

WORKSHOP 2: CIVIL AND POLITICAL RIGHTS*

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Abstract

The workshop is an interactive learning scheme to introduce students to the South African state system, explain how they slot into this and educate about the rights that work within this system.



Figure 1

WORKSHOP 2 - 2009
CIVIL AND POLITICAL RIGHTS AND PARTICIPATING IN A DEMOCRACY

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1 LAWCO WORKSHOP 2 – CIVIL AND POLITICAL RIGHTS AND PARTICIPATING IN A DEMOCRACY

Overview

Trigger 5 mins

Aims:

- To generate interest around the topics of the workshop
- To demonstrate what non-meaningful participation in a democracy would be like
- To introduce the points of having a stake in a democracy and the importance of knowing how the state functions

Methodology: An election procedure where learners must vote based on no information whatsoever, making the winning candidate entirely arbitrary. We then link this up to the broader aims of the workshop.

Video clip as a link from Trigger to Section A.

Section A 15 mins

Aims:

- Understanding the right to vote – both in substance and in practice
- Learning about the state machine and how it operates

Methodology: Explanations, acting, a brief game, powerpoint.

Video clip as a link from Section A to Section B

Section B 30 mins

Aims:

- To understand how to participate within a democratic structure – what rights are available and what processes can be taken
- Outline the main elements of different civil and political rights
- Show how they fit in with the structure of government and society.

Methodology: Explanations, plays and video clips

2 Section C (Begins with a dramatic introduction and a video clip)45 mins

Aims:

- To put into practice some of the processes explained in previous sections
- To have a hands-on interaction with ways of being an active part of a democratic society

Methodology:

A simulation game with learners as various groups within a fictional state reacting to specific situations the state creates or describes.

Section D

We conclude the workshop by playing a sound clip of Mandela speaking about participatory democracy. We hand out the worksheets and point out where they can go for additional information.

We are trying to cover a huge amount in this workshop and time will really be a major constraint. When explaining please make sure you do not take more time than originally allocated, as this will mean that a volunteer later in the workshop may not be able to do his or her part! Bracketed sections are important, but less imperative if we are running low on time, so these may be cut.

LAWCO CURRICULUM TEAM 2009 – Meghan Finn, Tim Hodgson, Aalia Manie and Wendy Tembedza
TRIGGER 5 mins

Aim: To understand that in order to select effective leaders, citizens have to become informed about candidates' qualifications and the issues of the day.

Essential Question: Why should people take the time to learn more about candidates for elected office? What does voting consist of and how does the state actually work?

Students will participate in an election. They will be asked to vote for one of four candidates without knowing who they are or what they stand for. After the election, students will learn that they were voting for the Republic of Aloezaistania/Lavendania/Princetonia/Shawcoistan/SMARTville and will later be introduced to the new leaders.

1. Distribute one ballot to each student as he or she enters the hall. Tell students that they are going to be asked to vote in a very important election today. Try to convey the impression that this will be a truly important election. Ask them to cast their ballot for Candidate A, B, C, or D. Note that they are only permitted to vote for one candidate. The only rule is that they are not permitted to talk during voting as you want to make sure that every voter is permitted to think and act freely and independently. Students are likely to look perplexed as they are intentionally being asked to vote for candidates they know nothing about but just ask them to vote. Maintain a serious tone as you give instructions.
2. Ask one student to collect and tabulate the results quietly. Do not announce or hint at the outcome yet.
3. Whole Group Debriefing: Raise these potential questions with the class as the votes are being tabulated

* For which candidate did you vote? Ask them to vote with their feet and go to different corners of the room?

* Why did you vote for that candidate?

*Did you feel comfortable making your choice? What, if anything, made you feel uncomfortable or confused?

1. Don't announce the winner now! We will only announce winner right before simulation – we'll connect this part of the workshop to the simulation at Section C.

LINK TO SECTION A:

NEWS CLIP! Video explaining that not only did the students not know who they were voting for, but they didn't understand the system in which they were voting, what country they were a part of, what issues the country faced and what their role within that country was. This made their vote less meaningful.

As a way of starting to understanding how our country works, we move on to Section A...

SECTION A 15 mins

GENERAL INSTRUCTIONS:

WARNING! It is very important to realize that when presenting this workshop that we are **NOT** supporting any specific political party whatsoever. As volunteers you definitely have opinions of your own, but they **CANNOT** be allowed to shine through the way you teach this workshop. Our purpose is to inform people on how the system that they will one day be involved in works and give them ideas of things they may look out for when voting. We must avoid being prescriptive entirely when it comes to who you should vote for and why specifically you should do this.

You are encouraged to use examples, but be careful when using ones dealing with actual political parties in SA. Rather just use fictional examples if possible. There is a platform for healthy discussion about merits of voting for the ANC, DA, COPE or any other political party, but this is not it.

We'll be handing out sweets to the audience when we ask questions to stimulate interaction.

SLIDE 2: WHERE DO WE START? WHAT IS OUR COUNTRY ALL ABOUT?

Values that SA is based on:

- All adults can vote
- Regular elections

- Multi-party system
- Democratic government

SLIDE 3: The Constitution is the highest law in South Africa, law or conduct that goes against what it says is invalid, and obligations that it sets out must be fulfilled.

South Africa is a democracy. This means it is a system in which the government is elected by all the people of country to represent their interests. The government is held accountable by the Constitution.

SLIDE 4: GRAPH: To change the above 75% of parliament needs to agree.¹

The explanations that follow will go deeper into the meaning of all of these basic foundations of our country.

SLIDE 5: **What is the government?**

THE THREE ARMS OF GOVERNMENT:

In most countries in the world today, the government –which is in charge of running the country in question- is made up of three different arms or branches. These are the Executive, Legislature and Judiciary.

SLIDE 6: **The Executive** “The main players, the big bosses”²

This arm of government has the job of running the affairs of the country. It is headed by the Cabinet which is made up of the President and other senior ministers elected by the President. The Constitution gives duties to Cabinet or the president to do certain things. The President then divides up the work amongst his ministers.

EXAMPLE: The executive is in charge of different ministries, like the Ministry of Safety and Security (including the police force) and the Department of Education which deals with our ratlets.

SLIDE 7: **The Judiciary** “The protectors of the Constitution”

Often people don’t realize that the Courts form this vital branch of the government. Their duty is to apply and interpret the Constitution without fear, favour or prejudice.

Fear: Courts must not be afraid of making decisions that are unpopular in order to uphold the Constitution and the law. Judges should not be afraid of losing their jobs as a result of making unpopular decisions. The Constitution sets strict standards that need to be met before judges can be fired.

It is very important for power balances that court decisions remain independent and only under the power of the Constitution and the law. The Courts should not be under pressure from the other two arms of government to make certain decisions.

Favour and prejudice³: Courts must not be biased, and must treat everyone as equal before the law.

QUESTION: Would you think it was fair if Judge John White was the judge on a case in which his son Tom was being accused of murder? Why not?

SLIDE 8: **The Legislature** “The voice of the people”

Parliament is responsible for making laws. Parliament itself is made up of two different houses: The National Assembly and the National Council of provinces. The National Assembly meets in Cape Town and is what is commonly referred to as Parliament. The National Assembly represents the views of the country as a whole and the National Council of Provinces represents the interests of each of the individual provinces. In South Africa parliament is made up of 400 members who are chosen by the various political parties as voted for.

SLIDE 9: **The process of making laws and amending the Constitution:**

Laws: 51% (more than half of parliament), the President and the NCOP can suggest changes.

SLIDE 10: **Constitution:** 67% of Parliament, 6 out of 9 votes from the provinces on the NCOP.

QUESTION: You may have heard people talking about a “two thirds majority” (67%) in the news. Do you think that it is good that any party should have that much support that they can change the Constitution by themselves if they wanted to?

¹Pie chart on powerpoint

²I think that the appropriate lingo in the schools that we are going to would be the ‘laanies’. Lovely indigenous expression. No Idea how to spell or if it has ever actually been written down before.

³Prejudice maybe we just explain too

At this stage the question you'll be asking yourself is why? Why 3 branches, doesn't that just complicate matters. The reason lies in the doctrine of separation of powers.

SLIDE 11: Why is the government made up of 3 branches? The Separation of Powers:

'Power corrupts, absolute power corrupts absolutely'.

Dictatorships are countries in which one person has total power. In the past kings or queens were also believed to have this total power because they were God's representatives on earth. Recent examples of dictators are Hitler, Mugabe, Tim.

The idea behind the separation of powers is, just as the words say: To make sure that the power given to government is kept in check. The power is divided amongst the three arms of government to make sure it can be controlled. The idea is that each arm of government must in some way make sure that the other arms of government do not abuse their power. The different branches of government must be held **accountable** by each other and the public at large.

Definition: Holding someone accountable means making sure they are doing what they're doing, for the right reason in the right way and on time. This means that you are making sure that they are doing what they are tasked with, and if they are not then you can hold them responsible.

QUESTION: Can any of you think of anyone who you are accountable to?

Separation of powers and accountability - GAME: Ching, chong, Cha.

SLIDE 12: The effect in South Africa:

Diagram (triangle). On power point - arrows showing all different checks and balances.

Courts can declare laws invalid if they are unconstitutional. This means that if the legislature tries to pass a law that goes against the Constitution, then they can say that law cannot form part of our law unless it is changed.

EXAMPLE: If Parliament tried to pass a law that said that only people with big noses could vote, this would be unconstitutional because it goes against the right to vote of people with small noses. Courts would stop this law from being enforced by declaring it invalid.

The executive has a hand in selecting judges.

The legislature passes laws and can have the executive removed by a motion of no confidence. A motion of no confidence is when parliament votes that they no longer support the cabinet and the president. The cabinet is then removed.

The executive starts the process of drafting laws.

[SLIDE 13: Judicial Independence

The Courts are **independent** and **subject** only to the Constitution which they must apply without fear, favour or prejudice.

QUESTION: The President of South Africa criticizes a judge's decision publicly saying that the judge's decision is unpopular with the Cabinet, and possibly also most people in South Africa. What do you think about how the President has acted?

SLIDE 14: Cabinet's collective and individual accountability

This means that all members of Cabinet (all senior ministers) are accountable to parliament (which is accountable to people) for their actions AND the actions of other Cabinet members. Cabinet cannot say and do what it likes. It gets its power from the Constitution and must act in line with this.

SLIDE 15: NOW THAT WE HAVE AN IDEA OF WHAT THE GOVERNMENT IS, HOW IS IT FORMED?

Judiciary and Executive: Appointed by the Judicial Services Commission and the president. JSC suggests a list, President chooses. The president is appointed by the party that receives the greatest number of votes and he then appoints the Cabinet, who then appoint the rest of the executive.]

SLIDE 16: The Legislature

The Legislature or Parliament is appointed by a process called elections: The process of voting.

The right to vote: For many people their only involvement in the decision making process within a country will be when they vote. The right to vote does not only include the right to make a mark on a piece of paper next to a candidate. It can be argued that the right to vote extends to the right make an **informed**

decision about who you want to run your country. This right is available to any person over the age of 18. *Link this up to the trigger.*

QUESTION: Should the right to vote also mean that you have a right to know things about the parties that you can chose from like where they get their money from?

[Registering to vote:

In order to vote in national and provincial elections, people must register to vote using Identity Documents (ID). This is to ensure that the election process is as fair as possible. (Yes, IDs are not only to get you into clubs...)

SLIDE 17: How do elections work in South Africa? Once you have voted, how is it decided who gets elected?

The votes are counted by the Independent Electoral Commission which has nothing to do with any of the arms of government.

South Africa operates with a proportional closed list system.]

SLIDE 18: Proportional

Chart of whatever time we have chosen to use showing these proportions. Explain the graph. Give examples.

SLIDE 19: Closed list

This means that after the numbers are counted, the party decides which people will represent it in parliament. Voters chose the parties and parties are free to chose their representatives. The parties put these lists in the newspapers for everyone to see before elections.

SLIDE 20: What is important to think about before I vote? Suggestions and discussions

Consider not only catchy party posters and slogans, but what the party has done in previous years. Question how convincing the promises made by the party were.

Loyalty may also be something to think about. If you voted for someone before, or your family has and most of the time they have done what is good for you, you may want to vote for them.

Think about what you want, and if the party is saying that they will try and make sure you can get it.

Decide if the leaders the party normally choose, and is likely to choose have the qualities needed to run a country.

But be wary of propaganda, which is used by politicians to stir people up and doesn't always contain the truth or the whole story.

N.B. If a party does not deliver on its promises, the voter's strongest weapon is to change his/her vote in the following elections. Parties who do not lose support are less likely to respond by changing what they do.

SLIDE 21: Clearing up some details...

State v Party Distinction

Explain the diagram. Use this as a guide: It is easy to confuse government and political parties, especially when one party has been in power for a long time. Political parties are groups of people that share many of the same beliefs and opinions on how the country should be run. They group together and stand for elections which everyone votes in. Once voting has happened the government or at least the legislature is formed by a combination of all the political parties who got enough votes in the elections.

Just because the one party may have biggest number of supporters **does not** make it the government. This just makes them the biggest part of the legislature. Judges are not part of any political parties.

SLIDE 22: Summary of the section. SHORT!

Video news clip shown linking Section A to Section B.

Section B 30 mins

You have the right to have any belief or opinion that you choose which includes religious opinions and beliefs. This right ties in with the freedom of expression because you have the right to express these opinions in different ways...

SLIDE: Freedom of expression (explain very briefly!)

Expression is defined as demonstrating what you think or feel. You can express something in words, in music, in dance, in art...

Everyone has the right to express what they want, including the press and media. This also means everyone is free to give or share information and ideas, and the press and people are free to criticise the government.

At the same time, we are not free to release propaganda for war, and are not allowed to say what we want if we are encouraging people to be immediately violent. We also cannot use hate speech based on race, ethnicity, gender or religion that would result in harm.

Freedom of expression play1:

The scene: three school friends are sitting around during lunch time.

Sipho: (*frustrated*) Aah man! I am so angry that we have to write the maths test on Tuesday instead of Friday like we were supposed to. I haven't even started studying!!

Ben: Me neither man, it was all because of that stupid vote we had. All the nerds voted to write on Tuesday. I wish they could all be sent to an island or something!

John: You know, it wasn't only the nerds that voted to write earlier, that smart mouth Eddie also voted to write earlier. You know he thinks we are stupid?

Sipho: Don't be silly man; he probably just wants to get the test over with.

John: I know what I'm talking about. I overheard him one day saying he doesn't like us because we're always making jokes even though we are so stupid.

Sipho: Are you sure he was talking about us?

John: I'm certain, he said you (*pointing to Sipho*), have a big ugly head and it's full of nothing.

Sipho looks angry and Ben laughs hysterically.

John: What are you (*pointing to Ben*) laughing at? He said you were so stupid you would jump over an open gate! *Ben stops laughing abruptly.*

Sipho(*still angry*): where does he get off calling me stupid, he doesn't even know me.

John: You think that's bad, he's also telling everyone he knows how you failed that last test and how you should probably just drop out of school because you're so stupid. You know, he thinks he's a real smarty pants that oke. I think we should teach him a lesson.

Ben: I don't know about that John, we'll get into trouble.

John: Well if you are gonna let someone call you stupid and let him laugh behind your back and tell everyone else that you're stupid, that's fine with me but I hope you know you will just prove him right. Do you want people to think he's right?

Ben: (*thinking but looks doubtful*) I don't know guys.

Sipho: he's right Ben, we need to teach that guy a lesson. And anyway, we have a right to express ourselves, it's in the Constitution. I am really angry right now so let's go express ourselves on his face!

The three walk off to look for Eddie.

Narrator Sipho is right; he does have a right to express himself. This is a basic right but it is important that you must not exercise it in a way that might cause physical harm.

Why do we have this right?

This right is important for democracy and is a way for you to be an individual within society by giving voice to your opinions and thoughts.

The closer expression comes to action, and the further away it moves from conveying ideas, the less protection it will receive under the section.

SLIDE: *Freedom of the press*

The press is made up of different bodies which publish information – newspapers, magazines, radio stations and TV channels. They inform us about the world around us and current events so having freedom of the press means we can know what's going on and decide whether it's right or wrong. Because of this, freedom of expression for press is more important than for an ordinary individual because it benefits all of us.

What else does the right do?

The right protects both speakers and listeners

The section is not only a right to speak, but also to receive information if this information will benefit you. This means that you have a right to hear information and it should not be unnecessarily kept from you.

Example: Political rallies- if you go to a political rally, you have a right to hear what is being said and no one should prevent you from listening.

SLIDE: Put up a slide of the Zuma trying to stab lady justice Zapiro cartoon. Explain that this is a politician who is planning to take the cartoonist to court because he felt insulted by it. Should the cartoonist be protected by freedom of the press?

Limitations to the right

The right does not mean you can say and do whatever you want.

If you are encouraging other people to start a war or to act violently towards other people or even show hatred to other people then you cannot be protected.

[Possibly insert play (time-dependent)]

Freedom of expression allows you to express yourself and your ideas. However, the right does not mean you are allowed to express hate speech which is expression that calls for hatred on the grounds of race, ethnicity, gender or religion.

You can voice your complaints to government through the right channels when you are not happy about something. But it is important to remember that the government has a lot of responsibilities and you may have to continue voicing your concerns for a while before you see any results.

2.1 Freedom of Association

QUESTION TO THE AUDIENCE - Get a group of friends to volunteer – what if there was a law that said that you can't be friends? How would you feel about this?

So if [insert names] wish to be friends, there is a general rule is that no LAW can stop them from hanging out. Similarly, if they wanted to join a particular group – e.g. a political party, trade union or a music band – they are free to do so according to the law.

This is a right in the constitution which says that we all have a right to freedom of association.

QUESTION TO THE AUDIENCE: What does “associate” or “association” mean?

- An association = relationship, friendship or connection
- It could mean an organisation / alliance or society

What freedom of association generally means is that we have a right not to be prevented from interacting with the people we choose to. We can generally join any group of people in order to achieve a common goal.

This right is important in the context of our history - One of the major principles of Apartheid was that people were not free to associate with who they wanted to. People were meant to stick to people of their own races. Marrying someone who was not from the race group as you was forbidden. People from different racial or cultural groups could generally not live in the same areas or attend the same schools. Political parties whose ideals went against those of the government were banned and couldn't legally exist in SA.

QUESTION TO THE AUDIENCE - What would have happened if the anti-Apartheid activists had not unified in a bid to end this regime – would we have a rainbow nation today?

It is through the collective action of these brave individuals that you and I can live side-by-side and engage with one another freely.

The right to freedom of association also means that you cannot be forced to associate with a person or group of people. Someone from the Hip-Hop club cannot force you to join their group. But at the same time, they have a choice of limiting their membership to people who enjoy Hip-hop and have knowledge of this music genre.

So like all rights, the right to freedom of association is not absolute. The state will limit this right where it is in the best interests of society.

INSERT PLAY

Freedom of Association play

Johnny walking home from school...becomes surrounded by a group of gangsters.

Gang-leader: Aweh bra, where you going so fast hmmm?

Johnny (*stutters*): Uh, just want to get home.

Gangmember 2: (*shows Johnny something resembling drugs*) How about something to make you feel good? This stuff can take you to places you've never imagined

Johnny: No thank you. I'm not into that stuff

Gangmember 3: Give us your phone and wallet...NOW or you can keep your stuff, if you help us rob that rich man's over there...

Johnny: (*stutter stutter*) no no, I don't want to get into trouble...(*tries to break free*)

Gang-member 3: Trouble? Haha

Gang-member 2: The only trouble you need to worry about is US (*leans in on Johnny*)

Gang-leader: I tell you what...You heard of freedom of association, bra? No one, not even the police can break us apart (*gestures to fellow gang-members*)....Don't you wanna be a part of that?

Other gang-members nod and murmur in agreement

Johnny: I'm pretty sure that is not what freedom of association is about...(*pushes away from them, throws bag on ground, runs away*)

Gang-leader: let that coward run. Get that car started.. see what you can find in there.

(*insert gestures and sounds associated with breaking into a car*) Police appear and arrest gangmembers whilst trying to steal car.

Johnny *reappears, watching from afar. Turns to speak to audience:* If I had been with them, I would also have been arrested. The right to freedom of association will not protect me if I associate myself with gangs, or groups that commit crimes... Good call!

SCENARIO

[Have a couple of people dribbling a soccer ball in front...with "fans" cheering on the side lines...]

It's 2010, and you're watching a big soccer match at newlands, people are screaming, music is playing...if you wanted to shout to the goalkeeper, on your own – do you think he would hear you? Probably not. But what if you were able to get the entire stadium to chant together? That might get his attention.

In the same way that two minds are often better than one, many voices are louder and echo more powerfully than one. It is often better if many people work together and act as a collective to achieve a common goal. In this way, our elected representatives are more likely to sit up, listen, and take action in response.

You've just learnt about the many benefits to democracy and the fact that it gives you a right to vote, freedom of expression and association and the right to participate in these democratic processes...

This brings us to the next civil right you all possess –

2.2 Right to assembly, demonstration, picket and petition

SLIDE: The Constitution says that "Everyone has the right, *peacefully and unarmed*, to assemble, to demonstrate, to picket and to present petitions"

The right to assemble means that you can organise a gathering or meeting with others to achieve a common goal.

Demonstrations and pickets are group actions to express opinions or complaints publicly. This right is therefore order linked very strongly to freedom of expression.

This right to assembly, demonstration, picket and petition gives you the freedom to *rise up, take action*, and make a meaningful difference in the world around you. It helps you make real other rights because you have a way of communicating your wants, needs and expectations as citizens – in a peaceful and non-violent way!

This helps to make our democracy more *visible*. [INSERT flashing slideshow of many demonstrations, pickets, including civil rights movement in USA etc]

Our democracy will only work when everyday people, like you and me, take a stand on issues we feel strongly about. By organising these campaigns, we can influence the government's decision-making and make an impact on the laws that are passed.

SLIDES: Focus on a few well-known examples of pickets / demonstrations with pictures and accompanying explanations of the issues that were being demonstrated against

- Apartheid
- Pro-environment demonstrations

What was the impact of these campaigns: After explaining each example, narrow in on the “what-if” scenario [what would have happened if X didn’t...how would the world be different?] E.g. ASK AUDIENCE

- What if the youth did not campaign against Apartheid?
 - none of us would be free
- What will happen if ordinary people do not continue to challenge governments to adopt more environmentally friendly policies?
 - We’d have no planet to live on!

As we can see, groups have individuals have used their freedom of association and right to demonstrate by organising marches and pickets over issues which they feel strongly about. In this way, they have “been the change [they] want to see in the world”

[slide with picture of Gandhi + quote: “Be the change you want to see in the world”, and a one-liner of how he was the saviour of oppressed people through PEACEFUL means]

Most of the time we will not need to use this right because there are other things we can do, like speaking directly to people involved etc. It is only when these other ways do not work, and so the right is a last resort for serious matters – don’t petition the Department of education if you’re unhappy about your teacher giving you homework! Try to speak to her first. If other ways have not been working, then you can use this right.

2.3 HOW TO ORGANISE A DEMONSTRATION

Key points to consider –

1. It must be peaceful; no weapons of any kind can be used (expressly prohibited)
2. The time, date and venue must be well advertised
3. The local authorities (e.g. police) should be informed

2.4 HOW TO DRAFT A PETITION

SLIDE

Sipho and Jennifer are Grade 11 high school students. The maths teacher at their school was fired and has not been replaced for the last six months. They are worried that they are falling behind and that they will not will be ready for their examinations. If they fail mathematics, they won’t be able to start Matric next year.

What should they do?

The first thing they should consider is who to send it to? Who would have the power to address their problem?

- In their case, it would be the school principal. And if he is not responsive, the Western Cape Education Department

The next step is to find out how many people are unhappy with this matter and how many would be willing to make their opinions known.

- Remember that when you have numbers on your side, you are more likely to be taken seriously.

Petitions are very simple to draft and are relatively low-cost and so it might be the most effective way of finding a solution to a problem and getting a helpful response from the authorities.

How do you draft a petition?

[This section may have to be shorter out of necessity.]

[SHOW EXAMPLE OF PETITION ON SCREEN. As each point is explained, allow them to visualise the petition piece-by-piece]

- It must be in written form and legible writing (preferably typed).
- Structure:

1. Heading – it must be clear and powerful, indicating the cause for action

- E.g. *We deserve a Maths Education! Find us a teacher NOW*
- Outlining of issue

- This is where Siphon and Jennifer should briefly state how this situation came to happen and why they feel disgruntled.
- e.g. *Mr Fredericks was dismissed in June last year. Since then, we the Grade 11 learners, have been without a mathematics teacher. We attend school because we wish to be educated. We have a right to education. It is the duty of Green Haven High School's authorities to find a replacement teacher for us. If they do not, it will impact negatively on our futures. Something must be done!*

List of demands and expectations

- Here, Siphon / Jen and the other learners need to indicate what they expect the authorities to do
 - We demand that a replacement teacher is hired by the school as soon as possible
 - This teacher must educate us in our first language (Afrikaans)
 - If the school principal fails to do this by the end of May, we will contact the Western Cape Education Department and the local press
 - Get signatures
-
- Once they have drafted a petition that all their fellow learners can understand, it must be sent round the class / student body
 - They must try to get as many signatures as possible
 - But they must not take too long to do this – otherwise the problem will not be fixed quickly enough
 - Take to authority
-
- Once they have received enough signatures, the petition should be taken to the relevant person (e.g. the school principal)
 - The authorities must be given a reasonable time to respond
 - If they do respond and address the issue, then...PROBLEM SOLVED!
 - If they do not respond within a reasonable time and/or they do not do so to your satisfaction...must take the matter further (e.g. to the press, or to higher authorities)

Briefly discuss how the internet can be used to communicate with the authorities, and possibly also to organise petition. This is a new way of communicating and can be cheaper.

[screenshot of <http://www.mypetition.co.za/>]

⁴<http://www.mypetition.co.za/>

2.5 Public Opinion and the Law

As citizens, we can also submit petitions to Parliament but you need to follow a strict procedure. In this way, we can influence the content and purpose of laws that are made.

It is very important to note that Parliament / legislature *must* consider public views, when making laws. This is required by our Constitution. Any law that is created without public involvement is invalid. Remember that Constitution was drafted, indirectly, by everyday people like you and I.

But there are still laws which not *everyone* in the country may agree with. The most important thing is that the law agrees with the Constitution, and protects the citizens of South Africa.

So how can you find out about laws and what the government is doing to protect your rights?

Insert play

Access to information:

Lesedi: Mom!! There isn't any water again. It's the third time this week!

Mrs Michaels: I'm sorry my angel, you'll just have to wait until it comes back on.

Lesedi: But I have to get to the auditions for the school play, today is the last day and I want to play the lead character. And I can't go without bathing ma, I have to look really good so I can impress them.

Mr Michaels (walks into the room): Hey Hey Hey, what's all the noise in here?

Mrs M: she can't get ready for the audition because there isn't any water for her to take a bath. I told her there's nothing I can do about that.

Mr M: I'm sorry honey but your mother is right, you know the water in our area goes off a lot. We always complain to the community watch but they always have the same story: (Said together with **Mrs M**): we will look into it. (*They both shake their heads and laugh*).

Lesedi: But dad, has anyone ever told you why the water goes off all the time?

Mr M: Well I don't even know who to ask bokkie. Besides, think we just live in a bad area.

Mrs M: That's right; I think we just have a bad water pipe system or something. I guess we'll just have to live with it.

Lesedi: No mom, in school some really cool students from UCT came and taught us about socio-economic rights. Did you know that there is some information that the government has to provide you with?

Mr M (*Looking curious and a little confused*): How do you mean bookie? So I can just go to the government and say 'hey!! I want you to tell me why my water isn't working most of the time?'

Lesedi: Well you have to follow some procedure dad but you can request information about issues that are a matter of public record and that are important to you. If you ask them questions about these things, it means they must always be ready to answer your questions because you will always be checking up on them. This also makes it so that they don't just do whatever they want without the people who will be affected being aware.

Mrs M: I didn't know we could do that!!

Mr M: Well I'll call the neighbourhood society so we can discuss this; the more of us there are, the more willing they will be to listen to us I think.

Lesedi: I think that's a good idea dad. And when all of this is done, I can go back to having baths!!!

Narrator: You have a right to access information. It is the duty of the government to protect your rights, so this right means that the public will be allowed access to certain documents, where it is possible, and this can help them achieve other rights better.

Sometimes knowing what is happening isn't always enough:

INSERT videoclip [U+F08C], play and videoclip [U+F08D] (in that order).

[These plays explain how the previous rights give effect to other rights – equality, dignity, socio-economic rights... (Based loosely on the Grootboom, TAC, Hoffman cases)]

VIDEO News-clip [U+F08C] –

News Anchor interviewing Mr and Mrs Smith..

N-A: Good evening. I am Zuki Snikalala for Channel LAWCO News Hour. As part of "Insight into Democracy" Interview Series, we will be chatting to Mr Smith, the head of NGO "Power to the People". Mr Smith, tell us a little bit about your organisation.

Mr S: Our organisation tries to help people who cannot afford to take matters to court. We are a team of lawyers, social workers and volunteers from all walks of life who hope to advance justice for ordinary people.

N-A: We are more than 10 years into the new SA, with a wonderful Constitution which spells out the rights we all have. Why is it that your organisation exists? Can't people take matters to court themselves?

Mr S: Of course, anyone can take a matter to court. Our Constitution says that we all have access to the courts. The problem, in reality, is that it is very expensive to do so. As you know, lawyers and advocates must be hired if you wish to sue an individual or the government – and legal fees are unfortunately very costly. Most people cannot afford to pay for this. We try to help by providing free legal advice.

N-A: I understand. Can you tell us about some of the cases you are working on?

Mr S: Well, one of our clients recently found out that he was HIV positive, and he was fired from his job because of this. Since he doesn't have a job, he also can't afford medication that will help him survive. None of the public hospitals are providing this medication for free.

N-A: What are the legal options available to your client?

Mr S: I am advising my client to send a letter of demand to his former boss. It was unconstitutional for them to fire him because he was HIV positive – this amounts to unfair discrimination. If they do not give him his job back, our organisation will help him take the matter to court.

N-A: What about the fact that public hospitals are not providing HIV medication?

Mr S: As you know many organisations are demanding that the govt provide free medication at public hospitals. Their argument is that the govt must try to improve access to healthcare under the Constitution. This is very important in the context of HIV/AIDS because so many people are dying from it. These groups have been organising big marches and campaigning outside Parliament.

N-A: Yes, our cameramen have been taking photos of these demonstrations.

[insert pictures of TAC campaigns]

N-A: Mr Smith, what will happen if these campaigns are unsuccessful?

Mr S: We will try to raise money so that we can this matter to the Constitutional Court. For many people, this is a matter of life and death!

N-A: Thank you for your time Mr Smith. Channel LAWCO will continue to follow the progress of these cases.

Play [U+F08D] *Mrs Grootboom sitting on chair under blanket, Jane (her child) on sitting on the floor*

Jane (*taps her mother*): Mummie, mummie where are my pink fluffy socks?

Mrs G: No Jane, you've worn them 10 days in a row. Sies man! They need to be washed.

Jane: But mummie, my toes are so cold they may fall off.

Mrs G: I know my baby, winter has not been very good to us. But that doesn't mean we must act like dirty people allergic to soap.

Jane: K mummie. The raindrops keep falling on my head. These days, I must go to bed with my raincoat on. My hair was blowed so nicely...don't want it to wet again by the morning.

Mom: (*sighs with sadness*) Do what you must Jane.

Knock on door.

Mr Hoffman: Mrs Grootboom! Open up! I have good news!

Mrs G: Come in Mr Hoffman, the door is open

Mr H walks in

Mr H: I won my case, they were forced to give me my job back!! *Mrs G hugs him*

Mrs G: That's wonderful news! Now you can at least put food on the table!

Mr H: I told you it was wrong for them to fire me just because I was HIV positive. Our Constitution does protect us.

Mrs G: If only our Constitution could give us new homes! Our roofs are leaking...we'll never survive this winter. We must protect our belongings from the floods...

Mr H: One step at a time, neighbour. The Constitution says we have a right of access to housing. We will get our chance.

Mrs G (*whispers*): Hopefully it won't be too late by then. It's like we'll never escape this poverty. I worry about my daughter. I just want her to be safe and warm. The municipality told us that we would have homes by last year already...why have we not heard anything?

Mr H: the legal eagles told me that we have a right of access to information too! Surely we can use this right on the govt officials to tell us when our homes will be built??! I will research into this Mrs Grootboom, I promise you!

Mrs G: You have brightened up my evening Mr Hoffman. I wish to come with you to speak to the people at the legal advice centre. I refuse to sit arounds and wait anymore! We deserve to realise these rights fully!

VIDEO News-clip [U+F08D]

N-A: Breaking news. Mrs Irene Grootboom has just won her landmark case at the Constitutional Court. The Cape Town City Council has been ordered to build homes for the individuals in her community. We are chatting now to her attorney, Mr Smith. Mr Smith, what is the significance of this case?

Mr S: This case is very importance as it has put the spotlight on the right of access to housing. The government MUST ensure that the poorest of poor are given homes within a reasonable time. Obviously this depends on the amount of money and resources available to the government, but the key thing is that govt officials must aim to build these homes as quickly as possible.

N-A: Why do you think Mrs Grootboom was successful in having her demands met?

Mr S: Well, Mrs G took the initiative to exercise rights that she had according to the Constitution. First, she realised that she had a right to get information from the municipality about the progress of the housing developments. When this did not come, she contacted us. And the rest is history.

N-A: Well, congratulations Mrs Grootboom and the rest of her community...hopefully they will all have homes by next winter! Channel LAWCO viewers, I'm sure we can all agree that justice has been served, in the best way possible.

[caption against a black screen / with white writing: "This is based on a true story"].

Recall that all the rights in our Constitution fit together and reinforce one another.

The fact that these rights are so firmly entrenched in our law means that we are better able to hold the state accountable. We have real power and influence over our lives.

SIMULATION 45 Minutes

The state is set up, comprising the three arms of government and a states-spokesperson. These four players explain what the state is and how it functions. The rules of the simulation are explained (5 mins!): each learner is allocated an interest group.

- *Each interest group has a resource pack, containing information about the interest group, the state, how to exercise civil and political rights, a worksheet documenting rights from the previous paper and paper, pens and kokis.*
- *At various points the state will announce a policy or stance it has adopted. Each interest group needs to evaluate this announcement and decide how it will react. Reactions can be in the form of petitions, demonstrations, education campaigns, advisory boards, cooperation with other interest groups or official statements. Any activity undertaken needs to be lawful and in compliance with procedure outlined earlier. Each situation is ten minutes in total – announcement, 5 mins deciding action in group and 5 mins to launch campaign.*
- *After reactions have been felt the state in turn will react.*
- *The role of the volunteer in each group is to facilitate engagement with the issues, foster a group identity and open the possibilities for various reactions. As much as possible try to get the learners to take lead in initiatives.*
- *It is an option for the interest group to create different positions within the group – one strong recommendation is that the interest group chooses someone to act as a go-between with other groups to try and coordinate an action.*

Volunteers leading the group – it is imperative for you to steer this well! We want this to be an effective training exercise but think very carefully about where your group wants to take things.

What to do in your groups

When a situation is read out, you need to not just explain, but work through the issues.

- What is our stance on this issue?
- How can we get that across?
- What views will other groups have and can we work with them?
- Is there a way that we can educate about this better?

You then need to decide on a course of action and go with it. If a situation doesn't directly involve your group, then issue a statement or run an education campaign.

Potential ways to react

Because the simulation will happen fairly organically, the 'state' needs to be very flexible in how it approaches the reactions of the interest groups. It is imperative that the actions of the interest groups do feedback into the simulation – otherwise we run the risk of the simulation being meaningless at best and discouraging and disempowering at worst. For example, if all of the groups unite in a demonstration against one of the simulations then it is really important for the state to act on this – perhaps by setting a date for a public meeting to re-address the issue. If the interest groups react in a splintered way or along factions it is important to mediate between the sides and perhaps encourage dialogue. If everyone does separate actions then it might be useful to point out that joint initiative would have been more powerful. Make space for groups to run 'education campaigns' with posters or information, if they request. In general, this section requires a lot of initiative and quick-thinking – it can go many places and harnessing this potential is what will make this simulation really successful.

Things to think about

- Making our objectives explicit – we wouldn't want this simulation to be lost
- Placing an emphasis on group power as opposed to individual action within a democratic framework
- Successful simulations feed consequences of group action back into the game
- Balancing the development of group identity for successful simulation (they need to be into it! – visual aids, slogans etc) with the possibility of cooperation between groups open – we wouldn't want divisive group politics to hijack the stage completely
- How can we generate thoughtful participation? More competition and incentives? Greater group identities? Do we have enough potential tasks for any learner to partake in?

We start this section off with Pirates of the Caribbean theme song. Some volunteers race around pelting learners with Chappies. The Executive, legislature and judiciary march in formally. The volunteers leading interest groups also march in with banners announcing their interest groups. We then screen the video:

SLIDE WITH THIS PLUS PICTURE OF EMU:

Video of announcement:

Welcome to the Republic of . The Republic is well known for having a very diverse population, and a national breakdancing day. The Republic specialises in emu-farming and sends emu products all over the globe. The Republic also has an extensive Chappie-mining system and its National Anthem is 'My Milkshake brings all the boys to the yard', priding itself on the unusual emu meat and blue chappie flavour milkshake that all politicians have to drink as their morning meal. In the 2034 elections, held earlier today, you voted in the People's Party led by Seymour butts. This is a party that ran on a vote promising to give better service delivery to everyone, and especially promised to invest a lot of the budget into improving all-round education. The party is well known for founding the democracy in the Republic after years of oppression and unfair laws. When deciding on what system of laws to use, the leaders spent a lot of time learning about different legal systems from around the world. Of all of the ones they looked at, they found the South African constitution was the best suited to the needs of their people and so their legal system has a full set of rights and any laws made need to be in agreement with this.

The learners then are already sitting in their groups but are allocated their interest groups.

Explanation of this section and how it will run, what the resource packs are and what their roles are.

Interest groups:

3

Human rights commission

Workers' Union
 The press
 Women's League
 The markets and big business
 Student activist group
 Traditional minority group
 Two opposition parties
 Teachers group
 Situations:

1. The government wants to pass a law limiting free press in the country. It argues that recently press has been going against traditional values such as the family and modesty, and that censorship is necessary for the moral health of our society. Any publication needs to be first checked via government departments before being allowed to be sold. Also, the government wants to make rules about how many hours a day each person can watch TV.
2. The government proposes legislation that makes it compulsory for all women teachers to work in rural areas for the first year after they qualify. However, fieldwork has shown that many women teachers who have started work in rural areas have not been provided for with basic needs that the government promised. The government is considering giving these women higher salaries than male teachers in similar positions but hasn't made all the information on this available to the public. However, industry and business are worried about these high salaries, and unions worry that male workers will have to be fired so that they can accommodate this new law.
3. In a ground-breaking case, the judiciary has ruled that the government has to spend more of its resources to education and literacy. However this has resulted in a fight between the legislature and the judiciary about separation of powers. The government now wants to change the Constitution to say that the judiciary must now answer to the executive. They are trying to bully the minority parties into voting with them in parliament because they need the special majority, but then they could also change rights in the Bill of Rights. The Republic is in disarray! What do you do?

(We secretly want all the groups to unite on this issue and bring about change, driving home our points made earlier. Please steer this appropriately if needed [U+F04A])

Interest groups

Human rights commission

Your task as the human rights commission is to make sure that human rights are protected and promoted. Even though all individuals should be a part of respecting human rights, you are an independent institution and your task is to make sure the Constitution is followed. You work with government, society and individuals to do this.

Your roles include:

- Addressing human rights violations and seeking effective ways to address such violations
- Acting as a watchdog to see if human rights are being observed
- Raising awareness of human rights issues
- Educating and training on human rights

Although you have an interest in all human rights being played out, you need to carefully consider how the different rights work with each other. You can also work with other interest groups to further certain rights, but be careful about getting involved in political in-fighting.

Workers' Union

You are an organization run by and for workers who are working together to try and improve the lives of workers. You work with employers on behalf of your members and negotiate contracts. This includes wages, work rules, complaint procedures, rules about hiring and firing workers and policies to do with workers.

You make sure labour rights for the workplace are being put into practice and always want the best deal possible for your workers. You also try to promote legislation (laws) which work or the interests of your members and workers as a whole. Because of this you run campaigns and lobbies, or support organisations or parties which share your interests.

The press coalition

You are a body made up of different press bodies – newspapers, magazines, radio stations and TV channels. The basic value that guides you is freedom of expression. The primary purpose of gathering news and opinions is to inform citizens and to enable them to make informed judgments on what is happening at the time. As a press body you have adopted a code of reporting news truthfully, accurately and fairly, in a balanced way. You also make sure that the content you publish is not hate speech or unfairly discriminatory in any way.

When the state gives news or announces anything you can publish content about it and help make sure other interest groups are informed. You can also interview the state about its positions to find out more info. Also, if the state does anything to limit your ability to act you can take actions to make sure the press remains free and fair.

Women's League

Your vision is a society which is free from any discrimination along the lines of gender and all forms of oppression on race, class, sex, sexual orientation, religion, disability or geographical location. You work closely with government and society to make sure this can be achieved.

Your tasks are to:

- monitor the policies and practices of government, the private sector and other organisations to make sure that they promote and protect gender equality
- public education and information on gender issues
- investigating inequality
- doing research and making recommendations to parliament or other authorities.
- investigating complaints on any gender related issue.

The markets and big business

You are a group of big business who give jobs to most of the citizens of the Republic. Your main goal is to make profit and be efficient while doing that. You have to conduct the industry and economy of the state according to rules in the Constitution, like labour rights law. You try and make sure as much work and productivity is done, because you need to economy to be strong so you can improve trade and make more money. You favour the Democracy Rules opposition party, who thinks the best way of improving the country is to invest in growing the economy and creating jobs.

Student activist group

You are young students who want to use your education to improve other people's lives. You campaign on issues around human rights, but different students in your group have different opinions about what the right thing is to do so you need to make sure everyone agrees which issues you should take on board. As a group you can decide now amongst yourselves which issues you feel strongly about, and then take it from there.

Traditional minority group

According to the constitution of the state, everyone has the right to practice their own cultures and speak their own religions. You are a traditional minority group of people who don't eat emus and hold that emus are sacred and should be worshipped. You mostly live in rural areas outside big cities and so do not always get all services. You have a whole system of rules and traditions. Although you have a separate set of rules and laws governing your community, these rules are not allowed to go against the Constitution.

You want the members of your group to benefit as much as possible from good programmes the state runs and service delivery – the government has been especially slow at providing your community with basic

essentials such as running water and sanitation. Your group is getting smaller, and you want to preserve your culture and make sure the values of your community are carried over into future generations. You need to think carefully about how to act because balancing these two goals can sometimes be tricky.

Democracy Rules Party

You are the second biggest party in the Republic. While the ruling party emphasises education, you think the best way of improving the country is to create jobs and for the country to get richer. You take the success of the emu-farming industry as an example of how your country could get richer and serve its people better. You are the party most favoured by big business. You do not believe in basic social grants except for disabilities. You are also concerned with women's rights because you think that having skilled and able women as part of the workforce is a good way of improving the workforce and boosting the economy. You are also very concerned about crime in the country and put this as a priority.

Emu and Sickle Party

You are an opposition party to the ruling People's Party. You think that for too long the ruling party has ignored the interests of the poorer people in your country and so you think it's very important that all people get basic social grants and health and education benefits from the government. You also have worked with the trade unions to make sure that workers are treated well and that as many people are employed as possible. You would be against anything that would mean there are fewer work opportunities, because you see that affecting poorest people the most. You also have spoken out against corruption in the other parties, and would prefer the whole country to know and understand all the processes that happen in parliament. For this reason you really admire the press and its role in making sure citizens are informed.

Teachers group

The current government thinks improving education in the country is important. Many citizens in the country can't read and there is a shortage of skilled workers, and the ruling party has decided to target education to improve this. Your group formed to make sure that labour rights of teachers are taken into account, and to help the government put together a solid plan for improving education nationwide. You want to make sure teachers are not going to be at the short end of the stick of the party's plans, and you try to make sure teachers benefit from changes in policies.