



## South Africa: Budget Allocations to Eradicate Mud Schools

The Eastern Cape is a poor, mainly rural province in South Africa, which spends 45 percent of its total budget on education. Eighty percent of the education budget is spent on personnel, leaving very little for other things such as text books and decent infrastructure that are essential for quality education. Because a large part of Eastern Cape consisted of “bantustans” (areas reserved for black African people) during the apartheid years, some of schools in these areas were poorly built and in bad condition. In 2009, the province’s education department said that it would need R23 billion to put an end to unsafe schools and classrooms – in particular those built from mud.

In 2004 the South African president told parliament that by March 2005 there would be no student “learning under a tree, mud school or any dangerous position.” Four years later during his 2008-09 Budget Speech, the province’s education minister said, “All mud schools have been declared unsafe and are required to be replaced in 2008/09.” In 2009 the Minister announced that March 2010 was the new deadline for the end of mud schools.

The Legal Resources Centre (LRC) is a non-profit human rights organisation which does public interest litigation. One of its four offices is in Grahamstown, Eastern Cape. When it became clear that government was repeatedly delaying in addressing the mud schools problem and not listening to the voices of the parents and schools, the LRC decided to take the issue to court. The LRC used the department’s database to identify 25 mud schools, and visited those schools to discuss with parents, teachers, and community members if they wanted to be part of the court case.

Seven schools agreed to be part of the case. To reduce the risk of victimisation of individuals, an Infrastructure Crisis Committee composed of parents, students, and community members was established at each school. These committees were the applicants in the case. Small schools did not participate to avoid the danger of being closed by the government.

The LRC asked for advice from the Public Service Accountability Monitor (PSAM), a Grahamstown-based organisation with budget skills. PSAM had produced evidence for a previous court case that showed that the Eastern Cape Department of Education had underspent its infrastructure budget. This was useful for contradicting claims by the department that they did not have money to address the problem of mud schools.

In August 2010, the LRC filed the papers with the High Court. The main argument was that many national and provincial government policies and law, including the Constitution, provided for the right to basic education and mud schools prevented children enjoying this right. The government’s response was that the right could not be achieved immediately and was instead subject to “progressive realisation.” It said that it was government’s right to decide if there were more important priorities that needed to be addressed before the seven mud schools. However, the government’s response also said that the National Treasury would provide an extra R435 million to the province for education infrastructure.

In January 2011 the LRC and representatives of the seven schools met with the department and its lawyers. The night before the meeting the LRC received a letter from the department agreeing to all the demands. At the meeting the department explained exactly what funds would be available for each school. An agreement was then signed that said that the national government would introduce a new three-year grant to address infrastructure backlogs. Eastern Cape would get 78 percent of the total. The provincial department would meanwhile provide temporary structures and furniture for the seven schools. Progress in implementing these agreements has been slow, but the LRC continues to apply pressure and monitor progress.