

## **Push to improve basic education**

**Caroline B Ncube**

Equal Education's Solidarity Visit to the Eastern Cape last month evoked great emotion and a sense of responsibility among us all. It reminded us how social movements can drive significant change by calling pressing matters to our attention. Few are more pressing than education, because it enables people to find or create employment, to improve their standard of living and to lead dignified lives.

South Africa is committed to providing education as shown by the country's commitment to achieving the Millennium Development Goals.

The constitution provides that everyone has a right to basic education, including adult basic education. It also says that reasonable measures must be taken to ensure that further education is progressively made available as the country's socio-economic conditions and resources allow. This piece focuses on the basic or primary education sector, where the state's obligations are not resource-constrained and are immediate.

Equal education's infrastructure campaign is one of a numerous efforts to improve basic education. Other efforts target the health and nutrition of learners, the provision of free textbooks in digital and print format and advocating for copyright laws that enable teachers and learners to have meaningful access to learning materials.

These efforts complement each other. Once we have healthy, well-nourished pupils in properly equipped schools, we need to provide them with quality learning materials that do not depend on governmental production and distribution arrangements, which have been known to fail in the past. An enabling copyright framework is also essential to ensure that teachers and pupils have proper access to learning materials.

For pupils and teachers to flourish in school certain basic infrastructure is essential. This includes adequate classroom and sanitary facilities as well as running water. In certain areas, security arrangements have to be put in place to ensure the safety of those in the school. It is only in such a conducive environment that pupils can turn their minds to their lessons.

Equal Education's infrastructure for schools campaign has included marches, pickets and a court case. The lawsuit was filed to compel the minister of education to prepare

regulations that outline basic infrastructure norms for schools, as required by the Schools Act. The minister eventually settled the case and drafted the regulations. Draft regulations were published in January and public comments were accepted until 31 March.

Equal Education has said that the draft is unsatisfactory. It has submitted comments demanding that the draft be strengthened or else it will resume litigation to compel the production of meaningful regulations. The final regulations have to be published by 15 May.

To keep up its momentum and pressure on the minister; Equal Education organised a solidarity visit with several well-known change advocates including clergy, academics, authors and social commentators last month. The nation was touched by the images and reports that emerged from this visit and many are keen to participate in driving the necessary change.

We are well on our way to achieving school infrastructural renewal, even if the end is still far off. Equal attention and focus needs to be directed at other elements of improving basic education.

Most, if not all, learning materials are protected by copyright giving its holder economic exclusivity to the use of the protected material. Materials that are original and permanently recorded in some way, such as print, video or audio format, are automatically protected by copyright law.

There are rules that permit materials to be used for educational purposes but they are unclear and outdated. For example, the Copyright Act does not say that written works can be converted for use by visually impaired persons, or digitized to be used for online learning or distributed via mobile phones using social networks such as Mxit. It allows copying to a reasonable extent and within the bounds of what it calls “fair dealing”.

This is confusing as the concepts of “reasonableness” and “fairness” are open to interpretation. Anyone who wishes to copy substantial portions of the work or distribute it has to get the permission of the author or publisher. This entails negotiating for a license and paying royalties or license fees.

To compound the situation, in certain cases the rights- holders cannot be identified or found (such works are called “orphan works”) which makes it impossible to use the material.

It is on the basis of these difficulties that it is argued that copyright hinders access to learning materials. There are at least two ways to counter these negative effects and to enhance access to learning materials.

First, the difficulties caused by unclear usage rights and the complexities of the usual negotiation and licensing dance can be short-circuited by the creation of openly licensed works that can be used and shared without recourse to the copyright holder (“open educational resources”).

Siyavula, a Cape Town based initiative, led by UCT alumnus Mark Horner, publishes openly licensed maths and science textbooks, work-sheets and lesson plans for primary and secondary schools which can be downloaded for free from its website, [projects.siyavula.com](http://projects.siyavula.com).

Second, copyright laws should be updated so that access to copyrighted materials is easier and more equitable. Not all material will be openly licensed and in many cases teachers and learners will want to rely on copyright-protected material.

Copyright law has to be updated to make it clear when orphan works can be used, when material can be converted into Braille or audio format and when works can be digitized and used online or via mobile phones.

Some South African academics and activists have been working over several years to make a case for the amendment of copyright laws. Examples are the South African Open Copyright Review, completed in 2008 and the African Copyright and Access to Knowledge Project, completed in 2010.

Members of UCT's Intellectual Property Unit participated in both projects and made numerous reform suggestions to update the law.

There is as yet no indication when the South African government will begin a review of the copyright laws but relevant research and policy briefs have been prepared by these projects to facilitate the process.

Each South African can, and should, contribute to the push to improve basic education.

Individual contributions include participation in public events organised by the social movement and government, sending in comments to government departments and Parliament when these are called for, and getting to know the needs of your local school better so that you can fundraise for it, join in infrastructure renewal and donate or collect books for the school.

Working together, individually and collectively, we can effect meaningful change.

- *Dr Ncube is a senior lecturer and deputy director (outreach) of the Intellectual Property Unit, Commercial Law Department, Faculty of Law, UCT. She writes in her personal capacity.*