relevant structures or activities

# IMPORTANT NOTE

## USING THE TRAINER'S PROGRAMME

This programme has been designed for a **one-day workshop** lasting 6 hours.

It can be divided into **4 sessions**, each lasting **90 minutes**.

Some of the themes last longer than 90 minutes. Take a break when you see 

Some of the themes are shorter than 90 minutes. In this case, move directly on to the next theme, and keep going until you see



## RESOURCES AND MATERIALS

At the beginning of each theme, there is a shaded box indicating the materials that you will need, and the resources you should refer to

The trainer's programme is divided into 4 different columns:



The empty space under the clock is where you can write the actual time (eg. 10:30) when each programme step should begin. Use a pencil, as the times will change, depending on when your workshop begins.

**PROGRAMME STEP** This describes each activity in detail. **Bold type** indicates that you should use the questions or instructions **exactly as they are written**.

**HOW LONG** This indicates the time that you should spend on each activity, but it does not indicate when you should start and when you should finish.

**WHO** If there are two or more trainers conducting the workshop, then you can use this blank column to write down who is responsible for each programme step.

# THEME ONE: 90 MINUTES

## CITIZENSHIP AND HISTORY

### RESOURCES AND MATERIALS

Towards the end of this section, you will need 6 sheets of newsprint headed: Before 1950; 1950's; 1960's; 1970's; 1980's; and 1990's. Hang these up one next to the other on a long wall in order to create a continuous "timeline". Refer also to the trainer's notes on pages 10 and 11.



### PROGRAMME STEP

Welcome participants and introduce trainers.  
Invite participants to introduce themselves and briefly state what they are hoping to learn from this workshop.  
Present programme objectives and outline.

In plenary: Briefly interview a fellow trainer about his/her family history. Interview a participant if you are training alone. Use some of the questions for the pairs' exercise below.

Ask participants to form pairs and invite them to tell their partners about their family history. Encourage them to be precise about dates and places. Prompt them to tell each other about at least three generations, using the following kinds of questions:

- (1) What do you know about your grandparents? Where did they come from? What languages did they speak? Where did they work? What jobs did they do? What were the important turning-points in their lives?
- (2) Did your parents lead different or similar lives to your grandparents?
- (3) Where did you live when you were young? If you moved, when and why did that happen? Where did you go to school? What important turning-points do you remember in the life of your family when you were younger?
- (4) Where do you live now? Why have you settled there? Is your life following a different pattern to that of your parents?

HOW  
LONG

WHO

20 min

5 min

20 min



## PROGRAMME STEP

In plenary, invite 3 participants to share their family histories. Ask **when** the major events in their lives occurred and note these on the appropriate newsprint time panels.

Invite a few other participants to add interesting events from their family histories to fill in panels a bit more if necessary.

Mini-lecture:

Wrap up this exercise by noting certain key moments in South African history on the time panels. Point out how these events affected the lives of those families whose histories have been shared with the group, and the lives of many other people too. Note that these common, shared experiences create bonds between citizens, and are vital to our own sense of identity.

Encourage participants to reflect and add details if time allows.



HOW LONG	WHO
30 min	
10 min	
5 min	



## THEME TWO: 55 MINUTES

### WHAT IS DEMOCRACY?

#### RESOURCES AND MATERIALS

For this section, you will need a sheet of newsprint and a koki pen for each group. Also refer to the trainer's notes on pages 12 - 14.



#### PROGRAMME STEP

Divide participants into random groups of 5/6.

Ask each group to write a definition of democracy as they wish to see it practised in South Africa now and in the future.

It might help to complete the following sentence:

"The democratic South Africa should be a place where..."

In plenary, invite groups to share their definitions

Draw out and add theory on core democratic values and procedures/structures.

HOW  
LONG

WHO

5 min

20 min

15 min

15 min

## THEME THREE: 125 MINUTES

### CITIZENS' RIGHTS

#### RESOURCES AND MATERIALS

For this section of the workshop you will need 27 slips of paper each featuring an article from the Bill of Rights. You will also need the handout summarising the Bill of Rights, and separate slips of papers presenting the human rights dilemmas. To make these slips, photocopy the last 10 pages of this manual, and cut up them up as required. If possible, provide the "judges" in the human rights court cases with a black gown and a gavel.

Refer to the trainer's notes on pages 15 - 16 for the mini-lecture on the application of the Bill of Rights. On pages 17 - 18 you will find information on official channels for dealing with human rights violations. There is also a handout for participants with this information.



#### PROGRAMME STEP

Ask participants to form pairs or triads (3's).  
Hand out human rights cards to pairs/triads, ensuring that all cards are distributed. Allow participants a minute to read their cards on their own.

Invite participants to stand in big circle.  
Explain that this will be rather like a lecture given by 27 different people!  
Ask participants to read out the human rights in numerical order. Encourage presenters to read their cards as clearly and expressively as possible.

Distribute the summary of the Bill of Rights.

Mini-lecture:  
The application of the Bill of Rights



Divide the plenary into 3 groups of equal size.  
Give each group a matching pair of human rights dilemma cards. Half the members should work on the **A** card, and the other half should work on the **B** card.  
Group **A** prepares arguments to defend its case against group **B**. Groups must decide how these arguments will be presented.

HOW  
LONG

WHO

8 min

15 min

2 min

10 min

15 min



## PROGRAMME STEP

Ask participants to regroup in plenary.  
 Call up the spokespersons for 2 groups representing opposite sides of the same dilemma. Ask someone from another group to volunteer to be a judge. If you can, give the judge a black gown and a gavel, and try to create the atmosphere of a court.  
 Explain that groups should present their conflicting arguments before the judge, who must make a ruling after considering both sides of the story. Then invite comments from the floor. Insist that all arguments should be based on the Bill of Rights.  
 Repeat the process for the remaining dilemmas. Allow 10 minutes per case.

Mini-lecture:  
 Official channels for dealing with human rights violations. Distribute the handout on institutions charged with guaranteeing and interpreting constitutional rights, so that participants can follow as you present the mini-lecture.

Emphasising the limitations of these official channels (time, access, clumsy bureaucracy) discuss in plenary how citizens can solve such problems on their own.

HOW LONG

WHO

30 min

15 min

30 min



## THEME FOUR: 90 MINUTES

### BUILDING DEMOCRACY

#### RESOURCES AND MATERIALS

In this session, you will refer back to the definitions of democracy that were written up by participants earlier in the workshop. You will also require copies of the Building Democracy worksheet for all participants, as well as copies of the evaluation form.



#### PROGRAMME STEP

In plenary, draw people's attention to the definitions of democracy that were formulated earlier in the workshop. Ask the plenary to brainstorm present and future challenges to democracy in South Africa. List these on flipchart.

Still in plenary, brainstorm answers to question:  
**What can ordinary citizens do to counteract these threats to democracy?**

Explain the personal exercise and distribute the Building Democracy worksheet to all participants.

Give individuals time to complete the worksheet.

Ask participants to form clusters of 4.  
Encourage participants to share, clarify and refine their plans.

In plenary, invite brief reflection on the personal planning exercise from a few participants.

Closing remarks and evaluation

HOW  
LONG

WHO

15 min

15 min

5 min

10 min

20 min

10 min

15 min

## DATES TO ASSIST WITH INTERPRETATION OF THE FAMILY HISTORY EXERCISE

The notion of how history unfolds and affects our personal lives is crucial to our own sense of identity. Seeing the connection between the past and the present also helps us to grasp the significance of our own thoughts and actions, and the role that we can play in shaping history.

### Before 1950

- 1905 Commission recommends homelands and inferior education for black people
- 1910 Union of South Africa established - black people excluded from voting everywhere except Cape
- 1913 Natives Land Act passed - later leaving 13% of the land for black people
- 1922 White Miners Strike
- 1936 Black people removed from Cape voters roll
- 1948 National Party voted into power
- 1949 Mixed Marriages Act passed

### The 1950's

- 1950 Suppression of Communism Act, Population Registration Act and Immorality Act passed
- 1953 Separate Amenities Act and Bantu Education Act passed
- 1956 Coloureds removed from voters roll  
20 000 Women march to the Union Buildings to protest against Pass Laws
- 1958 Group Areas Act passed

### The 1960's

- 1960 Sharpeville massacre  
Banning of ANC and PAC
- 1961 South Africa becomes a republic
- 1963 Detention legislation passed
- 1966 Verwoerd assassinated

### The 1970's

- 1976 16 June riots, beginning of Soweto Uprising
- 1977 Steve Biko killed
- 1979 Prime Minister Vorster resigns - replaced by PW Botha  
Council of Trade Unions and Federation of South African Trade Unions formed  
Industrial Conciliation Act legislates official recognition of black trade unions

**The 1980's**

- 1983** White referendum leads to establishment of tricameral parliament
- 1985** COSATU formed  
State of Emergency declared in certain areas
- 1986** Mixed Marriages Act repealed  
Pass laws abolished  
State of Emergency extended nationwide
- 1989** UDF, COSATU and other organisations restricted

**The 1990's**

- 1990** Organisations unbanned  
Mandela released  
Groote Schuur Minute (return of exiles, freeing of political prisoners)  
State of Emergency lifted  
Pretoria Minute (armed struggled renounced)  
Separate Amenities Act repealed
- 1991** Remaining racist legislation repealed  
National Peace Accord
- 1992** Whites only referendum on transition
- 1993** Chris Hani assassinated
- 1994** National and provincial elections  
Nelson Mandela sworn in as President
- 1995** Local government elections in most provinces
- 1996** Local government elections in remaining provinces  
New Constitution adopted

## TOWARDS A DEEPER UNDERSTANDING OF DEMOCRACY

### INTRODUCTION

It is not easy to define democracy. Most definitions of democracy focus on qualities, procedures and institutions. There are many types of democracies and their varied practices produce similarly varied effects. Democracy does not consist of a single, unique set of institutions that is universally applicable. The specific form that democracy takes in a country is largely determined by prevailing political, social and economic circumstances, and greatly influenced by historical, traditional and cultural factors.

In an article in *Journal of Democracy*, Philippe C. Schmitter and Terry Lynn Karl tentatively define democracy as follows:

"Modern political democracy is a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and co-operation of their elected representatives."

Among the key distinctions between democratic and undemocratic rulers are the way in which they come to power and the extent to which they are accountable for their actions. The key to determining whether or not decisions and choices are democratic depends upon the extent to which rulers have obtained the consent of the ruled.

### THE ORIGINS OF DEMOCRACY

The word "democracy" comes from the Greek word "demos", meaning "the people" and "kratos" meaning "rule" or "power".

### DIFFERENT TYPES OF DEMOCRATIC SYSTEMS

#### 1. Classical Democracy or Direct Democracy

Direct democracy was first established in Athens, Greece. All adults (males!) would gather together to discuss issues and they would vote by a show of hands. This mode of government is time-consuming and it is impossible for large populations to meet every time a decision has to be made. Therefore, the step from direct democracy (in which people vote directly on issues) to representative democracy (in which the people vote for representatives or politicians who make decisions on their behalf) was inevitable as larger democracies were established.

#### 2. Representative Democracy

Elected leaders represent "the people" and govern for a set period of office. Representatives are chosen through elections based on the "constituency" or "proportional representation" systems, or on a combination of the two.

Under the constituency-based system, the country is divided into different electoral districts (and towns are divided into wards). Political parties choose or nominate individuals as candidates in each district to represent their party. People then vote for one of the competing candidates in their electoral district. In each district, the one candidate who receives the most votes is elected.

While the constituency system aids accountability by making every elected representative accountable to a particular group of citizens (those in his or her district), it also can lead to a legislature that is unrepresentative of the preferences of the whole citizenry. For example, imagine a legislature of 100 representatives. One election, the results in every district are that the candidate from Party A receives 51% of the votes, the candidate from Party B receives 30% of the votes, and the candidate from Party C receives 19% of the votes. (Of course, it is very unlikely that in any election all of the districts would have the same results, but this makes the example simpler.) In this case, each district would send Party A's candidate to represent it in the legislature; Party A would have 100%--all 100--of the seats in the legislature! This seems unfair: shouldn't Party B have about 30% of the seats and Party C have about 19% of the seats? Under unusual circumstances, a constituency-based system can result in a party receiving the largest number of seats in the legislature without receiving the largest number of votes, nationally.

Proportional representation (PR) is designed to address this problem, and is the system South Africa has adopted. Instead of choosing among individual candidates who represent different parties in their district, voters simply vote for a party. Their votes are tallied, nationwide, and the seats in the legislature are divided among the parties according to their share of the total, national vote. The parties themselves then decide who from their ranks will hold each of the seats they have won in the election. Under the PR system, the imaginary election described above would have given Party A 51 seats, Party B 30 seats and Party C 19 seats. One of the main disadvantages of a strict PR system (as described here) is that individual representatives are not responsible to particular groups of citizens, because they do not have their own districts that can vote them out of power if they do not perform well.

There are other broad labels that are attached to various democratic systems (such as liberal democracy and social democracy), but rather than trying to define these, it may prove more useful to focus on the underlying principles and procedures that underpin all democracies.

### MINIMUM REQUIREMENTS

Scholars who have compared the characteristics of many different democracies argue that there are certain minimum requirements in order for a modern democracy to exist and flourish.

1. Control over government decisions about policy is constitutionally vested in elected representatives.
2. Elected representatives are chosen in frequent and fair elections.



3. Elected representatives can exercise their constitutional powers without facing overriding opposition from unelected officials.
4. All adults have the right to vote in elections.
5. All adults have the right to run for public office.
6. Citizens have the right to express themselves on political matters, defined broadly, without the danger of severe punishment.
7. Citizens have the right to seek out alternative sources of information, such as the news media, and such sources are protected by law.
8. Citizens have the right to form independent associations and organisations, including independent political parties and interest groups.
9. Government is autonomous and able to act independently from outside constraints (such as those imposed by alliances and blocs).

If any of these conditions is NOT present, the scholars argue that the country is not truly a democracy.

#### DEBRIEFING THE DEFINITION OF DEMOCRACY EXERCISE

Listen carefully as groups present their definitions. List the key words on separate sheets of newsprint under the headings "Values" and "Procedures/Structures". You will have to think quickly as you do this, and be clear in your own mind of the distinction between core democratic values and procedures or structures. The lists below provide a guide, although participants may have other ideas too.

#### VALUES

- tolerance
- justice
- fairness
- equality
- co-operation
- freedom
- responsibility
- trust
- respect
- willingness to compromise
- accountability
- transparency
- moderation
- responsiveness
- compassion
- open-mindedness
- community-mindedness
- patience and persistence
- appreciation of diversity

#### PROCEDURES/STRUCTURES

- Elections and voting
- The rule of law
- Separation of powers
- Independent judiciary
- Bill of rights
- Consensus
- Majority rule
- Checks and balances
- Mandate
- Reports to constituencies
- Recall
- Consultation
- Negotiation
- Competing political parties
- Parliament
- Committees

## HUMAN RIGHTS IN SOUTH AFRICA: NOTES ON APPLICATION

### VERTICALITY vs. HORIZONTALITY

Chapter 2 of the new Constitution is the Bill of Rights, which guarantees certain rights for all citizens. These rights cannot be taken away except under special circumstances (see "Limitations," below).

The Bill of Rights protects citizens in their relationship with the state. In other words, it prevents the government (including all of its structures, departments and officials) from violating the fundamental rights of citizens. In this sense, the Bill of Rights has **vertical application** in South Africa. (Legal experts have adopted the term "verticality" to refer to the relationship between the state and its citizens and "horizontality" to refer to relationships among citizens and groups of them.) Citizens may lay charges against the state in instances where their rights have been violated in terms of Chapter 2 of the Constitution.

While Chapter 2 always binds the state, its application to relations between citizens and groups of them (such as businesses, unions, civics and non-governmental organisations) is still being worked out. Which clauses of the Bill of Rights govern these relationships depends on the "nature" of the rights and the duties such rights would impose. Exactly what this means will be clarified by court rulings and new laws during the next few years. For example, Parliament may pass a "civil rights act" that will outlaw discrimination by citizens against each other. For example, it might provide that if a restaurant owner only allowed white people into his or her restaurant, then he or she could be taken to court by a black person for discrimination.

In some countries there are bills of rights that apply equally to the state and to citizens (both "vertically" and "horizontally"). Determining the application of the South African Bill of Rights is still a very new area, though. There may be many arguments in Parliament and court about exactly what constitutes "verticality" and "horizontality" and what rights should bind whom. At present, however, the courts and the Human Rights Commission can use international bills of rights and legal cases from abroad, as well as South African legal doctrines, in judging human rights disputes among citizens.

### LIMITATIONS ON RIGHTS

Not all rights in the Bill of Rights are absolute. Most can be limited if the limitation complies with specific criteria. Section 36 of the Constitution sets out the conditions that must be met if a right in the Bill of Rights is to be limited. A limitation might be in the form of a law that restricts the exercise of a right in certain kinds of situations. In other instances, a court or administrative ruling might apply certain limitations to rights in a particular case. Section 36 states that any limitations must be "reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom." They also must take into account "all relevant factors including the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose." Finally, they must apply to all people, not just to a specific group.

Rights can be limited further under a state of emergency declared by Parliament when "the life of the nation is threatened." Parliament's power to impose a state of emergency is restricted by detailed provisions in Section 37 of the Bill of Rights. Most rights in the Bill of Rights can be limited under state of emergency legislation, but there are important exceptions, including the right to life, the right to equality and certain rights of accused, detained and arrested persons.

## PROTECTING YOUR FUNDAMENTAL HUMAN RIGHTS: OFFICIAL CHANNELS

### *The actions of government*

The Constitutional Court has been established to give citizens protection against government. It is the Court's job to hear cases where people feel that government actions, including laws passed, contradict the provisions of the Constitution.

The Court is made up of eleven judges. They are appointed for twelve years. The President is Judge Arthur Chaskalson, a distinguished human rights lawyer. He and the other members of the Court were chosen after public hearings.

The Court holds all its hearings publicly in Johannesburg, but only deals with cases where constitutionality is in question. Everyone will be able to approach the Court with cases that they believe involve violations of the Constitution, but the mechanisms for this are still being worked out.

The Supreme Court of Appeal and the High Courts can also rule on constitutional matters, but their rulings can be appealed to the Constitutional Court, which makes the final decisions.

### *The promotion and protection of human rights*

The Human Rights Commission is a watchdog for human rights and is independent of all other parts of government. It is not only bound by the South African Bill of Rights. It can use international law, human rights declarations and precedents in its investigations. It is charged with promoting human rights through education and publicity.

Any complaints about fundamental rights can be taken to the Commission and it will help with investigation. It may even provide assistance for people to go to court. In addition, the Commission may require that various government departments report on their progress in providing for citizens' needs in terms of their socio-economic rights.

The eleven members of the Commission have been named by the President, after receiving recommendations from the National Assembly. They include theologian Barney Pitso (Chair), former MP Helen Suzman and gender studies expert Rhoda Kadalie.

### *The promotion of gender equality*

Commission for Gender Equality has similar responsibilities to the Human Rights Commission, but with a special focus on promoting respect for gender equality. The commission has power to introduce legislation of its own. It will also investigate, research and evaluate existing and new laws from other ministries.

The commission will monitor gender equality in government, business and organisations. It will report annually to Parliament and the public on the advancement of women. The 12 member commission is chaired by Thandiwe Mtintso.

### ***The actions of state officials***

The national Public Protector, Selby Bagwa, has been appointed by the President. The Public Protector is the new name for the state Ombudsman. The Public Protector can help you if you feel wronged by any state official. The Public Protector's office is there to protect the public against abuse of power, corruption and bad administration by public servants and authorities. There will also be public protectors in each province.

The Independent Complaints Directorate (ICD) is a body set up to ensure that human rights are not violated by the security services of the country. If citizens experience police inefficiency at the time of an arrest or an investigation into a particular matter, then this can be reported to the ICD. Complaints about inhumane treatment while in police custody must also be lodged with the ICD.

### ***Cultural, religious and linguistic rights***

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities has the task of promoting these specific rights. These aims can be promoted through research, monitoring, investigation, lobbying, reporting and education. The Commission may also report any matter within its powers to the Human Rights Commission for investigation.

### ***The Constitution demands these structures***

Although it has taken longer to establish many of these structures than was initially hoped, the Constitution stipulates that they should all be put in place. Ways of facilitating public access to these structures is also still being worked out, but people should look out for news about further appointments and channels of communication.

# **CITIZENSHIP AND DEMOCRACY WORKSHOP**

## **PARTICIPANTS' PROGRAMME**

### **OBJECTIVES:**

After attending this workshop, participants will

- have a deeper understanding of the meaning of democracy
- know their rights as citizens and be confident to exercise them
- understand the responsibilities of citizenship
- be committed to playing a part in the consolidation of democracy in South Africa

### **PROGRAMME**

#### **Theme 1: Citizenship and History**

Exploring personal history  
History and our identity as citizens

≈ ≈

#### **Theme 2: What is democracy?**

The meaning of democracy

#### **Theme 3: Citizens' Rights**

The South African Bill of Rights

≈ ≈

#### **Theme 3: Citizens' Rights continued**

Human rights dilemmas  
Addressing human rights violations

≈ ≈

#### **Theme 4: Building Democracy**

Challenges to democracy in South Africa  
The role of citizens in building democracy

# CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

## CHAPTER 2: BILL OF RIGHTS

### SUMMARY

#### **1. You have the right to equality and freedom from discrimination**

The law must treat, protect and benefit everyone equally. No person shall be discriminated against because of his or her race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth. Measures designed to protect or advance people in order to achieve equality (such as affirmative action programmes) may be necessary to guarantee this right.

#### **2. Your human dignity will be respected and protected**

You have the right to be treated with respect and dignity at all times. No-one can insult you because of your race, colour or appearance.

#### **3. You have the right to life**

Nobody has the right to deprive you of your life. In South Africa the death penalty has been ruled unacceptable in terms of this right. In some countries this is given a wide meaning and can include the right to basic life necessities such as food, shelter, work and health care.

#### **4. You have the right to freedom of the person and control over your body**

You have the right to be free. Your freedom cannot be taken away from you unless the law allows this, for example, if you are arrested on suspicion or sentenced for committing a crime. You cannot be detained without trial, tortured or treated inhumanely. You have the right to make your own decisions concerning reproduction.

#### **5. Servitude and forced labour cannot be inflicted on you**

Slavery is forbidden by the Bill of Rights. You cannot be forced to work for anyone against your will or to work without pay.

#### **6. You have the right to privacy**

Your home and person are private. No one can search your home or person or interfere with your post and telephone, unless a crime is being investigated and the law governing searches is respected.

#### **7. You have the right to freedom of religion, belief and opinion**

You have the right to practise whatever religion you wish without interference. You can belong to any political party of your choice and hold any opinion you wish. You cannot be forced to do something against your conscience or beliefs. This right also provides that traditional law may be recognised in certain areas, provided that it does not conflict with any other fundamental rights.

#### **8. You have the right to freedom of expression**

You have the right to say what you like, whether this means speaking out against the government or putting forward a view that is not popular. This also includes freedom for the media, artists and researchers. However, this right does not permit war propaganda or the promotion of hatred or imminent violence.

#### **9. You have the right to freedom of assembly, demonstration and petition**

All people are free to attend meetings, demonstrate and present petitions, as long as they do so peacefully and without carrying weapons. A peaceful demonstration cannot be banned.

#### **10. You have the right to freedom of association**

You have the right to join any organisation of your choice. Any group of people with a common interest have the right to meet together and constitute themselves as an association or organisation in accordance with the law.

#### **11. You have political rights**

You have the right to make your own political choices. You have the right to join the political party of your choice and to participate in its activities, or to form your own party, recruit members and campaign. All citizens have the right to regular, free and fair elections. All adult South Africans have the right to vote in secret and to stand for election.

#### **12. South Africans have citizen's rights**

South African citizens cannot have their citizenship taken away from them without proper reason. Citizens have the right to enter, remain in and leave the country. You have the right to a passport.

#### **13. You have the right to freedom of movement and residence**

Everyone has the right to travel freely anywhere in South Africa and to leave the country. All South African citizens can live in any province, town and residential area they choose. However, the authorities do have the right to regulate the informal residential occupation of land.

#### **14. You have the right to freedom of trade, occupation and profession**

You have the right to try to make a living anywhere in South Africa and to practise the trade or profession of your choice, although the government can regulate how you practise. (For example, it may require doctors to have certain qualifications.)

#### **15. You have the right to fair labour practices**

You have the right to fair labour practices in the workplace. You cannot be unfairly dismissed, paid below the minimum wage in your industry or deprived of leave or sick pay. Workers have the right to join and participate in the activities of a trade union. They also have the right to collective bargaining and to strike. Employers have the right to form employers' organisations.

#### **16. You have the right to a clean environment**

You have the right to an environment that is not harmful to your health or well-being. The state must ensure that pollution is prevented and that rubbish is properly disposed. Clean-ups and conservation must be promoted.

#### **17. You have property rights**

You have the right to hold property that belongs to you. The state may only take away your property if it is in the public interest to do so, for example for the building of a road or school. Land may also be redistributed to redress injustices arising from past racial discrimination. When property is taken away by the state, the owners must receive just compensation.

#### **18. You have the right to housing**

All people have the right to adequate housing. The state must take all reasonable steps to guarantee this right. This right also means that no one can evict people from their homes or demolish dwellings without full respect for the law.

#### **19. You have the right to health care, food, water and social security**

All people have the right to sufficient food and water. People who are unable to support themselves have the right to social security. All people have the right to health care, including reproductive health care. Nobody can be refused emergency medical treatment.



## **20. Children are specially protected by the Bill of Rights**

Children under the age of 18 have the right to proper care and security, basic nutrition, shelter, basic health care and social services. They cannot be exploited in the workplace or be allowed to do dangerous or unhealthy work. They have the right to be protected from neglect, abuse and degradation.

## **21. You have the right to education**

Everyone has the right to a basic education. This right includes basic literacy for adults. You have the right to be educated in the official language of your choice, where this can reasonably be done. People also have the right to establish private schools, provided that they do not discriminate on the basis of race and maintain acceptable standards.

## **22. You have language and cultural rights**

You have the right to use the language of your choice. You can participate freely in cultural life by practising whatever customs and traditions you like, provided that you do not violate others' rights.

## **23. Cultural, religious and linguistic communities have rights**

All people and communities are entitled to enjoy their culture, practise their religion and use their language. They also can organise associations based on their culture, religion or language, provided this does not infringe upon other fundamental rights. Cultural Councils have the right to be established and recognised.

## **24. You have the right to access to information**

You have the right to all information held by any state department that you may need to exercise and protect your rights. However, certain information may be withheld on the grounds of state security. Different countries give their countries different amounts of access to government information. The exact meaning of this right may be specified further by Parliament if it passes an Open Democracy bill.

## **25. You have the right to administrative justice**

You have the right to be treated fairly and lawfully by any government official. You are also entitled to be given reasons for administrative decisions. If you believe that an administrative decision was wrong or unreasonable, it can be reviewed by a court of law.

## **26. You have the right to access to the courts**

It is your right to have disputes settled by an independent and impartial court. The courts must serve all South Africans equally and fairly. Courts hear both criminal and civil cases.

## **27. Detained, arrested and accused persons have rights**

No one can be arrested or detained without good reason and proper legal procedures must be followed. Detainees have the right to be informed in a language they understand of the reason for their arrest. Prisoners have the right to be kept in humane conditions and to have access to a lawyer, doctor, religious counsellor and spouse or partner. People arrested must be told of their right to remain silent. Anyone charged with a crime has the right to a fair trial by an impartial court, without "unreasonable delay." Anyone accused of a crime is considered innocent until they are proven guilty in a court.

## **NOTE: The Bill of Rights provides that rights can be limited under certain circumstances**

It is important to note that rights are not absolute. The Bill of Rights provides that they can be limited as long as the limitation is "reasonable and justifiable in an open and democratic society," taking into account several factors, including the nature of the right, the nature and extent of the limitation, the purpose of the limitation and whether there are less restrictive means that could accomplish the same purpose.

## INSTITUTIONS CHARGED WITH GUARANTEEING AND INTERPRETING CONSTITUTIONAL RIGHTS

The Constitution provides for a variety of institutions to ensure that rights are respected and to interpret constitutional provisions when they are unclear.

Name of Institution	Mission	Contact Details
<b>Constitutional Court</b>	Hears cases to decide whether laws or court judgements are constitutional.	Private Bag X32 Braamfontein 2017 Tel: 011-403-8032 Fax: 011-403-6520
<b>Human Rights Commission</b>	To promote the protection of human rights; and to assess observance of human rights in South Africa	National Office Private Bag 2700, Houghton, Johannesburg 2041, Tel: 011-484-8300 Fax: 011-484-8403
<b>Commission for Gender Equality</b>	To promote the protection, development and attainment of gender equality	Fedsure Forum Building, South Towers, Corner Van der Walt and Pretorius Street, 2 <sup>nd</sup> floor, Pretoria 0001 Tel: 012-322-4482
<b>Public Protector</b>	To investigate and recommend remedies for abuse of power by government.	Private Bag x677, Pretoria 0001 Tel: 012-322-2916 Fax: 012-322-5093
<b>Independent Complaints Directorate</b>	To investigate complaints of police inefficiency.	National Office: Private Bag X941 Pretoria 0001 Tel: 012-325-4202 Fax: 012-325-4246
<b>Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic communities</b>	To promote respect for the rights of cultural, religious and to promote peace, and national unity among them.	For information contact the Ministry of Provincial Affairs and Constitutional Development, Tel: 012-341- 2400
<b>Commission for Conciliation, Mediation and Arbitration(CCMA)</b>	Workplace and employment issues, disputes and violations	Contact provincial CCMA offices or National Office, Tel: 011-377- 6600
<b>Land Claims Commission</b>	Restitution of land rights	Offices exist in all major cities Cape Town Tel: 021-262-930 Pretoria Tel: 012-324-5800

## BUILDING DEMOCRACY: WORKSHEET

- Which 3 threats to democracy in South Africa discussed in the plenary session bother you most?

---

---

---

- What can you do personally to address these challenges in the next week?

---

---

---

---

- What can you do this year to address these challenges?

---

---

---

---

- What can you do to ensure that you put your plans into action?

---

---

---

---

# WORKSHOP EVALUATION FORM

NAME OF WORKSHOP: \_\_\_\_\_

NAME/S OF TRAINER/S: \_\_\_\_\_

DATE: \_\_\_\_\_ PLACE: \_\_\_\_\_

1. What was the most helpful part of this workshop for you?

---

---

---

---

2. Which sections of the workshop do you think can be improved? HOW?

---

---

---

---

---

3. Do you have any other comments about the workshop?

---

---

---

---

4. If you could attend more workshops, what else would you like to learn about?

---

---

---

### **1. You have the right to equality and freedom from discrimination**

The law must treat, protect and benefit everyone equally. No person shall be discriminated against because of his or her race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth. Measures designed to protect or advance people in order to achieve equality (such as affirmative action programmes) may be necessary to guarantee this right.

### **2. Your human dignity will be respected and protected**

You have the right to be treated with respect and dignity at all times. No-one can insult you because of your race, colour or appearance.

### **3. You have the right to life**

Nobody has the right to deprive you of your life. In South Africa the death penalty has been ruled unacceptable in terms of this right. In some countries this is given a wide meaning and can include the right to basic life necessities such as food, shelter, work and health care.

### **4. You have the right to freedom of the person and control over your body**

You have the right to be free. Your freedom cannot be taken away from you unless the law allows this, for example, if you are arrested on suspicion or sentenced for committing a crime. You cannot be detained without trial, tortured or treated inhumanely. You have the right to make your own decisions concerning reproduction.

### **5. Servitude and forced labour cannot be inflicted on you**

Slavery is forbidden by the Bill of Rights. You cannot be forced to work for anyone against your will or to work without pay.

### **6. You have the right to privacy**

Your home and person are private. No one can search your home or person or interfere with your post and telephone, unless a crime is being investigated and the law governing searches is respected.

### **7. You have the right to freedom of religion, belief and opinion**

You have the right to practise whatever religion you wish without interference. You can belong to any political party of your choice and hold any opinion you wish. You cannot be forced to do something against your conscience or beliefs. This right also provides that traditional law may be recognised in certain areas, provided that it does not conflict with any other fundamental rights.

### **8. You have the right to freedom of expression**

You have the right to say what you like, whether this means speaking out against the government or putting forward a view that is not popular. This also includes freedom for the media, artists and researchers. However, this right does not permit war propaganda or the promotion of hatred or imminent violence.

## **9. You have the right to freedom of assembly, demonstration and petition**

All people are free to attend meetings, demonstrate and present petitions, as long as they do so peacefully and without carrying weapons. A peaceful demonstration cannot be banned.

## **10. You have the right to freedom of association**

You have the right to join any organisation of your choice. Any group of people with a common interest have the right to meet together and constitute themselves as an association or organisation in accordance with the law.

## **11. You have political rights**

You have the right to make your own political choices. You have the right to join the political party of your choice and to participate in its activities, or to form your own party, recruit members and campaign. All citizens have the right to regular, free and fair elections. All adult South Africans have the right to vote in secret and to stand for election.

## **12. South Africans have citizen's rights**

South African citizens cannot have their citizenship taken away from them without proper reason. Citizens have the right to enter, remain in and leave the country. You have the right to a passport.

**13. You have the right to freedom of movement and residence**  
Everyone has the right to travel freely anywhere in South Africa and to leave the country. All South African citizens can live in any province, town and residential area they choose. However, the authorities do have the right to regulate the informal residential occupation of land.

**14. You have the right to freedom of trade, occupation and profession**

You have the right to try to make a living anywhere in South Africa and to practise the trade or profession of your choice, although the government can regulate how you practise. (For example, it may require doctors to have certain qualifications.)

**15. You have the right to fair labour practices**

You have the right to fair labour practices in the workplace. You cannot be unfairly dismissed, paid below the minimum wage in your industry or deprived of leave or sick pay. Workers have the right to join and participate in the activities of a trade union. They also have the right to collective bargaining and to strike. Employers have the right to form employers' organisations.

**16. You have the right to a clean environment**

You have the right to an environment that is not harmful to your health or well-being. The state must ensure that pollution is prevented and that rubbish is properly disposed. Clean-ups and conservation must be promoted.



### **17. You have property rights**

You have the right to hold property that belongs to you. The state may only take away your property if it is in the public interest to do so, for example for the building of a road or school. Land may also be redistributed to redress injustices arising from past racial discrimination. When property is taken away by the state, the owners must receive just compensation.

### **18. You have the right to housing**

All people have the right to adequate housing. The state must take all reasonable steps to guarantee this right. This right also means that no one can evict people from their homes or demolish dwellings without full respect for the law.

### **19. You have the right to health care, food, water and social security**

All people have the right to sufficient food and water. People who are unable to support themselves have the right to social security. All people have the right to health care, including reproductive health care. Nobody can be refused emergency medical treatment.

### **20. Children are specially protected by the Bill of Rights**

Children under the age of 18 have the right to proper care and security, basic nutrition, shelter, basic health care and social services. They cannot be exploited in the workplace or be allowed to do dangerous or unhealthy work. They have the right to be protected from neglect, abuse and degradation.

## **21. You have the right to education**

Everyone has the right to a basic education. This right includes basic literacy for adults. You have the right to be educated in the official language of your choice, where this can reasonably be done. People also have the right to establish private schools, provided that they do not discriminate on the basis of race and maintain acceptable standards.

## **22. You have language and cultural rights**

You have the right to use the language of your choice. You can participate freely in cultural life by practicing whatever customs and traditions you like, provided that you do not violate others' rights.

## **23. Cultural, religious and linguistic communities have rights**

All people and communities are entitled to enjoy their culture, practise their religion and use their language. They also can organise associations based on their culture, religion or language, provided this does not infringe upon other fundamental rights. Cultural Councils have the right to be established and recognised.

## **24. You have the right to access to information**

You have the right to all information held by any state department that you may need to exercise and protect your rights. However, certain information may be withheld on the grounds of state security. Different countries give their countries different amounts of access to government information. The exact meaning of this right may be specified further by Parliament if it passes an Open Democracy bill.

**25. You have the right to administrative justice**

You have the right to be treated fairly and lawfully by any government official. You are also entitled to be given reasons for administrative decisions. If you believe that an administrative decision was wrong or unreasonable, it can be reviewed by a court of law.

**26. You have the right to access to the courts**

It is your right to have disputes settled by an independent and impartial court. The courts must serve all South Africans equally and fairly. Courts hear both criminal and civil cases.

**27. Detained, arrested and accused persons have rights**

No one can be arrested or detained without good reason and proper legal procedures must be followed. Detainees have the right to be informed in a language they understand of the reason for their arrest. Prisoners have the right to be kept in humane conditions and to have access to a lawyer, doctor, religious counsellor and spouse or partner. People arrested must be told of their right to remain silent. Anyone charged with a crime has the right to a fair trial by an impartial court, without "unreasonable delay." Anyone accused of a crime is considered innocent until they are proven guilty in a court.

## HUMAN RIGHTS DILEMMA CARDS

There are five cases available for this exercise. You should choose the three that your participants will find most interesting or that are most relevant to them.

Each case has two sides (A and B). Tell everybody that they will have an opponent who will be arguing against them when they present their case. Cases should be argued from the clauses the Bill of Rights and imaginary information should be kept to a minimum.

Give this card to the judge in each case.

### THE ROLE OF THE JUDGE

Your job is to listen to the two sides and make a ruling based on the best argued case **using the Bill of Rights**. You may ask questions so that the sides present their arguments clearly.

Do not be swayed by emotion and information which avoids reference to the Bill of Rights. You must judge on the basis of the Constitution.

#### Human Rights Dilemma #1 (A): GROUP FRICTION

You are members of an organisation dedicated to the preservation of Afrikaner culture. Recently, the organisation held a ceremony on the steps of the local city hall to commemorate the life of Paul Kruger. During the ceremony, a crowd led by a local politician demonstrated across the street to protest against your event. Police made sure the two groups kept apart, but the atmosphere was somewhat tense. At one point the politician, addressing the crowd, expressed disgust for "those bloody Boers over there." How can you use the Bill of Rights to punish the politician for such a provocative prejudiced comment?

#### Human Rights Dilemma #1 (B): GROUP FRICTION

Recently, a group of local people held a ceremony in front of the city hall celebrating Paul Kruger's "achievements." A well-known councillor and civic leader argued in the council against granting the group a permit for the event, but was outvoted. You are members of the local civic who decided to organise a protest rally opposite the Kruger event. Although there was some tension, there was no conflict and police kept the groups apart. While addressing the rally, your leader called the Kruger event insensitive and expressed frustration with "the bloody Boers." Now, the organisers of the Kruger event group are trying to charge your leader in court for this comment, which they call "provocative" and "racist." How can you use the Bill of Rights to defend him/her?

## Human Rights Dilemma #2 (A): LAND OCCUPATION

You are leaders of a group of over one hundred families that has built an informal settlement on idle farmland. Previously, you all were homeless, having come from your villages to work on other nearby farms. Now, the farmers who own the land are trying to evict you from the land so they can grow crops on it. How can you use the Bill of Rights to argue that you have a right to stay?

## Human Rights Dilemma #2 (B): LAND OCCUPATION

You are a group of farmers from the same area. Every year, you let some of your fields lie idle so that the soil can recover and grow fertile again before you plant the next set of crops. Several months ago, a group of homeless people invaded some of these idle fields and within a week had built over one hundred shacks. You allowed the squatters to stay through the winter, even though their presence was making it impossible for the land to improve. If they do not leave now, however, the land will not recover in time for you to plant crops in early autumn. How can you use the Bill of Rights to help you evict the squatters?

## Human Rights Dilemma #3 (A): AWAITING TRIAL

Last year, one of your neighbours accused you of attacking him with a knife, stabbing him several times. You know that you did not do this and believe your neighbour is accusing you falsely. Nevertheless, you were arrested and have been in jail for over six months, waiting to be brought to trial. Bail was set at R5000, which you cannot afford to pay and your four children have been suffering from the loss of your income while you've been in jail. How can you use the Bill of Rights to get the State to bring you to trial quickly or lower your bail? (Remember that you are not arguing about whether you are guilty or innocent.)

## Human Rights Dilemma #3 (B): AWAITING TRIAL

You are a prosecutor handling the case of a prisoner awaiting trial for assaulting a neighbor with a knife. The prisoner is now asking the magistrate to lower the R5000 bail or to make the trial date earlier. There are dozens of cases awaiting trial in which the accused have been in jail for longer than this particular prisoner. Furthermore, you are afraid the prisoner in question may assault or intimidate the neighbour if released on bail. How can you use the Bill of Rights to argue against moving the trial date ahead or reducing bail? (Think about the rights of this prisoner, the rights of the person the prisoner allegedly assaulted and the rights of other prisoners awaiting trial.)

#### Human Rights Dilemma #4 (A): LANGUAGE

You are a group of parents. The state funded school attended by your children used to teach only in Afrikaans. Recently it began to teach in English as well. 70 % of the children speak Afrikaans as a first language, 10% English, 10% Zulu, and 10% speak Sotho as their first language. Most classes are offered in both English and Afrikaans. However, some classes are taught only in English now, while others are still given only in Afrikaans. You would like the school to go back to teaching all classes only in Afrikaans. How can you use the Bill of Rights to argue that the school committee has no right to change its language policy?

#### Human Rights Dilemma #4 (B): LANGUAGE

You are members of the school committee of a state-funded school. This school used to teach only in Afrikaans. Recently it began to teach in English as well. 70 % of the children speak Afrikaans as a first language, 10% English, 10% Zulu, and 10% speak Sotho as their first language. Some parents want the school to go back to teaching in Afrikaans only. How can you support the position the committee has taken from the Bill of Rights?

#### Human Rights Dilemma #5 (A): SMOKING

The Department of Health has passed a law that all cigarette packets must have the words "Smoking Kills" in letters that cover a third of the packet. As the association of cigarette manufacturers, you believe that this affects your sales and image. How can you argue that this law is unconstitutional?

#### Human Rights Dilemma #5 (B)

As Director-General of the Department of Health you have sponsored a law that all cigarette packets must have the words "Smoking Kills" in letters that cover a third of the packet. The cigarette manufacturers' association is up in arms and is trying to get the law overturned as unconstitutional. You have to defend your law using the Bill of Rights. (Remember that rights in the Bill of Rights can be limited under certain circumstances.)