

# Advancing equality for youth through education

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## 1. Introduction

This brief will provide an overview of education inequality in South Africa and how it potentially leads to the entrenchment of other economic, social and political challenges for youth. While the definition of youth covers a range of persons up to the age of 35 years in South Africa, the brief is intended to provide an overview and does not focus on a specific age group. It provides a bird's eye view of some of the challenges that youth experience.





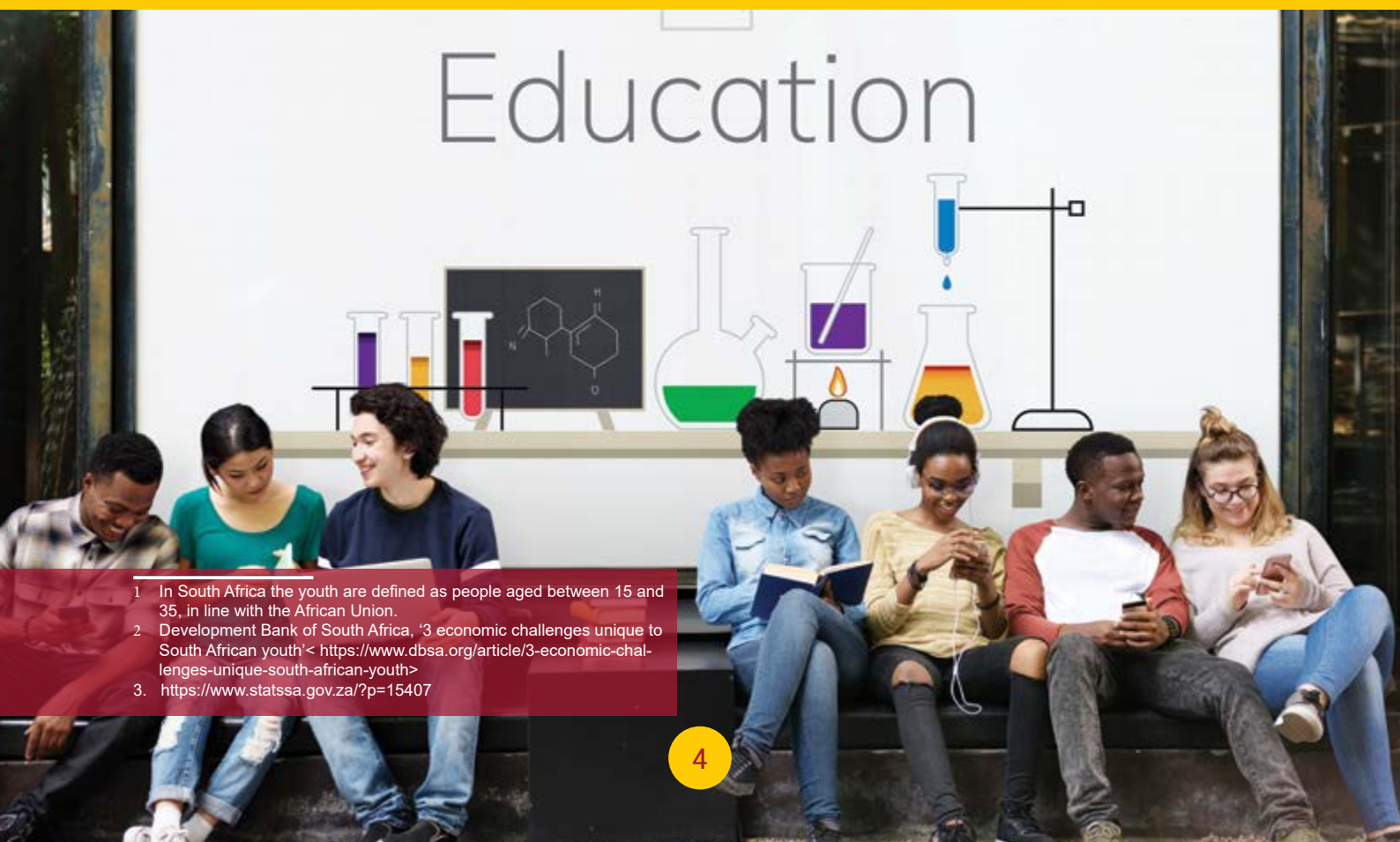
## 2. Background

It is trite to say that the lives of the youth<sup>1</sup> in South Africa are still marked by high levels of unemployment and poverty. Although the Fourth Industrial Revolution is meant to entrench the digitisation of information, and make it easier for work to be done, the counter view is that it might lead to increased unemployment, similar to what occurred during the Industrial Revolution and other technological revolutions.

Education inequality is further exacerbating the challenges that youth in South Africa are facing, and will face, making it even more difficult for youth to be employed. The challenges faced by the youth seem to be worse for those who come from under-privileged backgrounds and who even have fewer opportunities to access education due to their limited means. The lack of access to quality education was identified by the Development Bank of Southern Africa as one of the key issues and social problems that are faced by young people in South Africa.<sup>2</sup>

It is estimated that 75,1% of young people between the ages of 15 and 25 are outside of the labour force.<sup>3</sup> The large number of youth outside the labour force are indicative of factors such as the historical exclusion from access to quality education, the non-inclusion of youth in development planning. Such factors mean that large sectors of the youth are unable to access skills that are empowering both them and society, and that are in great demand for a developing country such as South Africa.

Youth-based exclusion is of great concern to South Africa, even if it is not deliberate or based on national policy. The disgruntlement of the youth can present a danger to national stability and progress. There are many countries in Africa where the lack of inclusion of the youth has been a major contributor to conflict, for example, in Sierra Leone and Liberia. It is, therefore, important to pay attention to the issue of youth inclusion to ensure that possible problems that could threaten democracy in South Africa are addressed. The exclusion of youth also has an impact on their human rights in various areas. It is, therefore, important for the individual and society at large that the youth is educated and properly equipped.



1 In South Africa the youth are defined as people aged between 15 and 35, in line with the African Union.  
2 Development Bank of South Africa, '3 economic challenges unique to South African youth' < <https://www.dbsa.org/article/3-economic-challenges-unique-south-african-youth> >  
3. <https://www.statssa.gov.za/?p=15407>



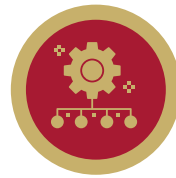
### 3. Mandate of the Commission

The South African Human Rights Commission (Commission) is mandated by Section 184 of the Constitution to “promote respect for human rights and a culture of human rights; to promote the protection, development and attainment of human rights; and to monitor and assess the observance of human rights in South Africa”. The Commission meets this mandate through a number of means, including the conduct of research.<sup>4</sup>

In addition, the Commission is competent and obliged by the South African Human Rights Commission Act 40 of 2013 (“SAHRC Act”) “to make recommendations to organs of state at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of human rights within the framework of the Constitution and the law, as well as appropriate measures for the further observance of such rights”.<sup>5</sup>

Finally, although this provision remains inoperative, Section 28(2) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 stipulates that the Commission must include in its annual report, an “assessment on the extent to which unfair discrimination on the grounds of race, gender and disability persists in the Republic, the effects thereof and recommendations on how best to address the problems”.

Therefore, research into issues that affect youth is not anathema to the work of the Commission which primarily ensures that issues of human rights are attended to, so that democracy in South Africa can be strengthened and protected.



### 4. Methodology

The methodology used in the preparation of the research brief included a desktop review of relevant information from international and regional material such as legal frameworks, relevant government policy documents, studies from research centres and civil society organisations, a review of case law. A questionnaire was sent to the Department of Women, Youth and Persons with Disabilities (DWYPD) to seek information and responses on the issue under examination.



### 5. Legal and policy framework

#### a) International and regional framework

The United Nations (UN) recognises the following:

“ All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”<sup>6</sup>

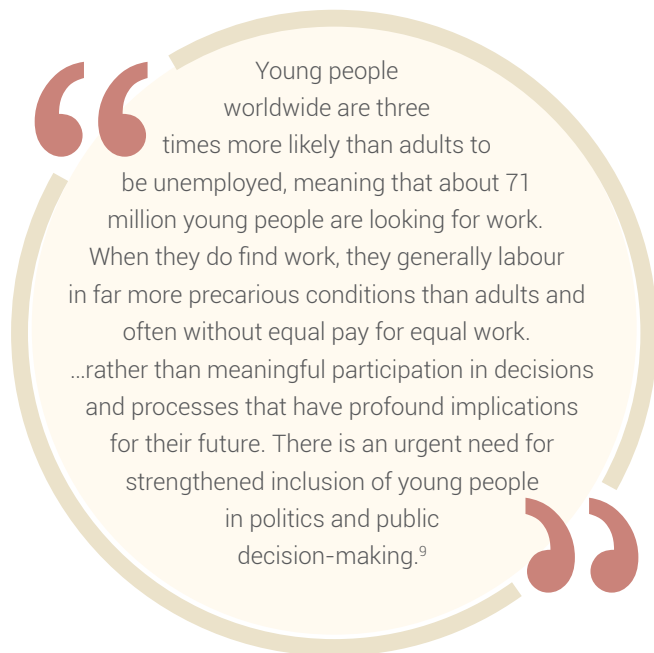
<sup>4</sup> Sec 184(2)(c) of the Constitution of the Republic of South Africa, 1996.

<sup>5</sup> Sec 13(a)(i) of the South African Human Rights Commission Act 40 of 2013.

<sup>6</sup> Vienna Declaration and Programme for Action (Adopted 25 June 1993) A/Conf.157/23 para 5.

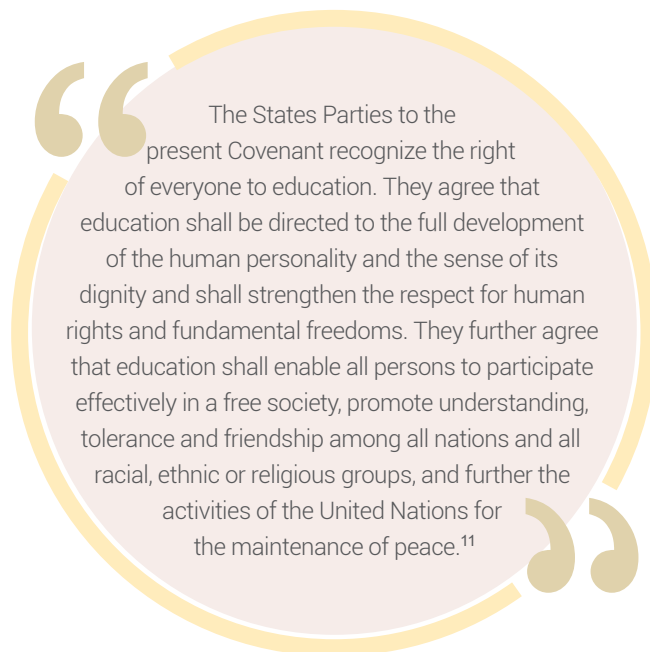
This undertaking recognises that youth-related matters should not be treated as a sui generis issue, but that the youth should, in essence, enjoy human rights on the same footing as other persons.

The UN has recognized the challenges that youth face, simply because of their age, and decided through Human Rights Council, Resolution 35/14<sup>7</sup> that a report be provided on youth. The Report<sup>8</sup> in this regard was provided and recognised that some of the challenges facing youth are:



South Africa is a state party to a number of human rights resolutions, which all apply equally to youth. There is no international treaty in existence that addresses the concerns of youth in particular. However, there are treaties at the international level that address the challenges of specific groups such as that on women, persons with disabilities, and children.<sup>10</sup>

Regarding education, for example, Article 13(1) of the ICESCR provides that:



On the global policy level, the Sustainable Development Goals represent the international community's commitment to pursue pertinent development goals to achieve greater socio-economic justice. Significantly, SDG 10 aims to reduce inequalities within, and amongst, countries.<sup>12</sup> Regionally, Agenda 2063 expounds the transformative agenda for Africa's sustainable development, with non-discrimination as a key theme that characterises the attainment of various transformation objectives.<sup>13</sup>

South Africa also recognises and is guided by the UN Youth Strategy (2030), the UN World Programme of Action for the Youth to the Year 2000 and Beyond, (1997), the Commonwealth Youth Charter (2005) and the Commonwealth Youth Mainstreaming in Development Planning: Transforming Young Lives

<sup>7</sup> Human Rights Council (35 th Session) Resolution 35/14: Resolution concerning Youth and Human Rights 22 June 2017.

<sup>8</sup> Youth and human rights: Report of the United Nations High Commissioner for Human Rights, A/HRC/39/33, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/193/07/PDF/G1819307.pdf?OpenElement>.

<sup>9</sup> As above, paras 6 & 7.

<sup>10</sup> Convention on the Elimination of All Forms of Discrimination Against Women (Adopted on 18 December 1979, entered into force on 3 September 1981, 1249 UNTS 13, the Convention on the Rights of Persons with Disabilities (Adopted on 13 December 2006, entered into force on 3 May 2008, 2515 UNTS 3, International Convention on the Rights of the Child (Adopted on 20 November 1989, Entered into force on 2 September 1990 1577 UNTS 3.

<sup>11</sup> Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Adopted 10 December 2008, entered into force 5 May 2013, A/RES/63/117.

<sup>12</sup> SAHRC State of Human Rights Report (2020) 37.

<sup>13</sup> As above.



At the African regional level, a treaty on youth exists and South Africa is a state party to the African Youth Charter.<sup>14</sup> This charter became effective in August 2009. The African Youth Charter guarantees an array of human rights to youth including their participation “in all spheres of society”.<sup>15</sup> For example, States are to “institute measures to professionalize youth work and introduce relevant training programmes in higher education and other such training institutions”.<sup>16</sup> Access to quality education and skills development intended to empower the youth and ensure that they become effective members of society is also addressed.<sup>17</sup> Other areas for youth empowerment include “poverty eradication and socio-economic integration of youth” as well as “sustainable livelihoods and youth employment”.<sup>18</sup> South Africa is also guided by the Agenda 2063 adopted by the African Union..

#### a) Domestic framework

In South Africa, the achievement of equality is a foundational constitutional value. The right to equality is guaranteed under Section 9 (2) and (3) of the Constitution, which provide:

*(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.*

“ These provisions, in addition to others, may be relied upon to promote the inclusion of youth in all areas of life in the state. The South African Constitution does not specifically provide for youth. However, it does prohibit unfair discrimination on the ground of age. The rights guaranteed are, therefore, to be enjoyed equally across the respective age groups. However, there are mentions of some groups, such as children. Here the emphasis is on the international accepted principle of the need to act “in the best interests of the child”. ”

<sup>14</sup> South Africa acceded on 28 May 2009, <https://au.int/sites/default/files/treaties/7789-sl-AFRICAN%20YOUTH%20CHARTER.pdf> (Accessed on 18 March 2023)

<sup>15</sup> African Youth Charter ( adopted on 2 July 2006, entered into force on 8 August 2009, South Africa acceded on 28 May 2009,&lt; 7789-treaty-0033\_-\_african\_youth\_charter\_e.pdf (au.int)&gt;

<sup>16</sup> Art 11(2)(f) of the African Youth Charter.

<sup>17</sup> Art 13 of the African Youth Charter.

<sup>18</sup> Arts 14 & 15 of the African Youth Charter.

Local legislation includes the National Youth Development Agency Act 54 of 2008 (NYDA). Key provisions of the Agency that may be relevant to the issue of education for youth include the objective of the NYDA to “establish annual national priority programmes in respect of youth development”<sup>19</sup> and to include the “creation of an environment which supports the continued development and learning of youth”.<sup>20</sup> The National Youth Development Agency is responsible for “governance, training and development”.<sup>21</sup> Efforts are underway to amend this Act to help attend to areas such as:

- (i) Providing for administration of the Act by the Cabinet member responsible for Youth;
- (ii) Responding to the outcries from the public on poor visibility of the NYDA, particularly in deep rural areas; where youth face multiple vectors of discrimination and exclusion;
- (iii) Providing for development of the Regulations, which would include relooking at the service delivery model for the Agency, in the time where technology is proliferating rapidly; and finally, to
- (v) Providing for the filling of Board vacancies to strengthen governance at the Agency. We have recently seen how lack of provision to fill the Board vacancies resulted in a vacuum, which could threaten good governance.

Moreover, South Africa has a National Youth Policy 2020-2030 (Policy). According to the Youth Policy, “quality education” is recognised as one of the areas that need attention. The focus is, therefore, not just on accessing education but on ensuring that there is quality education available. The lack of quality education will, inevitably, affect access to opportunities.



## 6. National efforts at youth inclusion

In carrying out its mandate, the Commission must, each year, “require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights”.<sup>22</sup> The Commission, therefore, sought information from the DWYPD.

The intention was to get information on measures that were taken to ensure inclusion of youth. This information points to the challenges which remain major stumbling blocks, such as access to education and training. There are plans to implement the Youth Policy following the development of an Integrated Youth Development Strategy. The idea would be to create synergy within government and partners in development. If the strategy is implemented, issues such as education and training will be addressed. Monitoring and evaluation is embedded in the process through a dedicated framework that was also developed. According to information from the DWYPD, capacity building workshops were held. However, the critical nature of limited skills remains, because of weak education foundations for most youth due to socio-economic reasons.

A key component of this work is the need to ensure the implementation of the Youth Policy and, consequently, a law is being tabled (South African Youth Development Bill). Such a law will ensure that commitments in the Youth Policy, such as access to education and training are met.

Budgetary constraints present a key obstacle that should be given due consideration. The budget allocated towards youth development matters is limited and is not likely to have an impact. The current budget allocated amounts to R5,4 million. This may not be adequate considering the extent of the problems facing youth that require costly interventions.

<sup>19</sup> Sec 3(1)(g).

<sup>20</sup> Sec 4(c).

<sup>21</sup> Sec 5(1)(a)(iv).

<sup>22</sup> Sec 184(3) of the Constitution.



It may be that resources are provided for 'implementing entities' rather than those, such as the National Youth Development Agency, that are regarded as 'coordinating bodies.' This means that issues such as education and training are implemented by different agencies, independent of the National Youth Development Agency. Therefore, if unity of purpose is not emphasised and pursued vigorously, the danger exists that youth may continue to be marginalised unintentionally, due to the absence of a concerted effort to include them.

Unlike with Broad-Based Black Economic Empowerment (BBBEE), youth are not identified as a designated group whose inclusion for the purposes of empowering is seen as critical, or benefit from special measures. In contrast, unlike the youth, there are categories such as women, or persons with disabilities, whose inclusion is considered vital, and entities have to develop and implement policies that enable the inclusion of such persons. Therefore, in addition to insufficient education and training there are no deliberate plans to ensure the inclusion of youth in a similar way as is required for the inclusion of black persons, women or persons with disabilities.



## 7. Conclusion and recommendations

Youth continue to face many challenges. However, the challenges that are faced by youth in South Africa are not peculiar to only the youth in the country but are indicative of a worldwide phenomenon. The active inclusion of youth is critical to ensure that democracy is protected and advanced.

To ensure that youth are more adequately included the following recommendations are made to entities such as the DWYPD for implementation and to actively ensure that other responsible entities carry out their obligations accordingly:

Attention should be paid to ensure a high quality of education and training which have an effect on persons once they complete school and need to enter specialised fields.

The budget for youth activities and education must be increased to help create greater awareness.





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