

Relocation and Access to Schools in Sol Plaatje

Research Report

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1: INTRODUCTION

On 7 January 2002 approximately 1500 families were evicted by court order from Mandelaville, an informal settlement in Diepkloof, Soweto. They were relocated to the newly created Sol Plaatje Extension of the Durban Roodepoort Deep informal settlement, located at an abandoned mine near Roodepoort, to the west of Johannesburg. Mandelaville and Sol Plaatje are around 14km apart as the crow flies. The relocation uprooted Mandelaville's residents from their established extended family and social service networks. In particular, school-going children were moved several kilometres away from primary and secondary schools, which were previously within a very short walking distance. Despite guarantees from the Johannesburg City Council that a primary school would be made available "on site",¹ the nearest primary school was around 5km away by road, and had insufficient capacity to meet the new settlement's needs. The nearest secondary schools were over 7km away by road, and were already serving large populations.

This paper presents the findings of an investigation into the impact of this eviction on education provision in the relocated community, with a particular focus on school access costs. In response to widespread concern about school access in Sol Plaatje, especially the lack of access to affordable transport services for many households, the Johannesburg West District Office of the Gauteng Department of Education had asked the Sol Plaatje Youth Committee to collect data to demonstrate the nature and extent of the community's school access problem. Four members of the Youth Committee carried out the social survey with the assistance of the author between November 2002 and January 2003,² partly at the behest of the Gauteng Department of Education. Researchers from the Centre for Applied Legal Studies and the Education Policy Unit at the University of the Witwatersrand also conducted open-ended discussions on access to schooling with randomly selected school-age children and hosted a legal literacy workshop, with around 40 participants, which aimed to inform parents and school-age children of their rights under education law and policy. During

¹ *The City of Johannesburg vs The Unlawful Occupiers of Mandelaville Informal Settlement*, High Court of South Africa, Witwatersrand Local Division, Case No. 01/25450 (unreported), Founding Affidavit p.3.

² Vumile Velaphi, Maxwell Nqeno, Mavis Baloyi and Thandi Mtshali deserve high praise for their careful and efficient collection of all the data analysed in this report. Brian Ramadiro of the Education Rights Project also collected invaluable qualitative data and provided many helpful suggestions on data collection and presentation.

the first part of this workshop, participants were asked to discuss and write down what “the right to education” meant to them, along with any problems they had experienced in attempting to access education services. These discussions were recorded in another report,³ on which this paper draws, along with other qualitative data.

The investigation had the following objectives:

- To assess the impact of a communal relocation on access to education;
- To place data on access to education in DRD in the context of background information on household incomes;
- To account for the number of school-age children living in DRD who are not attending school;
- To disaggregate the various education access costs borne by DRD residents, focussing specifically on transport costs;
- To investigate the relationship between school access costs and attendance;
- To report on the lived-experience of poverty in DRD, especially as it relates to access to education.

Section 2 of this report outlines the process of data collection for the social survey and presents its results. Section 3 traces the efforts of Sol Plaatje residents to widen their access to schools from their new site, including their negotiations with the Johannesburg West District Office of the Gauteng Department of Education. Section 4 concludes by way of summary and comment on the human rights implications of the data presented.

Significance Tests

Much of the data presented in this report draws conclusions from strong correlations between two different variables. Significance tests have been run to verify that the correlations observed are unlikely to have occurred by chance. For example, the data suggest that school access costs take up a far greater proportion of household income in the lowest income band than they do in the highest. A significance test can

³ Brian Ramadiro, A Report on the Durban Roodepoort Deep Education Rights Workshop Report 27-28 February 2003, Education Rights Project: 2003.

establish the probability that this variation could have occurred by chance. Where statistical tests have been used, the p-value associated with the test is given in a footnote. If the value is 0.05 or less, there is a 95% probability that the variation did not occur by chance. If the value is 0.01 or less, there is a 99% probability that the difference did not occur by chance.

2: THE SOCIAL SURVEY

2.1 Method and Procedure

A sample of 780 households was extracted from Sol Plaatje Extension.⁴ Researchers drawn from the community completed questionnaires during 10-15 minute interviews with a parent or caregiver from each household. Researchers attended an initial informal training session before completing around 200 questionnaires, and then attended a further training session where the initial phase of data collection was discussed and conventions on data notation were agreed.

Respondents were asked to estimate their average monthly household income. Given that many Sol Plaatje residents derive income from street vending, “piece jobs” and other informal employment, it was impossible to access documentary evidence to verify these estimates. However, the mean and median figures for the entire sample were broadly in line with income measurements taken in informal settlements elsewhere in Gauteng.⁵ In some cases, it was clear that respondents had understated their income dramatically. Many reported an income of R100 per month, but expenditure on education of several times that. These questionnaires were excluded from the access costs analysis below.

In some cases, under-estimation of income may have been a deliberate strategy to secure benefits some respondents hoped to secure from taking part in the surveys. Despite their best efforts to explain otherwise, researchers were often mistaken for potential employers or officials responsible for the distribution of state benefits. In

⁴ The sample was not formally randomised, since the initial aim of the survey was to compile a registry of educational need for the whole settlement, as requested by the Sol Plaatje Youth Committee. Eventually, the author agreed with the Committee that surveying all 1500 households would be impractical, and that a sample size of 50% of all households in Sol Plaatje (although unusually large, and unnecessarily so for an ordinary social survey) was in any case sufficient to build a fairly accurate picture of educational need in the settlement. In any case, guarantees of confidentiality given during data collection would limit the usefulness of the dataset as a registry of need. In the event, analysable data were collected in respect of 755 households. Sol Plaatje Extension consists of approximately 1500 households (See note 1 above). The sampling error rate of the data collected is 2.5% at the 95% confidence interval. In other words, it is 95% likely that the data collected are accurate to 2.5%.

⁵ For example, Stevens and Rule, Upgrading Gauteng’s Informal Settlements: Volume 1: a Baseline Study of Eastonside and Albertina (Etwatwa Extension 30), Community Agency for Social Enquiry (CASE) 1998, found that monthly median incomes in these informal settlements were between six and eight hundred Rand, depending on levels of primary and secondary education.

some instances, respondents would ask researchers when they should expect to be able to start a job they assumed would be the outcome of the “interview” process.

In other cases, where education expenditure far outstripped reported income, it became clear in the early part of the data collection process that respondents had not included as “income” money received through extended family networks. This prompted a revision of the questionnaire explicitly to define “income” as all money received from any source. The new questionnaire was administered during the last 580 interviews conducted. The redesigned income question was re-administered to the first 200 respondents.

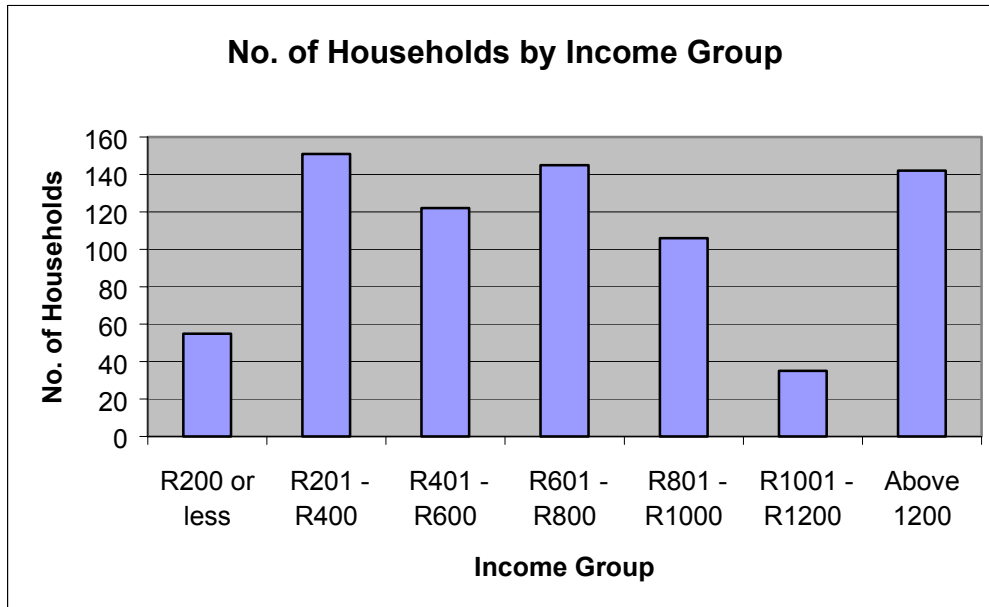
2.2 Incomes and Employment

Income

Household income was defined as the total amount received by a household from any source in the average month. Figure 1 represents the distribution of households across income groups.

The mean monthly income per household was R851. However, this figure masks significant inequalities. The poorest respondent subsisted on R100 per month, while the highest-earning household reported an income of R9 180 per month. The median monthly household income was significantly lower than this, at R640, suggesting that a few relatively high-earning households have a significant impact on the mean income. Households in the lowest quartile received less than R370 per month. Top quartile households received more than R990 per month. These measurements place the great majority of households in Sol Plaatje in the bottom third of South African households, ranked by income.⁶

⁶ Statistics South Africa, Income and Expenditure of Households in 2000, Statistical Release P0111 (November 2002).



Employment

Respondents were asked to state the number of people (excluding pensioners, students and children of school age) in the household who were either:

- (a) employed by someone else or;
- (b) self-employed or;
- (c) unemployed

Four hundred and forty people in 763 households were employed by someone else, 148 were “self-employed” and 422 were unemployed. One of the difficulties with the categorisation used here is the perhaps porous boundary between being self-employed and unemployed. There may be no bright lines between “self-employment” and survival strategies that would be quickly abandoned if a formal sector job became available. In fact, the “self-employed” category itself covers a wide range of occupations, from those who sell sweets at a roadside once a week, to those who may own relatively lucrative small businesses. Although a reported income can give some idea of the nature of “self-employment” in each case, it is likely that many of the “self-employed” in Sol Plaatje would in fact be considered “unemployed” on some measures. Given these reservations, the unemployment rate in Sol Plaatje is 41%.

This is broadly comparable to the urban unemployment rate across South Africa (37%).⁷

2.3 Distances Travelled to School

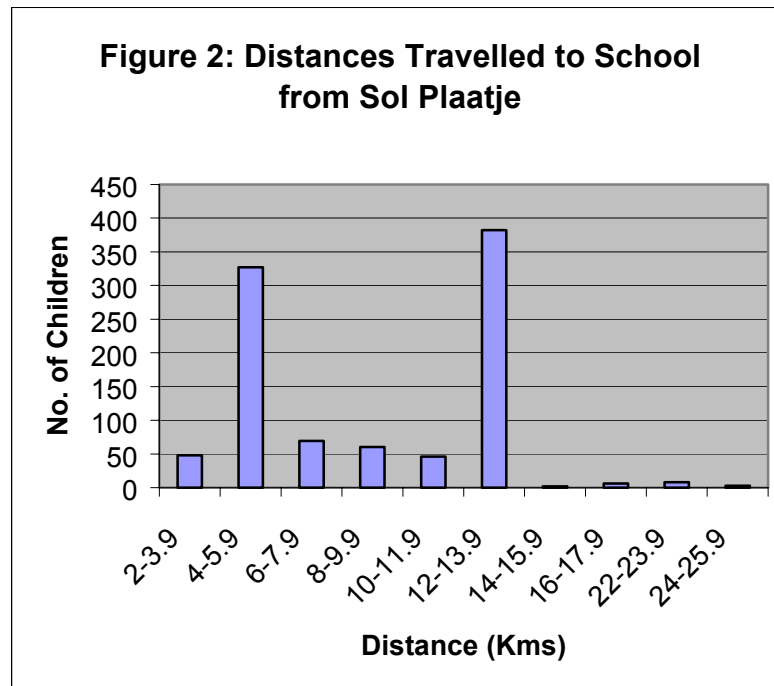


Figure 2 charts the distances travelled to school by primary and secondary school children in Sol Plaatje.⁸ Three hundred and twenty-seven children travel between four and six kilometres to school. Three hundred and eighty-two children travel between twelve and fourteen kilometres. These two categories of children make up the lion’s share of school-going children in the households sampled. It is interesting to note that

⁷ Statistics South Africa, Labour Force Survey: September 2002, Statistical Release P0210 (March 2003). StatsSA distinguish between the “expanded” and the “official” definition of unemployment. The “expanded” unemployment rate is defined as “those members of the economically active population who (a) did not work during the seven days prior to the interview [for the survey] and (b) want to work and are available to start working within a week of the interview [for the survey]. The official definition includes all those who satisfy (a) and (b) above, *and* who have taken steps to find work during the four weeks prior to being interviewed for the survey. The figure quoted above relies on the expanded definition.

⁸ Distances were calculated by measurement on a scale map between the centre of Sol Plaatje and each of the schools attended by children living in the households surveyed. Distances are “straight line” measurements. Eight children were excluded, since it was impossible to locate any school closely corresponding to the name given by the child’s parent or caregiver. Throughout this report, reference is made to “walking” distances and distances “by road”. These are obviously significantly longer than the straight line distances noted here.

the schools in the 12 to 14km range are those within easy walking distance of Mandellaville, the informal settlement once occupied by the Sol Plaatje residents. The 4 to 6km range includes a primary school built within the last year to serve Braamfischer, a formal settlement around 5km from Sol Plaatje. Durban Deep Primary, the only school in the 2 to 4km range, is presumably the school Johannesburg City Council said was “on site” at Sol Plaatje. Relatively few children from Sol Plaatje attend this school, probably because it was already running close to capacity when Sol Plaatje was established.⁹

These data clearly indicate that many children in Sol Plaatje are still commuting back to their old schools. Why have they not registered at schools nearer to their new home? Interviews with school age children (both in and out of school) from Sol Plaatje suggest a range of reasons:

*“Bongani and Mlungisi are grade 10 learners. They attend Madibane and Fidelitas High Schools, in Diepkloof, approximately 12 kilometres from DRD. The taxi fare is [R14 per person] return. The schools provide stationery and textbooks. Uniforms cost between R280-R300, and lunch is about R5. Both children do not go to school when they do not have taxi fares, and they know of children from DRD who have stopped going to school during the first term of school owing to an inability to pay taxi fares. The two learners would like to transfer to a nearby school. But their schools will not give them their reports and transfer papers, until they have paid in full the R150 school fee.”*¹⁰

Withholding transfer cards and examination results for non-payment of fees, while unlawful,¹¹ is commonplace in Diepkloof schools. Maxwell Nqeno and Vumile Velaphi, both members of the Sol Plaatje Youth Committee, have set up an education advice office, which aims to assist children like Bongani and Mlungisi to register schools close to Sol Plaatje.¹² One of the major difficulties they have encountered is

⁹ See note 33 below.

¹⁰ Interviewed by Brian Ramadiro at Sol Plaatje on 2nd November, 2002. This is a quote from his field research report from Sol Plaatje, which is on file with the author.

¹¹ South African Schools Act 84 of 1994, Section 5(3) states that “no learner may be refused admission to a public school on the grounds that his or her parent is unable to pay or has not paid the school fees determined by the governing body [of the school].”

¹² Maxwell Nqeno and Vumile Velaphi, interviewed by the author several times during February 2003.

schools that refuse to register children who cannot provide transfer cards and/or pay the entire annual school fee on admission. Neither practice is lawful. If a parent cannot provide his or her child's transfer card on registration at a new school, the child should be admitted on the production of an affidavit saying why a transfer card is not available from the child's last school. Schools are not entitled to demand fees on admission.¹³ Some schools refuse to admit children because they are overcrowded, suggesting that the City Council gave little thought to the impact Sol Plaatje's establishment would have on service provision in the area. As stated below, it seems that key education management personnel were not properly informed of the scale of the relocation, and were not given time to plan to deal with it. While the erection of temporary structures at Braamfischer has enabled many children of primary-school age at Sol Plaatje to attend school relatively close to home, well-established facilities such as Kekelitso and Meadowlands Secondary Schools, already running at or close to capacity, have been unable to absorb more than a fraction of Sol Plaatje's secondary-school-age children. Nqeno and Velaphi believe that some schools have used under-capacity as an excuse not to admit children whose parents could not afford to pay the school fee.¹⁴

Sol Plaatje residents have also found it difficult to produce birth certificates when attempting to register at schools closer to home. During the course of a hotly contested and forceful eviction from Mandelaville, residents were given little or no time to collect their belongings from their shacks before they were demolished. Many lost their identity cards and birth certificates to the bulldozers as they were loaded on to trucks to be transported to Sol Plaatje.¹⁵ Schools appear reluctant to admit children whose parents cannot produce birth certificates, despite a policy requirement that they do so conditionally.¹⁶ However, some schools appear willing to relax these requirements for parents able to pay the full school fee on registration, effectively forgoing their right to apply for an exemption.¹⁷

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Interviews with Thulani Skosana, Sol Plaatje resident 12 and 13 October 2002

¹⁶ Admission Policy for Ordinary Public Schools, 1998, made under the National Education Policy Act 27 of 1996. Section 15 requires that, where a birth certificate is not immediately available, a child be admitted on condition that his or her parent obtains a birth certificate from the Department of Home Affairs within three months.

¹⁷ See note 10 above.

2.4 Access Costs

The Access Cost Burden

School access costs are defined here as those items of expenditure which are normally entailed in sending a child to school. Table 1 sets out the mean monthly school access costs by item and income category. The sums represent the amounts respondents said they *actually spent* on school fees, school uniforms, transport expenses and textbooks. This list is not exhaustive. It could have included, for example, food and stationery. The survey sought to isolate what residents at Sol Plaatje had mentioned as the highest and least avoidable of costs associated with schooling. In preliminary interviews on the costs of education, conducted before the questionnaire was designed and the data collected, fees, uniforms, books and, above all, transport were mentioned far more often than any other access cost.¹⁸

Income Group	Fees	Transport	Books	Uniform	TOTAL
Above 1200	38.06	113.48	2.92	41.31	195.77
R1001 – R1200	23.13	78	1.25	37.52	139.9
R801 – R1000	14.81	86.6	2.04	29.27	132.72
R601 – R800	10.04	95.22	1.05	25.08	131.39
R401 – R600	8.33	68.4	0.9	20.01	97.64
R201 – R400	5.28	37.4	0.42	11.33	54.43
R200 or less	2.42	2.3	0.37	10.4	15.49

The proportions of household income spent on access to education in Sol Plaatje are significantly higher than official figures would suggest. A recent National Department of Education report states that the very poorest households spend around 2% of their income on school fees. This figure increases to 4% when other educational costs are included.¹⁹ The data presented in this report indicate an average education access cost

¹⁸ Interviews conducted by Stuart Wilson and Brian Ramadiro at Sol Plaatje on 2 November 2002.

¹⁹ Review of the Financing, Resourcing and Costs of Education in Public Schools, Department of Education (2003), p. 80.

burden of 16% in this community. This figure drops to 6.1% when transport costs are excluded. How can these discrepancies be accounted for?

First, as stated above, transport costs borne by this survey's population are abnormally high, given its relocation to an area relatively distant from public education and the difficulties associated with changing schools. Second, Sol Plaatje's average household school fee burden is around 2%, which is not significantly different from the figure quoted in the Department's report for the poorest households. However, these data and those relied upon by the Department differ in the items of expenditure they count as school access costs.

The Department's figures rely on the 2000 StatsSA Income and Expenditure Survey (IES),²⁰ a comprehensive dataset compiled to determine weightings for the Consumer Price Index. The IES codes for education expenditure, but the categories it groups under education spending differ from those used in this survey. For example, the IES does not appear to include school uniforms or transport to school as items of educational expenditure. There is an item for university, technikon and school textbooks, but no further disaggregation between these categories.²¹ This survey used the category "school books" defined as "textbooks and exercise books needed by your child at school which you were required to pay for". It is unclear which IES expenditure items the authors of the Department's report aggregated in order to calculate the proportion of household income spent on education. The discrepancies between this survey's results and figures extrapolated from the IES can probably be accounted for in terms of differing notions of "educational" expenditure.

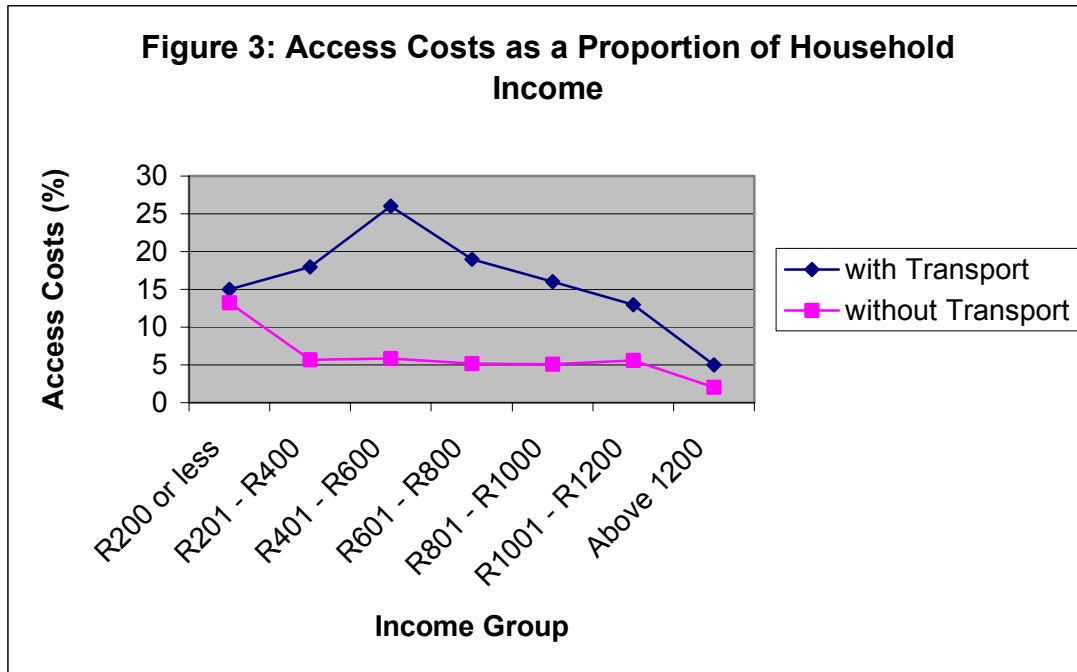
Education Expenditure as a Regressive Tax

Figure 3 below sets out the mean proportion household of income within each income band spent on education access each month, including and excluding transport costs.²²

²⁰ See note 6 above

²¹ Ibid. pp. 79-80.

²² Expressed as a proportion of the median income within each band. Households in which education expenditure exceeded reported income were excluded from the analysis.



The graph clearly demonstrates that by far the largest access cost in each income band except the very lowest is transport to school, which made up well over half of most households' access burden.²³ The proportion of household income is highest in the middle-income groups, who manage to pay transport costs regularly in respect of at least some children. The transport burden does not vary neatly with income. The access cost burden for households earning less than R200 per month has a very small transport component. How might this be explained?

There is almost no car ownership in Sol Plaatje, and the only form of long-range transport out of the settlement is by minibus taxi. The taxi market in Sol Plaatje is oligopolistic, with a few operators agreeing fixed prices for given routes. Where a child in a Sol Plaatje household that receives less than R200 per month must commute to schools in Diepkloof, it is unlikely that the household will bear the R20-R30 per day cost of such travel. It is possible that transport costs in the bottom income bracket are low because many more children in these households have managed to re-register closer to Sol Plaatje. But this is unlikely. The data suggest that at least 14 children in this bracket do manage to attend school in Diepkloof at least some of the time. There being no alternatives to paying for minibus taxis save walking (a six-hour round

²³ Anova test, p value = 0.0009.

trip),²⁴ it is likely that reduced transport expenditure in the lowest income group is a marker for poor attendance.

The graph also exposes the regressive nature of school access costs. Because demand for access to education is inelastic, poorer households are likely either to spend a higher proportion of their income on school access costs than richer households, or not send their children to school at all. School access costs therefore have the same impact as a regressive tax, since there is almost no way for parents to avoid paying without withdrawing their children from education altogether, since there is no cheaper alternative to public schooling. The data presented below suggest that many children in Sol Plaatje have in fact been withdrawn from school altogether.

2.5 School Attendance and Exclusion

At the time the survey was conducted, 17% of school-age children were not attending school. It is important to distinguish between school enrolment and school attendance. This survey measures attendance, not enrolment. Parents or caregivers were asked to identify children in their household, who once attended school, but who no longer attend school, along with the date of and reason for their exclusion. To fall into this category, children would have to be enrolled at a school at some point in the past. So the non-attendance figure of 17% should not be taken to contradict the latest available nation net school enrolment figure of 97% in 2001. Many of the children in Sol Plaatje not attending school may well be formally enrolled.

In 763 households, 935 children of school-going age were in school and 194 were out of school. There were 270 children of Grade R age or lower, none of whom were in a pre-primary school programme or crèche. The table below disaggregates the number of school-age children out of school, according to the reason for their exclusion.

²⁴ See note 8 above.

Table 2: Reasons for Exclusion from School	
Main Reason for Exclusion	No. of School-age Children²⁵ Excluded
HIGH TRANSPORT COSTS	147
FEES-BASED DISCRIMINATION	20
FAILURE	6
CHRONIC ILLNESS/DISABILITY	6
SCHOOL(S) FULL	3
UNIFORM	2
NO ADMISSION DOCUMENTS	6
DISCIPLINARY EXCLUSION	1
PREGNANCY	1
OTHER	2

The impact of the community's relocation from Diepkloof is clearly discernible here. Of 194 excluded children, high transport costs were given as the main reason in respect of 147. Given the data presented in Figures 1 and 2, it is highly likely that parents of most of these children cannot afford the cost of commuting back to schools in Diepkloof. Almost all children excluded from school dropped out at the time of the relocation in the following months, presumably as transport costs began to bite.

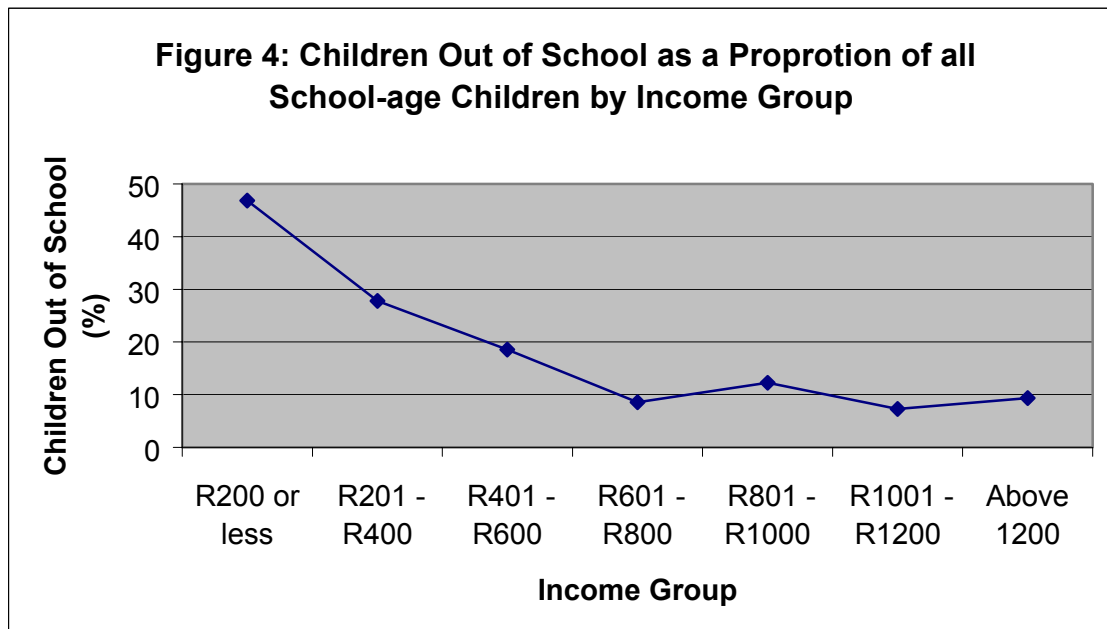
These data should not be taken to mean that, but for adequate transport subsidies, these children would be attending school. Twelve respondents indicated that they were unable to meet a combination of costs associated with schooling. Transport was just the largest of these.

Households in Sol Plaatje are sometimes forced to choose which of their children go to school and which stay at home. Throughout the early part of 2002, Maxwell Nqeno's family scraped together the taxi fare to get him to school and back, but money could not be spared to do the same for either of his two younger brothers Sakhise and Wandise, in Grades 10 and 8 respectively. Eventually, Maxwell became

²⁵ Of School age at the time they were excluded. A high proportion of children in the higher grades of secondary school were excluded, (since these are the hardest grades to access from Sol Plaatje) but are now technically over-age, since they were 18 or 19 at the time they were excluded. Desmont, for example, is 24. He was excluded from Grade 11 in 1999, because his parents were unable to pay his school fees.

so tired of being late for school because of the erratic taxi service between Sol Plaatje and Diepkloof that he used the transport money his parents gave him to construct a back-yard shack on a rented plot within walking distance of his school. He fed himself on the money left over after his monthly rent, and lived alone in Diepkloof during school terms in his Matric year.²⁶

Twenty children were either refused registration at, or excluded from, a school because their parents were unable to pay school fees, suggesting that laws and policies aimed at protecting poor children are not properly implemented in some schools. Figure 4 below sets out the number of school-age children not currently attending school as a proportion of all school-age children within each income band.



This graph shows a clear correlation between non-attendance and income group.²⁷ Shockingly high non-attendance rates in the lowest income groups can probably be accounted for by these households' inability to afford transport. Still high non-attendance figures for the higher income groups may be linked to non-financial

²⁶ Interviewed by author, 2 November 2002 and 22 May 2003. Maxwell matriculated from Bopasenatla High School with a Full Exemption. He is now registered as a BA Student at the University of the Witwatersrand. The Law and Transformation Programme is currently representing Maxwell in an action to compel Bopasenatla's Principal to release his Matric certificate and statement of results, which were withheld for non-payment of fees.

²⁷ Anova Test, p value = <0.0001

reasons for exclusion, or that there are slightly more school age children per family in the upper income groups, which increases the access cost burden per family.

3: GETTING BACK INTO SCHOOL

Sol Plaatje is a bruised and disoriented community. The manner of its eviction from Mandelaville,²⁸ along with the failure of local authorities to provide sufficient access to a range of social services at or near their new location, has created an assortment of new problems for a community in which poverty was not new. The burden of the community's relocation has fallen very heavily on the education of its children.

3.1 Perceptions of Education in Sol Plaatje

Focus group discussions with Sol Plaatje residents give a sense of the value placed on receiving an education and of high expectations of the public schooling system. "Education" took on two broad meanings in the group discussions. First it was seen as an important constituent of the social, a means of self-realisation and participation in community life:

"Education opens opportunities for self-development, community development and for meaningful participation in society"

"Ulwazi [Knowledge, which is acquired through education] equals freedom and social harmony"²⁹

It was also perceived as a "key to success", especially as a precondition to the accumulation of autonomy, wealth and prestige:

²⁸ The eviction was legally sanctioned by an order from Hussain J in the Witwatersrand Local Division of the High Court. The case was on appeal to the Supreme Court in Bloemfontein at the time of the eviction. Apparently, the appeal was never heard, probably because the community ran out of money for lawyers. The City Council may also have obtained an order to execute the eviction irrespective of the noting of an appeal.

During the eviction, many shacks were demolished still containing their occupants' belongings and in their occupants' absence. Many Mandelaville residents' shacks were demolished on the day before they were transported to Sol Plaatje, leaving them to spend a night on the street with their families whatever belongings they had salvaged (interview with Thulani Skosana, 14th May, 2003).

²⁹ These comments were made by participants in the Education Rights Workshop (see note 3 above).

“Education is a key to success: it enables [us] to gain access to the professions or to run an independent business”

All these observations might be considered trite, were they not made by people, many of whom have to overcome considerable obstacles, closely connected to poverty and discrimination, simply to walk through the school gates. The patterns of poverty described earlier are powerful determinants of access to education in Sol Plaatje. They are often combined with more mundane cruelties which many children in Sol Plaatje must face every day:

“If I am late for school, the gates will be locked. A teacher will stand outside and I will ask him to let me in. He’d say OK, but first you must take a beating. So I just hold out my hand. What else can I do?”³⁰

Similarly, when asked to describe some of the barriers of access to education, parents and school children cited:

“The continued use of corporal punishment, especially in primary schools. Children are afraid to go to school.”

“Sexual harassment and rape of particularly younger and vulnerable learners, linked to long distances that younger learners must travel to school”³¹

3.2 Accessing Schools After the Relocation

The value placed on education in Sol Plaatje, and what many of the settlement’s children must go through to access it, help to explain the strenuous efforts they have made to get their children to school since their relocation. After the community was moved from Diepkloof to Sol Plaatje, the Mandellaville Crisis Committee (MCC) coordinated efforts to help children register at schools close to Sol Plaatje. A structure known as the Sol Plaatje Youth Committee took over this function at some point

³⁰Interview with Vumile Velaphi, see note 12 above.

³¹See note 29 above.

during 2002, and an education advice office was set up under this Committee's supervision in early 2003.

These various structures have been consistent in the articulation of their needs:

- A dedicated primary school for Sol Plaatje.
- Provision of school buses or full transport subsidies for primary school pupils in the interim.
- Full transport subsidies or the provision of school buses for secondary school pupils.
- More determined action to address fees-based discrimination and other unfair admissions practices in schools attended by children from Sol Plaatje.

Members of the various committees have met with local education officials and expressed these needs several times throughout 2002 and into 2003. On 17 January 2003, the author attended one of these meetings and presented an earlier version of this report. The data presented there pointed to a need for the GDE's efforts in respect of Sol Plaatje to be strengthened. An official from the Johannesburg West District Office represented the GDE. His response was disappointing. He appeared to interpret the report as a personal attack, which was neither intended nor implied. In respect of the first three needs above, Sol Plaatje's Youth Committee was given no prospect of any imminent relief, as transport provision and school construction was apparently beyond the official's purview. He said that he did not know whom the Youth Committee could approach within the GDE to obtain relief.

More disturbing was the official's response to the problem of fees-based discrimination and other forms of malpractice in schools. He reiterated the existence of every legislative and policy instrument proscribing fees-based discrimination as if its mere enunciation were sufficient to secure its enforcement. He said that no one from Sol Plaatje had told him of any policy violations, and this made it impossible for him to deal with them. He did not acknowledge that the GDE has a responsibility to monitor schools' efforts to implement policy and to ensure parents' legal rights are communicated to them, whether or not complaints had been received. It is hardly

surprising that he had received no complaints concerning fees-based discrimination from Sol Plaatje, since few parents and learners in the settlement appear to be aware of the law on school fees.³² Nonetheless, the GDE is aware of Sol Plaatje's situation and, as noted below, has taken some encouraging action to ensure access to primary schools, although more urgent measures are required to ease the access burden in respect of secondary schools.

Primary Schools

Those families evicted from Mandelaville were expecting to find a primary school on site when they arrived at Sol Plaatje.³³ There was no school within sight of the settlement. The nearest school was and is Durban Deep Primary, a school established in the early 1970s in Matholesville, which is around 2.5km in a straight line from Sol Plaatje, but around 5km by road.³⁴ Mrs S. Molete, the School's Principal since 1993, says that she takes around 100 learners from Sol Plaatje.³⁵ Although the school has a number of empty temporary classrooms, Mrs Molete still considered her school to be overcrowded, since she does not have the resources to use the available space. She says that she was given no notice of Sol Plaatje's creation, which placed additional pressure on already scarce resources.

Mrs Molete is also concerned about the dangers her pupils from Sol Plaatje face while walking to and from school. Before Sol Plaatje was created, Durban Deep Primary took a number of pupils from an adjacent informal settlement. Like many Sol Plaatje children, instead of making the 10km round trip by road, they cut across wasteland, using a path between overgrown slagheaps created while the Durban Deep gold mine was still active. Apart from the obvious health hazards presented by the heavy metals present in the slagheaps, the path is known as a crime hotspot. Mrs Molete said that two girls from her school were raped on the path during 2001.³⁶

³² DRD Education Rights Workshop (see note 2 above). When asked, for example, if they knew what school fee exemptions were, only two participants indicated that they did. Both had attended an Education Rights Workshop a few months before.

³³ See note 1 above.

³⁴ Telephone interview with Mrs S. Molete, 16 May 2003.

³⁵ This is broadly in line with the data presented in Section 1. The survey sampled just over half of the households in Sol Plaatje, and around 50 children covered by the sample attended Durban Deep Primary School.

³⁶ The author has made no effort to verify this claim, but has come across a number of anecdotal accounts of violent crime perpetrated against children during long walks to school.

The next closest school to Sol Plaatje is Braamfischer Primary School, in Braamfischerville, a 6 to 7km walk from the settlement. The school was opened on 9th May 2002 and is made up of 31 temporary classrooms, all of which are severely overcrowded. There are 1720 pupils on the school roll and 42 educators (12 of which are permanent). According to its Principal, the school has working exemptions system and no pupils are turned away if their parents' cannot pay school fees. The school receives no learning support materials from the GDE, which it has to fund from school fees, and has to make do with old textbooks from other schools.³⁷

There was and is still no easy access to primary education Sol Plaatje, despite the assurances given to the High Court by the Johannesburg City Council.³⁸ Discussions with several GDE officials and local teachers confirm that key education department personnel were given little or no warning of Sol Plaatje's settlement.³⁹ In recognition of the acute demand for primary education in Sol Plaatje, the GDE has provisionally scheduled the construction of a primary school in Sol Plaatje for the 2005/06 financial year. A further primary school in Braamfischerville, to be known as "JB Marks", is due to open in 2005.⁴⁰

In the interim, however, young children in households unable to meet transport costs face relatively long and hazardous walks to Braamfischer and Durban Deep primary schools. More seriously, the survey data suggest that 40% of school-age children in Sol Plaatje attend primary school schools further away, mostly in Dobsonville and Zola.⁴¹ In any case, an emergency bus service, combined with a package of measures to strengthen resource provisioning at Braamfischer, Durban Deep and JB Marks primary schools and to enable parents to overcome fees-based discrimination and move their children to these schools would be a relatively straightforward and cost-

³⁷ Telephone interviews with Mr Nits Polani, Gauteng Department of Education District Physical Planner, 19 May 2003, and with Mr Ntombelo, Braamfischer's Principal, on 22 May 2003.

³⁸ See note 1 above.

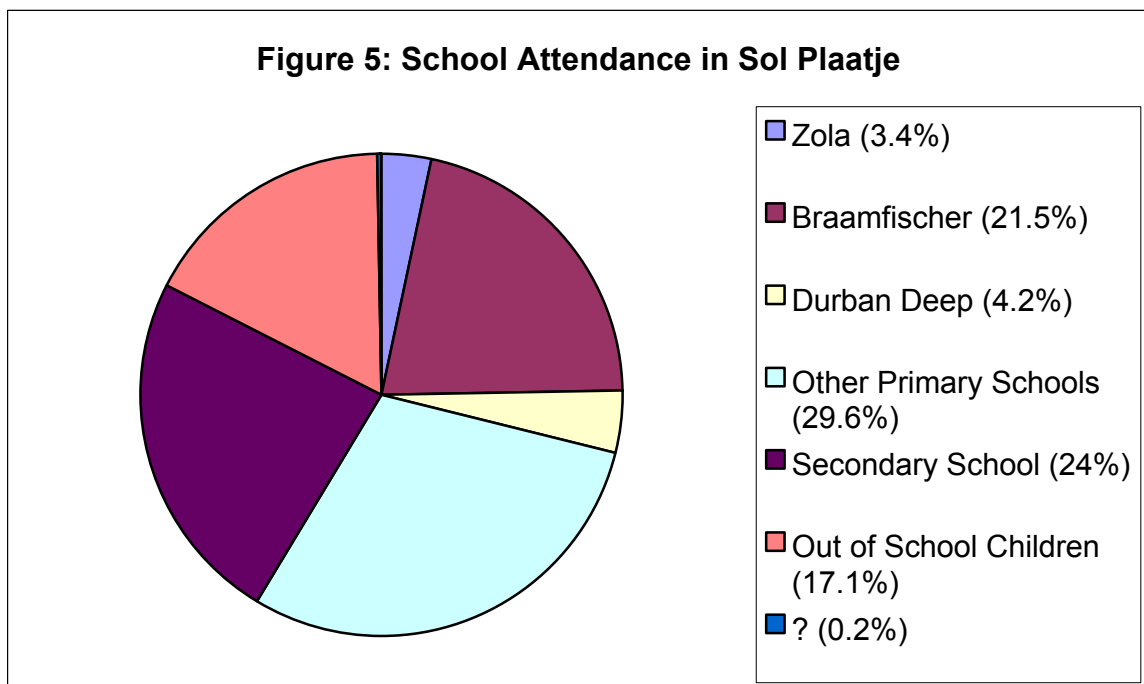
³⁹ Telephone interviews with Nits Polani, Mrs S. Motele, May 2003. Meeting with Mr. Raymond Martin, Johannesburg West District Office ("D12"), Gauteng Department of Education, 17 January 2003

⁴⁰ See note 37 above.

⁴¹ See Figure 5 below.

effective way to widen access to primary education for Sol Plaatje households, while plans for a permanent school in Sol Plaatje were finalised.

Alternatively, or as an interim arrangement, the GDE might consider contracting a local taxi association to provide transport to Braamfischer and Durban Deep primary schools which would be provided free at the point of delivery, but paid for by the GDE at a preferential rate.



Secondary Schools

Accessing secondary schools from Sol Plaatje is considerably more difficult than accessing primary schools. The nearest is Tulip, a private high school around 7kms away by road. The school receives a 40% subsidy from the GDE and charges school fees of R380 per month for Grades 8 to 12 and R200 per month for Grade 7. In February 2001, Thulani Skosana and Vumile Velaphi of the Mandelaville Crisis Committee negotiated for around 60 pupils to be admitted to the school free of charge. Mrs Nolunthando Nyandeni, Tulip's Principal, sought assistance in the form of additional learning support materials from the GDE District Office in Johannesburg West in order to cater for the unexpected additional intake soon after, but with little success. A further request for assistance was made to the GDE head office in

Johannesburg during May 2002. No response was received.⁴² Nonetheless, Mrs Nyandeni honoured her commitment to Sol Plaatje, even setting up a Grade 6 class to accommodate some children and instituting an informal feeding scheme. Tulip still takes 21 pupils from the Sol Plaatje informal settlement, who pay reduced fees.

It is important to note that the vast majority of parents in Sol Plaatje would qualify for full fee exemptions, were Tulip an ordinary public school. It is likely that parents of pupils from Sol Plaatje attending Tulip would have sent their children to a comparably distant public school, were one available.

Secondary school children in Sol Plaatje are otherwise accommodated in schools in Dobsonville and Meadowlands East or West (at least 8km away by road)⁴³, or in schools close to their former homes in Diepkloof (around 15km away by road). During 2002, fees-based discrimination perpetrated by often overcrowded and under-resourced schools both in Meadowlands and Diepkloof both acted to force poor households in Sol Plaatje into a stark choice: pay between R20 and R30 each school day on transport, walk or stay at home. The extent to which unlawful practices in both areas combine is worthy of reiteration. Diepkloof schools refuse to release transfer cards until a child's fee account has been paid, and schools in Meadowlands or Dobsonville refuse to register children who cannot produce transfer cards, but often relax the rules for children whose parents can afford to pay the annual school fee on admission.

Sol Plaatje residents have acted to combat this discrimination. During February 2003, volunteers from Sol Plaatje's education advice office, relying on legal advice from staff at the Centre for Applied Legal Studies and the Education Policy Unit at the University of the Witwatersrand, assisted around 20 children to register at Kelekitso and Kwamahlobo High Schools, despite several attempts by these schools to refuse admission on unlawful grounds. On many occasions, teachers and principals appeared

⁴² Telephone interview with Mrs Nolunthando Nyandeni, Principal of Tulip High School, Roodepoort, 20 May 2003. Correspondence with the Department on file with Tulip High School.

⁴³ In its court application for the eviction of Mandellaville's residents, the City Council referred to this as a "commutable" distance, apparently unaware of the burden commuting costs would put on the families of the children relocated to Sol Plaatje (Founding Affidavit, paragraph 8, see note 1 above).

completely unaware of, or only vaguely conversant with, the basic policies on fee exemptions and admissions practices.⁴⁴

Sol Plaatje's advice office, armed with knowledge of the relevant laws and policies and the threat of legal action, elicited undertakings from both schools that fees would not be charged in respect of children from Sol Plaatje until parents had been given an opportunity to apply for exemptions. They also arranged for parents to depose to police affidavits confirming that their children's transfer cards and reports were being withheld by schools in Diepkloof for non-payment of fees. Approximately 10 children were registered at Braamfischer and Durban Deep Primary Schools, having initially been turned away because they were unable to pay school fees (in the case of Durban Deep Primary) or provide birth certificates on admission (in the case of Braamfischer).

It would be unfair to single out staff at the schools mentioned above for criticism. There is plentiful anecdotal evidence to support the view that unlawful and discriminatory admissions practices are widespread in public schools across the country.⁴⁵ While it would be difficult to believe that most teachers, governors and principals are unaware that it is illegal to refuse to admit children if their parents cannot pay fees, many staff are simply ignorant of the proper procedures to be applied to exemption applications, or the action to be taken when a parent is unable to produce documents required for admission. Even where staff do act in bad faith, this is often in the context of poor resourcing and overcrowding in their schools. Primary and secondary schools around Sol Plaatje are under severe pressure to increase their resource base.

In addition, a Systemic Evaluation of Grade 3 learners conducted for the Department of Education in 2001 found that around 18% of all schools routinely withhold school reports in respect of learners whose parents have not paid fees. Just under 5% routinely exclude children whose parents have not paid fees, and just under 10%

⁴⁴ See note 12 above. It would be inappropriate to identify the personnel involved in these practices in the absence of a more thorough investigation.

⁴⁵ The Law and Transformation Programme has corresponded with parents, given informal legal advice or taken court action in over 50 cases involving malimplementation of the school fees regulations and admissions policies over the last year.

withhold books from them.⁴⁶ As the report acknowledges, the extent of such unlawful practices is probably greater than the data suggest, since school staff who are aware that fees-based discrimination is unlawful would be slow to admit to it. These data cover children in a lower primary grade only, where fees are on average much lower than in secondary schools, for example. As the fee burden increases in secondary schools, it is likely that more parents default on school fee payments more frequently and that there is a requisite rise in instances of discrimination.

The GDE is aware of the existence, if not of the extent, of fees-based discrimination and other forms of policy mal-implementation and has taken positive steps to combat them. During February and March of 2003, the GDE conducted a series of five-day workshops, for around 2000 Gauteng principals, focussing on amongst other things the Constitution and Bill of Rights, access to information legislation, administrative justice and education law and policy. Principals were, according to Sally Rowney of the GDE, left in little doubt that fees-based discrimination would not be tolerated.⁴⁷

More dedicated systemic research is required to test this hypothesis and to determine more generally the extent to which fee regulations and admissions policies are respected in practice.

⁴⁶ Quoted in the Ministerial Review of School Funding (see note 20 above), p.54

⁴⁷ Telephone interview with Sally Rowney of the Gauteng Department of Education Policy Directorate, 30 May 2003.

4: CONCLUSION

4.1 Summary of Findings

Sol Plaatje's children face a daily struggle to get to school and stay there. Those households in which children regularly attend school bear a significant financial burden in the context of already dire poverty. Where they cannot afford to pay taxi fares, children must either walk to school, with a round-trip of at least 10km, and all the physical hardship and vulnerability that entails, or simply stay at home. A very large proportion of children are still attending schools in Diepkloof because they cannot enrol at schools closer to Sol Plaatje, which are either overcrowded, unwilling to enrol children whose parents are unable to pay school fees or are misguidedly placing onerous requirements on parents to provide birth certificates and transfer documents at the point of admission.

Education access costs in Sol Plaatje are regressive. The proportion of household income spent on the costs normally associated with sending a child to school is inversely proportional to the level of household income. Except in the very poorest households, transport costs make up between fifty and seventy percent of the access burden, except in the poorest households.

Fees-based discrimination and policy mal-implementation in Diepkloof, Meadowlands, Dobsonville, Mathoeshville and Braamfischerville schools have hindered Sol Plaatje's residents' efforts to re-register children at schools closer to their new homes. In some cases, schools have acted in bad faith to exclude children whose parents are unable to pay fees; in others it appears that principals and teachers are simply unaware of the finer points of the Admissions Policy for Ordinary Public Schools. Significant numbers of children have been turned away because schools in these areas genuinely lack the capacity to accept them in large numbers. More research is required to assess the scale of, and reasons for, malpractice in schools.

The Johannesburg City Council misled Sol Plaatje's residents and the High Court when it instructed them that there was a primary school on the site at which they were to be resettled. From conversations with key GDE personnel, it appears that the

Council also failed to alert district education officials and local Principals of the scale, timing and probable impact of the relocation to Sol Plaatje.

The GDE has taken some positive measures to cope with the impact of the relocation, providing temporary facilities at Braamfischer and Durban Deep primary schools, making provision for a further primary school in Braamfischerville, and planning a permanent primary school for Sol Plaatje. The GDE's response should be strengthened, however. Emergency transport subsidies for primary and secondary school learners should be provided as soon as possible. District officials should assist parents in transferring their children to schools closer to Sol Plaatje and make further efforts to enforce admissions policies and fees regulations in local schools.

4.2 Human Rights Implications

“Poor people don't have rights”, says Thulani Skosana of the MCC and later of the Sol Plaatje Youth Committee. During research in Sol Plaatje and many dozens of conversations with its residents, the author noted a perception that the Bill of Rights was something of a dead letter, a set of vague ideological prescriptions rather than a list of entitlements, which government is bound to enforce.

In its recent submission to the National Department of Education, the Law and Transformation Programme referred to the right to basic education, guaranteed in Section 29(1)(a) of the Constitution, as a “policy-structuring device”.⁴⁸ The Bill of Rights is not simply a document by reference to which political and social disputes are settled court. It is (or at least it should be) *the* point of departure for determining the level of resources required for public education and the manner in which these resources should be allocated.

Section 7(2) of the Constitution requires that the state “respect, protect, promote and fulfil” the provisions of the Bill of Rights. This implies that the Bill of Rights'

⁴⁸ Comment on the Department of Education's Report to the Minister on a Review of the Financing, Resourcing and Costs of Education in Public Schools, Law and Transformation Programme, Centre for Applied Legal Studies, University of the Witwatersrand, April 2003.

primary role is to structure the efforts of the developmental state to make good on the Constitution's promise to "improve the quality of life of all citizens and free the potential of each person".

The Constitutional Court has yet to pronounce on the form of inquiry necessary to determine whether or not a violation of Section 29(1)(a) has occurred in any given case. In *Government of the Republic of South Africa v Grootboom*,⁴⁹ Yacoob J held that to find a violation of the right to housing in Section 26, the Court need only consider whether the state's measures to realise the right were reasonable. It was not immediately necessary to determine the content of the right. He came to this conclusion on the basis of the injunction in Section 26(2) that the state take "reasonable measures within its available resources to achieve the progressive realisation" of the right. In a later judgement,⁵⁰ the Court made explicit the implication in Yacoob's judgment that the right to housing does not imply a minimum basic package of goods and services should be available to all on demand. There is no reasonableness qualifier in Section 29(1)(a), simply an assertion of the right to basic education. It is difficult to see, therefore, how any assessment of whether or not the state is fulfilling its obligations under Section 29(1)(a) can proceed without an attempt to determine the scope and content of the right to basic education.

Whatever that content is, it must imply an obligation to provide schools in adequate numbers and of an adequate standard. It must also create an obligation that the state ensure that children can access them. That the state's duty under Section 29(1)(a) is not subject to a "progressive realisation" qualifier implies that the right must be accessible to all on demand.

If all this is true, it is difficult to escape the conclusion that the manner and timing of the relocation to Sol Plaatje in early 2002, by retarding access to schooling for those relocated, amounted to a violation of Sol Plaatje's children's right to basic education. If it did indeed fail to give the GDE adequate notice of the relocation, sole responsibility for this violation must reside with the Johannesburg City Council. Even if the City Council could justify the violation of learner's rights by reference to the

⁴⁹ 2001 (1) SA 46 (CC).

⁵⁰ 2002 (5) SA 721 (CC)

supposed necessity of the relocation, there is no possible justification for its failure to properly and timeously inform the GDE of the relocation's scale and likely impact.

The City Council's overall responsibility for the situation notwithstanding, the GDE must now take urgent action to rectify the situation, in order to fulfil its constitutional obligations. Emergency provision of learner transport must be the first step and a co-ordinated strategy to do so.