Bill of student rights 2012
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Introduction and explanation

AfriForum Youth’s Bill of Student Rights was drafted by AfriForum Youth. The document was referred to various legal experts for perusal and approval. AfriForum Youth is a non-profit, civil rights organisation with no affiliation to any political party. One of AfriForum Youth’s aims is to educate young people about their rights and to protect those rights. AfriForum Youth is in the process of establishing branches at universities all over the country. For more information about AfriForum Youth please go to www.afriforumjeug.co.za.

All students are aware of the fact that they have rights, but few know what those rights are, and how they can be accessed and protected.

The Constitution of the Republic of South Africa is the supreme law in the country. Chapter 2 of the Constitution is known as the “Bill of Rights”. The Bill of Rights enshrines the basic human rights of every person in South Africa. Certain rights are also contained in other acts. No other rules or laws in South Africa can supersede the Constitution and the Bill of Rights.

At the University of Pretoria a number of official documents also encompass regulations dealing with students’ rights pertaining to certain issues. One such document is the Bill of Student Rights as encompased in the Constitution of the Student Representative Council. With many student rights not being included that document can, however, not be regarded as exhaustive. As a result, AfriForum Youth, assisted by legal experts, has drafted the comprehensive AfriForum Youth Bill of Student Rights. AfriForum Youth’s Bill of Student Rights provides a comprehensive exposition of students’ rights. It is based on provisions in:

- The Constitution of the Republic of South Africa
- The Higher Education Act
- UP’s Student Bill of Rights, as embodied in the Student Representative Council’s Constitution
- UP’s Language Policy

This document contains a summary of the 10 most important student rights, a complete exposition of your rights, the Bill of Rights as it appears in the Constitution of South Africa, and it provides an outline of what you can do if your rights as a student are being violated.
Summary: The 10 student rights

Every student has the right ...

(1) Language
   • ... to receive service and instruction in Afrikaans, English and Sepedi.

(2) Equality
   • ... not to be discriminated against on the grounds of quotas, race, language or origin.

(3) Quality education
   • ... for merit, and the upholding of standards to prevail.

(4) Student life
   • ... to participate in activities associated with student life such as rag, and residence life, as well as in the activities of student associations and societies, etcetera.

(5) Privacy & human dignity
   • ... to be treated with dignity and not to be searched.

(6) Choice
   • ... to their own persuasion, association, accommodation, movement and field of study are concerned

(7) Expression and assembly
(8) .. to express his/her own thoughts, to exercise his/her own political choice and to use the graffiti wall.

(9) Health
   • ... to live in a healthy environment and to receive quality service from the campus doctor.

(10) Service and administrative fairness
   • ... to professional service, affordable prices, relevant information and fair treatment.

(11) Student representation
   • ... to vote for a person to represent him/her without interference from the university.
Comprehensive Bill of Student Rights

Language

(1) The official languages of the University of Pretoria are Afrikaans, English and Sepedi.
(2) Every student of the University of Pretoria has the right to receive service and instruction in one of the University of Pretoria’s three official languages.
(3) Every student has the right to use one of the country’s eleven official languages at any given time.
(4) The University of Pretoria has a duty to offer and to promote instruction in Afrikaans, English and Sepedi.
(5) The phasing out of any of the university’s three official languages constitutes a violation of students’ rights.
(6) Any student whose language rights are violated has a right to report the particular university official to any of the authorities or organs listed here below:
   a. the Registrar;
   b. the Representative Student Council;
   c. the Pan South African Language Board;
   d. a Civil Rights organisation.

Equality

(1) All students are equal before the law and before the University of Pretoria, and have a right to equal protection and benefit.
(2) To promote the achievement of equality, the University of Pretoria may take steps to advance students disadvantaged by unfair discrimination.
(3) All forms of discrimination on the grounds of race, gender, pregnancy, marital status, ethnic or social origin, skin colour, sexual preference, age, disability, consciousness, faith, culture, language and birth are prohibited.
(4) Discrimination based on any of the above grounds is unfair, unless otherwise deemed in accordance with Section 36 of the Constitution.

Education

(1) Every student has the right to receive quality education from the University of Pretoria.
(2) Every student has the right not to have merit, and academic standards ever being scaled down for the sake of political or administrative reasons, or any other reason.
(3) Every student at the University of Pretoria has the right to receive instruction in Afrikaans, English and Sepedi.
(4) Every student has the right to establish academic associations or to be involved in such associations.
(5) Every student has a right to study.
(6) Every student has a right to be assessed in terms of his or her knowledge, and not on the grounds of any other criterion.
(7) Every student has a right to attend lectures, write tests and sit exams on a date and at a time and place not detrimental to the student.

The Student Representative Council

(1) Elections for a student representative council must be held annually.
(2) Every student has the right to stand as candidate, and to participate in the election of members of the student representative council and any of its substructures.
(3) Every student has the right to peruse the student representative council’s constitution.
(4) The election of members of the student representative council must be from among their number and must be independent without any interference from the Executive of the University of Pretoria.
(5) The election of members of the student representative council must be equitable and fair, and the result thereof must be representative of the will of the student body.
(6) The ultimate decision with regard to the structure and composition of the student representative council vests with the Council of the University of Pretoria. Such decision by the Council must be taken in consultation with the student body, and may not be inconsistent with the will of the student body.
(7) The student representative council must represent the will of the students and promote the interests of the student body of the University of Pretoria.
(8) Every student has the right to fair treatment by, and professional service from the student representative council.
(9) Every student has the right to approach the student representative council for assistance or advice on any matter pertaining to student affairs.

Tuition fees and price of commodities on campus

(1) Each student who is paying tuition fees, has a right to receive his or her academic results from the University of Pretoria as soon as is reasonably possible.
(2) Tuition fees at the University of Pretoria may not be increased unless the decision about the proposed increase is taken in consultation with the students, and such increase is in the interest of the student body.
(3) Every student has a right to affordable prices at all stores, cafeterias and pubs on campus.

Residences

(1) Every student has the right to participate in residence life, and to promote his or her residence’s traditions and activities on campus.
(2) Every residential student has the right to promote his or her residence’s tradition, subject to it not being inconsistent with the Bill of Rights in the Constitution.
(3) The ultimate decision to introduce or revoke a residence’s traditions that are in accordance with the provisions in the Bill of Rights in the Constitution, vests with the relevant residence, and not with the University of Pretoria.
(4) Every residential student who complies with the prescribed requirements is eligible to stand as candidate for the house committee.

(5) Every residential student has the right to vote for candidates in elections for house committees, and in so doing to exercise his or her personal choice without intervention from the University of Pretoria.

(6) Every first year residential student has the right to participate in orientation programmes for first years, subject to such programmes not being inconsistent with the provisions of the Bill of Rights in the Constitution.

(7) Every residential student has the right to let first year residential students participate in orientation programmes, subject to such participation not being inconsistent with the provisions of the Bill of Rights in the Constitution.

Life

(1) Every student has the right to live.

Human dignity

(1) Every student has a right to human dignity and to have their dignity protected and respected.

(2) Human dignity includes a student’s sense of chastity, privacy and bodily integrity.

Freedom and security of the person

(1) Every student has the right to freedom and security of the person, which includes the right

   a. not to be deprived of freedom without just cause;
   b. not to be detained or punished without trial;
   c. to be free from all forms of violence committed by university officials or fellow students;
   d. not to be tortured by the University of Pretoria;
   e. not to be treated in a cruel, inhuman or degrading way.

(2) Every student has the right to bodily integrity. This right includes the right:

   a. to make one’s own decision with regard to reproduction;
   b. to enjoy security in and control over his or her own body;
   c. not to be subjected to medical experiments without his or her informed consent.

Slavery and forced labour

(1) No student may be subjected to slavery or forced labour.

Privacy

(1) Every student has the right to privacy. This includes the right not to have:
a. their person, home or room searched;
b. their property searched;
c. their possessions seized;
d. the privacy of their communications infringed.

Freedom of religion, belief and opinion

(1) Every student has the right to freedom of persuasion, conscience, belief, thoughts, views and opinions.

Freedom of expression

(1) Every student has the right to freedom of speech and expression, which includes:

a. freedom of the press, campus media and other media;
b. freedom to receive or impart information or ideas;
c. freedom to receive information from the university and student governance structures about issues that affect his or her rights;
d. freedom of choice about dress and appearance;
e. freedom of artistic creativity;
f. academic freedom and freedom of scientific research.

(2) The right to freedom of expression does not extend to –

a. propaganda for war;
b. incitement of imminent violence;
c. advocacy of hatred that is based on race, ethnicity, gender or religion.

Assembly, demonstration, picket and petition

(1) Every student has the right, peacefully and unarmed, to assemble, to demonstrate, to picket, and to organise and submit petitions.
(2) Every student has the right, peacefully and unarmed, to demonstrate on campus and to present grievances, memorandums, proposals and petitions to the university authorities.
(3) Every student has the right to organise and to hold gatherings on the piazza or at other available venues in accordance with the rules and regulations of the University of Pretoria.

Freedom of association

(1) Every student has the right to freedom of association.
(2) Every student has the right to join any student group and to participate in student life in general.
(3) Every student has the right to be treated in a fair and equitable way by the student representative council and by the university authorities.
(4) Every student society has the right to determine its own activities and affairs subject to such being undertaken within the framework of the law.
Political rights

(1) Every student is free to make political choices, which includes the right to:

a. form a political party;
b. to join a political party;
c. to participate in the activities of, or recruit members for a political party;
d. to invite political speakers to address students; and
e. to campaign for a political cause.

(2) Every student has the right to free, fair and annual elections for structures of student governance, including the representative student council and house committees.

(3) Every student has the right to stand as candidate for the abovementioned structures.

(4) The University of Pretoria may not discriminate against any student by virtue of his/her political choice, affiliation or activities.

(5) The University of Pretoria may not impose discriminatory prerequisites pertaining to the composition of the student representative council, house committees or any other structure of student governance.

(6) Every adult student has the right to:

a. to vote in national political elections for any legislative body established in terms of the Constitution, and to do so in secret; and
b. to stand for public office and, if elected, to hold office.

Freedom of movement and residence

(1) Every student has the right to freedom of movement.

(2) Every student has the right to leave the University of Pretoria.

(3) Every student has the right to leave the Republic of South Africa.

(4) Every student has the right to enter, to remain in, and to reside anywhere in the Republic of South Africa.

(5) Every student has the right to a passport.

(6) Subject to applicable rules, regulations and provisions of the University of Pretoria, every student has the right of freedom of movement on campus.

(7) The University of Pretoria may not without valid and legal reason restrain the movement of any student at any specific place on campus.
Freedom of trade, occupation, profession and field of study

(1) Every student has the right to choose their trade, occupation and profession freely. The practice of a trade, occupation or profession may be regulated by law.
(2) No student may be prohibited from following a profession while he or she is studying at the University of Pretoria.
(3) Every student has the right to freely choose and follow a field of study, subject to complying with the minimum requirements of such a field of study.
(4) No student complying with the requirements of a specific field of study at the University of Pretoria may be turned down for that particular field of study if students not complying with the minimum requirements for the particular field of study have been allowed entry to such course.

Environment

(1) Every student has the right:

a. to an environment that is not harmful to their health or well-being; and
b. to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that:

i. prevent pollution and ecological degradation;
ii. promote conservation; and
iii. ensure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

(2) Every student has the right to have the use of a campus that is not harmful to his or her health or well-being.
(3) Every student has the right not to be deprived of, or prevented from academic opportunity as a result of unjustifiable noise, pollution or any other form of disturbance.

Property

(1) Every student has the right to protection of his or her property.

Accommodation

(1) Every student has the right to have access to appropriate accommodation.
(2) The University of Pretoria must ensure that the right to appropriate accommodation of every student in res is protected.
(3) The University of Pretoria has no obligation to provide accommodation to every student, but to achieve the progressive realization of providing appropriate accommodation in residences.
(4) No student may be evicted from his or her place of residence, or have it demolished without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.
Health care, food, water and social security

(1) Every student has the right to have access to –

   a. health care services, including reproductive health care;  
   b. sufficient food and water; and  
   c. social security, including, if they are unable to support themselves and  
      their dependants, appropriate social assistance.

(2) The University must take reasonable legislative and other measures, within its  
    available resources, to achieve the progressive realisation of each of these  
    rights.  
(3) No one may be refused emergency medical treatment.  
(4) Every student has a right to receiving affordable, professional and quality  
    service from the campus doctor.

Language and culture

(1) Every student has the right to use the language of his or her choice, and to  
    participate in the cultural life of their choice, but no one exercising these rights  
    may do so in a manner inconsistent with any provision of the Bill of Rights.  
(2) Every student has the right to establish a cultural association, or to become  
    involved in the activities of such an association.  
(3) No student may be denied opportunities by virtue of his or her culture or  
    cultural preference.

Cultural, religious and linguistic communities

(1) Students belonging to a cultural, religious or linguistic community may not be  
    denied the right with other members of that community –

   a. to enjoy their culture, practise their religion and use their language; and  
   b. to form, maintain and join cultural, religious and linguistic associations  
      and other organs of civil society;  
   c. to promote their culture, religion and language on campus and  
      participate in the activities of such.

(2) The rights in subsection (1) may not be exercised in a manner inconsistent  
    with any provision of the Bill of Rights.
Access to information

(1) Every student has the right of access to –

   a. any information held by the University of Pretoria; and
   b. any information that is held by another person and that is required for
      the exercise or protection of any rights.

(2) Every student who faces disciplinary charges has the right to receive all
    information pertaining to the charge, and the procedures to be followed.
(3) Every student who submits a charge against any person or university organ at the
    University of Pretoria, has a right to be advised as promptly as is possible of
    progress in the investigation, and disciplinary or any other issues pertaining to the
    charge.
(4) Every student has the right to be informed of any decisions taken by the
    University of Pretoria that may affect his or her rights.
(5) The University of Pretoria may not take policy decisions that affect students
    without first consulting with the students thus affected.
(6) In consulting with the students about possible policy changes, student
    consultation takes precedence over the position the University’s executive holds.

Just administrative action

(1) Every student has the right to administrative action by the University of
    Pretoria that is lawful, reasonable and procedurally fair.
(2) Everyone whose rights have been adversely affected by administrative action
    by the University of Pretoria has the right to be given written reasons.
(3) The University of Pretoria must make provision for reviewing administrative
    action by the student tribunal or any other appropriate impartial body
(4) The University of Pretoria must take steps to promote efficient administration
    on the campus.

Access to courts

(1) Every student has the right to approach the student tribunal, the student
    representative council or any other appropriate independent body to resolve a
    dispute.
(2) Every student has the right to have any dispute that can be resolved by the
    application of law decided in a fair public hearing before a court, or where
    appropriate, another independent and impartial tribunal or forum.
Arrested, detained and accused persons

(1) Every student who is arrested for allegedly committing an offence has the right

a. to remain silent;
b. to be informed promptly
   i. of the right to remain silent; and
   ii. of the consequences of not remaining silent;
c. not to be compelled to make any confession of admission that could be used in evidence against that person;
d. to be brought before a court as soon as reasonably possible, but not later than –
   i. 48 hours after the arrest; or
   ii. the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours, or on a day which is not an ordinary court day;
e. at the first appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and
f. to be released from detention if the interests of justice permit, subject to reasonable conditions.

(2) Every student who is detained, including every sentenced prisoner has the right –

a. to be informed promptly of the reason for being detained;
b. to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
c. to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
d. to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
e. to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and
f. to communicate with and be visited by that person’s –
   i. spouse or partner;
   ii. next of kin;
   iii. chosen religious counsellor; and
   iv. chosen medical practitioner.

(3) Every accused student has the right to a fair trial, which includes the right –
a. to be informed on the charge with sufficient detail to answer it;
b. to have adequate time and facilities to prepare a defence;
c. to have a public trial before an ordinary court;
d. to have a trial that begins and concludes without unreasonable delay;
e. to being present when being tried;
f. to choose and be represented by a legal practitioner and to be informed of this right promptly;
g. to have a legal practitioner assigned by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
h. to be presumed innocent, to remain silent and not to testify during the proceedings;
i. to adduce and to challenge evidence;
j. not to be compelled to give self-incriminating evidence;
k. to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;
l. not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;
m. not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;
n. to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and
o. of appeal to, or review by a higher court.

(4) Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

(5) Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

Limitation of rights

(1) The rights in the Bill of Student Rights may be limited only in terms of Section 36 of the Constitution of the Republic of South Africa.

Enforcement of rights

(1) Every student who is of the opinion that any of his or her rights contemplated in the Bill of Student Rights may have been violated, has the right to approach the following organs:

a. the student representative council for any student matters;
b. the student tribunal for any matters pertaining to student rights;
c. the appropriate student association for any matters related to that association’s activities;
d. a civil organisation for any matters pertaining to civil or student matters;
e. a political party for any political matters;
f. the dean of students for any student affair;
g. the class representative for academic issues at class level
h. the appropriate dean at faculty level in the case of academic issues
i. the registrar in the case of academic issues that cannot be dealt with by
   the relevant faculty dean; and
j. the vice-principal for students’ affairs in the case of any student matters
   that cannot be dealt with by the relevant faculty dean or the dean of
   students.

(2) Any student mentioned in this section has the right to approach a competent
court, alleging that a right in the Bill of Rights as contemplated in the
Constitution has been infringed or threatened, and the court may grant
appropriate relief, including a declaration of rights. The persons who may
approach a court are –

   a. anyone acting in their own interest;
   b. anyone acting on behalf of another person who cannot act in their own
      name;
   c. anyone acting as a member of, or in the interest of a group or class of
      persons;
   d. anyone acting in the public interest; and
   e. association acting in the interest of its members.

**Interpretation of the Bill of Student Rights**

(1) The interpretation of the Student Bill of Rights must conform to the relevant
sections in the Bill of Rights as contemplated in the Constitution, read in
conjunction with Section 39 of the constitutional Bill of Rights.
The Bill of Rights in the Constitution

Rights

7. (1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

(2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.

(3) The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

Application

8. (1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.

(2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.

(3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court

a. in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and

b. may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).

(4) A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.

Equality

9. (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.
Human dignity

10. Everyone has inherent dignity and the right to have their dignity respected and protected.

Life

11. Everyone has the right to life.

Freedom and security of the person

12. (1) Everyone has the right to freedom and security of the person, which includes the right

   a. not to be deprived of freedom arbitrarily or without just cause;
   b. not to be detained without trial;
   c. to be free from all forms of violence from either public or private sources;
   d. not to be tortured in any way; and
   e. not to be treated or punished in a cruel, inhuman or degrading way.

(2) Everyone has the right to bodily and psychological integrity, which includes the right

   a. to make decisions concerning reproduction;
   b. to security in and control over their body; and
   c. not to be subjected to medical or scientific experiments without their informed consent.

Slavery, servitude and forced labour

13. No one may be subjected to slavery, servitude or forced labour.

Privacy

14. Everyone has the right to privacy, which includes the right not to have

   a. their person or home searched;
   b. their property searched;
   c. their possessions seized; or
   d. the privacy of their communications infringed.

Freedom of religion, belief and opinion

15. (1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
   
   (2) Religious observances may be conducted at state or state-aided institutions, provided that
a. those observances follow rules made by the appropriate public authorities; b. they are conducted on an equitable basis; and c. attendance at them is free and voluntary.

(3) a. This section does not prevent legislation recognising b. 

i. marriages concluded under any tradition, or a system of religious, personal or family law; or

ii. systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.

c. Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

**Freedom of expression**

16. (1) Everyone has the right to freedom of expression, which includes

a. freedom of the press and other media; b. freedom to receive or impart information or ideas; c. freedom of artistic creativity; and d. academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to

a. propaganda for war; b. incitement of imminent violence; or c. advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

**Assembly, demonstration, picket and petition**

17. Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

**Freedom of association**

18. Everyone has the right to freedom of association.

**Political rights**

19. (1) Every citizen is free to make political choices, which includes the right

a. to form a political party; b. to participate in the activities of, or recruit members for, a political party; and c. to campaign for a political party or cause.
(2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.

(3) Every adult citizen has the right

a. to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and

b. to stand for public office and, if elected, to hold office.

Citizenship

20. No citizen may be deprived of citizenship.

Freedom of movement and residence

21. (1) Everyone has the right to freedom of movement.

(2) Everyone has the right to leave the Republic.

(3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.

(4) Every citizen has the right to a passport.

Freedom of trade, occupation and profession

22. Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

Labour relations

23. (1) Everyone has the right to fair labour practices.

(2) Every worker has the right

a. to form and join a trade union;

b. to participate in the activities and programmes of a trade union; and

c. to strike.

(3) Every employer has the right

a. to form and join an employers’ organisation; and

b. to participate in the activities and programmes of an employers’ organisation.

(4) Every trade union and every employers’ organisation has the right

a. to determine its own administration, programmes and activities;

b. to organise; and

c. to form and join a federation.

(5) Every trade union, employers’ organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
(6) National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

Environment

24. Everyone has the right

   a. to an environment that is not harmful to their health or well-being; and
   b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
   c.

      i. prevent pollution and ecological degradation;
      ii. promote conservation; and
      iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Property

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
   (2) Property may be expropriated only in terms of law of general application

      a. for a public purpose or in the public interest; and
      b. subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

   (3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including

      a. the current use of the property;
      b. the history of the acquisition and use of the property;
      c. the market value of the property;
      d. the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
      e. the purpose of the expropriation.

   (4) For the purposes of this section

      a. the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and
      b. property is not limited to land.
(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

(7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).

(9) Parliament must enact the legislation referred to in subsection (6).

Housing

26. (1) Everyone has the right to have access to adequate housing.
        (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
        (3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

Health care, food, water and social security

27. (1) Everyone has the right to have access to
        a. health care services, including reproductive health care;
        b. sufficient food and water; and
        c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
        (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
        (3) No one may be refused emergency medical treatment.

Children

28. (1) Every child has the right
        a. to a name and a nationality from birth;
        b. to family care or parental care, or to appropriate alternative care when removed from the family environment;
        c. to basic nutrition, shelter, basic health care services and social services;
        d. to be protected from maltreatment, neglect, abuse or degradation;
e. to be protected from exploitative labour practices;
f. not to be required or permitted to perform work or provide services that
g.

i. are inappropriate for a person of that child's age; or
ii. place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;

h. not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be

i. kept separately from detained persons over the age of 18 years; and
ii. treated in a manner, and kept in conditions, that take account of the child's age;

j. to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and

k. not to be used directly in armed conflict, and to be protected in times of armed conflict.

(2) A child's best interests are of paramount importance in every matter concerning the child.

(3) In this section "child" means a person under the age of 18 years.

Education

29. (1) Everyone has the right

a. to a basic education, including adult basic education; and
b. to further education, which the state, through reasonable measures, must make progressively available and accessible.

(2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account

a. equity;
b. practicability; and
c. the need to redress the results of past racially discriminatory laws and practices.

(3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that
a. do not discriminate on the basis of race;
b. are registered with the state; and
c. maintain standards that are not inferior to standards at comparable public educational institutions.

(4) Subsection (3) does not preclude state subsidies for independent educational institutions.

Language and culture

30. Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

Cultural, religious and linguistic communities

31. (1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community

   a. to enjoy their culture, practise their religion and use their language; and
   b. to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

(2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

Access to information

32. (1) Everyone has the right of access to

   a. any information held by the state; and
   b. any information that is held by another person and that is required for the exercise or protection of any rights.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

Just administrative action

33. (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
(3) National legislation must be enacted to give effect to these rights, and must

   a. provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;
   b. impose a duty on the state to give effect to the rights in subsections (1) and (2); and
   c. promote an efficient administration.
Access to courts

34. Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

Arrested, detained and accused persons

35. (1) Everyone who is arrested for allegedly committing an offence has the right

   a. to remain silent;
   b. to be informed promptly
   c. of the right to remain silent; and
   i. of the consequences of not remaining silent;
   d. not to be compelled to make any confession or admission that could be used in evidence against that person;
   e. to be brought before a court as soon as reasonably possible, but not later than
   f. 48 hours after the arrest; or
   i. the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day;
   g. at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and
   h. to be released from detention if the interests of justice permit, subject to reasonable conditions.

(2) Everyone who is detained, including every sentenced prisoner, has the right

   a. to be informed promptly of the reason for being detained;
   b. to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
   c. to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
   d. to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
   e. to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and
   f. to communicate with, and be visited by, that person's
i. spouse or partner;
ii. next of kin;
iii. chosen religious counsellor; and
iv. chosen medical practitioner.

(3) Every accused person has a right to a fair trial, which includes the right

a. to be informed of the charge with sufficient detail to answer it;
b. to have adequate time and facilities to prepare a defence;
c. to a public trial before an ordinary court;
d. to have their trial begin and conclude without unreasonable delay;
e. to be present when being tried;
f. to choose, and be represented by, a legal practitioner, and to be informed
   of this right promptly;
g. to have a legal practitioner assigned to the accused person by the state
   and at state expense, if substantial injustice would otherwise result, and to
   be informed of this right promptly;
h. to be presumed innocent, to remain silent, and not to testify during the
   proceedings;
i. to adduce and challenge evidence;
j. not to be compelled to give self-incriminating evidence;
k. to be tried in a language that the accused person understands or, if that is
   not practicable, to have the proceedings interpreted in that language;
l. not to be convicted for an act or omission that was not an offence under
   either national or international law at the time it was committed or omitted;
m. not to be tried for an offence in respect of an act or omission for which that
   person has previously been either acquitted or convicted;
n. to the benefit of the least severe of the prescribed punishments if the
   prescribed punishment for the offence has been changed between the
   time that the offence was committed and the time of sentencing; and
o. of appeal to, or review by, a higher court.

(4) Whenever this section requires information to be given to a person, that
information must be given in a language that the person understands.

(5) Evidence obtained in a manner that violates any right in the Bill of Rights
must be excluded if the admission of that evidence would render the trial
unfair or otherwise be detrimental to the administration of justice.

Limitation of rights

36. (1) The rights in the Bill of Rights may be limited only in terms of law of general
application to the extent that the limitation is reasonable and justifiable in an
open and democratic society based on human dignity, equality and freedom,
taking into account all relevant factors, including

a. the nature of the right;
b. the importance of the purpose of the limitation;
c. the nature and extent of the limitation;
d. the relation between the limitation and its purpose; and
e. less restrictive means to achieve the purpose.
(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

States of emergency

37. (1) A state of emergency may be declared only in terms of an Act of Parliament, and only when

a. the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
b. the declaration is necessary to restore peace and order.

(2) A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only

a. prospectively; and
b. for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time. The first extension of the state of emergency must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly. A resolution in terms of this paragraph may be adopted only following a public debate in the Assembly.

(3) Any competent court may decide on the validity of

a. a declaration of a state of emergency;
b. any extension of a declaration of a state of emergency; or
c. any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.

(4) Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that

a. the derogation is strictly required by the emergency; and
b. the legislation

c. i. is consistent with the Republic's obligations under international law applicable to states of emergency;
ii. conforms to subsection (5); and
iii. is published in the national Government Gazette as soon as reasonably possible after being enacted.

(5) No Act of Parliament that authorises a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise
a. indemnifying the state, or any person, in respect of any unlawful act;
b. any derogation from this section; or
c. any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table.

Table of Non-Derogable Rights

<table>
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<tr>
<th>Section Number</th>
<th>Section Title</th>
<th>Extent to which the right is protected</th>
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<td>2</td>
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<tr>
<td>3</td>
<td>Equality</td>
<td>With respect to unfair discrimination solely on the grounds of race, colour, ethnic or social origin, sex, religion or language</td>
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<td>10</td>
<td>Human Dignity</td>
<td>Entirely</td>
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<td>11</td>
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<td>12</td>
<td>Freedom and Security of the person With respect to subsections (1)(d) and (e) and (2)(c).</td>
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<td>13</td>
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<td>35</td>
<td>Arrested, detained and accused persons With respect to:</td>
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<td>(6)</td>
<td>Whenever anyone is detained without trial in consequence of a derogation of rights resulting from a declaration of a state of emergency, the following conditions must be observed:</td>
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<td></td>
<td>a. An adult family member or friend of the detainee must be contacted as soon as reasonably possible, and informed that the person has been detained.</td>
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<td>b. A notice must be published in the national Government Gazette within five days of the person being detained, stating the detainee’s name and place of detention and referring to the emergency measure in terms of which that person has been detained.</td>
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<td>c. The detainee must be allowed to choose, and be visited at any reasonable time by, a medical practitioner.</td>
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<tr>
<td></td>
<td>d. The detainee must be allowed to choose, and be visited at any reasonable time by, a legal representative.</td>
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</table>
e. A court must review the detention as soon as reasonably possible, but no later than 10 days after the date the person was detained, and the court must release the detainee unless it is necessary to continue the detention to restore peace and order.

f. A detainee who is not released in terms of a review under paragraph (e), or who is not released in terms of a review under this paragraph, may apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee unless it is still necessary to continue the detention to restore peace and order.

g. The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention.

h. The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.

(7) If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows a court good cause for re-detaining that person.

(8) Subsections (6) and (7) do not apply to persons who are not South African citizens and who are detained in consequence of an international armed conflict. Instead, the state must comply with the standards binding on the Republic under international humanitarian law in respect of the detention of such persons.

**Enforcement of rights**

38. Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are –

- anyone acting in their own interest;
- anyone acting on behalf of another person who cannot act in their own name;
- anyone acting as a member of, or in the interest of, a group or class of persons;
- anyone acting in the public interest; and
- an association acting in the interest of its members.

**Interpretation of Bill of Rights**

39. (1) When interpreting the Bill of Rights, a court, tribunal or forum

- must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
- must consider international law; and
- may consider foreign law.
(2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.

(3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.
Complaints procedure

Academic matters

Class representative → Lecturer → Head of Department → Dean → Registrar → Principal

General student matters

SRC → Dean of students → Vice-Principal: Student Affairs → Principal

In case of a violation of any of your student rights, please contact AfriForum Youth at youth@afriforum.co.za!