

**PERCEPTIONS AND PRACTICES OF LEARNER RIGHTS IN SOUTH
AFRICAN BLACK SCHOOLS**

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**A THESIS SUBMITTED TO THE FACULTY OF EDUCATION IN
FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR
OF EDUCATION IN THE DEPARTMENT OF FOUNDATIONS OF
EDUCATION AT THE UNIVERSITY OF ZULULAND**

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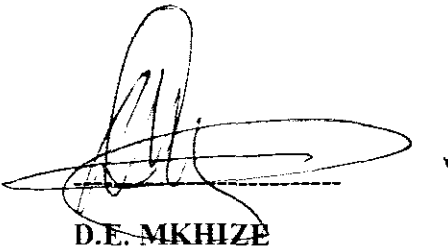
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KWA-DLANGEZWA

JUNE 2008

DECLARATION

“I DECLARE THAT THIS THESIS “PERCEPTIONS AND PRACTICES OF LEARNER RIGHTS IN THE SOUTH AFRICAN EDUCATION” REPRESENTS MY OWN WORK, BOTH IN CONCEPTION AND IN EXECUTION. ALL THE SOURCES I HAVE USED AND QUOTED HAVE BEEN INDICATED AND ACKNOWLEDGED BY MEANS OF COMPLETE REFERENCES”

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by 'E' and 'Mkhize' in a cursive script. The signature is written over a horizontal dashed line.

D.E. MKHIZE

KWA-DLANGEZWA

JUNE 2008

ACKNOWLEDGEMENTS

I wish to express my sincere gratitude and appreciation to:

- The co-promoter Dr. N. Q. Mkabela, for her scholarly advice and interest she showed in the execution and completion of this thesis;
- The promoter Dr. Sibeko, for his scholarly advice during the different stages of this thesis;
- The group I worked with in the NUFU project, Prof. Solvie Taljaard, Dr. D. Mtetwa, to mention a few for the support and advice they gave me during the different stages of this thesis;
- My late father, Sphiwe Phillip Mkhize, and my mother, Adelaide Duduzile Mkhize for being the source of inspiration throughout my studies;
- My family, my wife, Ntombifuthi (Ka-Mafu), my daughter, Mawande, and my son, Siyavuya for their patience and support during difficult times. Their moral support meant a lot hence it will never go unnoticed;
- My dear colleague, friend and cousin, Nathi Mkhize for his information and technological support he rendered me during the initial and final stages of the thesis;
- My dear friend, Jeannette for her endless technical support she rendered me during the final stages of the thesis;
- A friend and a father figure, D R Ngcobo for his endless support and inspiration I received from him during the final stages of this thesis:

- Almighty God for allowing me health and capacity to complete this thesis;
- Notwithstanding the gratitude to all these people, this researcher alone takes the responsibility for the contents and the form this thesis has taken

ABSTRACT

The research examines the Perceptions and Practices of learner rights in the South African Black Schools.

This study made use of Primary sources, Secondary sources and interviews to ascertain the perceptions and Practices of learner rights in South African Black schools.

In this study we first embark on a retrospective probe into discourses of difference between educators and learners and argue that these discourses of difference tend to promote oppressive and dehumanizing social relationship between learners and educators. We further argue that the discourses of difference and power tend to naturalize and normalize Otherness as though it is naturally given rather than conceiving of it as socially constructed.

The study thus highlights that the issue of learner rights in schools that is predicated on differential power relations between learners and educators can be resolved if co-operation between learners and educators could be forged.

SUMMARY

The aim of this study is to establish the root cause of the lack of discipline and the disrespectful behavior on the part of learners towards authority exercised by educators in the context of educational management.

I thought that this research would address the nature of problems that have been and are still experienced by many schools after 1994. This research is trying to establish the root cause of the lack of discipline and the disrespectful behaviour on the part of the learners towards authority exercised by educators in the context of educational management. It also intends to establish that the perception of learner rights by both educators and learners is informed by conflictual and contradictory modes of social organizations, namely, the hierarchical mode that is characteristically autocratic in its orientation and the democratic mode that is typically critical in its orientation

The methodology that has been used in the study is qualitative research. I chose the *qualitative research methodology* because *qualitative research* intends to describe and explain human thoughts and emotions, and behavior that is difficult to quantify in numerical terms. Qualitative research is descriptive in nature. It allows explanation of every data that is collected, and it is unlike the quantitative research, which does not provide allowance for explanation of data but worries itself about accumulation of data. It is also pivotal that the written results of this research carry quotations from the data to illustrate and substantiate the findings.

In-depth interviews and participant observation have been made in this study. The duty of the researcher was to describe the meanings shared with the participants, which may make it possible to explain why people behave in a particular mode or way.

It is also vital to note that the interviewees incorporated four educators, two parents, two learners who come from Representative Council Of Learners (RCL), and lastly, education departmental officials. The intention of interviewing the aforementioned candidates is because I wanted the study to ensure adequate representation in order to avoid any form of probable bias in the process. The purpose was to acquire information from stakeholders concerned but time constraints caused the researcher to confine his investigation to a more accessible population. Ten interviewees therefore sufficed for the problem under investigation. It is also advisable to have a small sample in order that one is able to look at details and quality of the study under investigation. The researcher focuses on small sample since this type of research looks into the detail and quality of an individual or a smaller group's experience (Gay, 1992:231).

It is significant to note that in the process of this study, the following emerged:

- Learner rights misconceptual confusion with corporal punishment
- Negative attitude of educators towards learner rights
- Educators feel that they are stripped of their power (Authority)
- Misconception of learner rights by learners

- Inadequate training of learners, educators and parents on learner rights

In the light of the findings of this study, the following was recommended:

- Incorporation of learner rights into school curriculum
- Formulation and documentation of explicit and specific policies based on learner rights
- Provision for distinctive alternatives to corporal punishment for effective and efficient implementation of learner rights
- Incorporation of learner-educator code of conduct in the Bill of Rights as prospects for the future
- Parental and societal involvement as a fundamental prerequisite for learner rights formulation
- The integration of age development in learner rights formulation
- Elimination of all forms of possible barriers in ensuring future quality learner rights

DEDICATION

I dedicate this work to:

1. My mother, Adelaide Duduzile Mkhize, my late father, Sphiwe Phillip Mkhize, and my late brother, Theh Mondli Mkhize
2. My wife, Ntombifuthi, my daughter, Mawande, my son, Siyavuya, and my prospective son to come
3. Learners and educators of South Africa

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CHAPTER 1

1.1 INTRODUCTION

In this chapter, we embark on a discussion of the evolvement of the concept of learner rights and its ultimate realization in practice within the context of educational management in the previously so-called Black South African schools. In South Africa today, the practice of learner rights is protected and promoted by law that is meant to regulate how educators relate to the learners that they teach. Notably, the practice of learner rights in the previously so-called Black South African schools is a new development that poses significant challenges to educators who are predominantly attached to the hierarchical mode of social organization in which power and authority have become an exclusive entity of those who are holding specific designated positions.

It needs mentioning, therefore, that the crisis that currently obtains in schools with regard to discipline and the exercise of authority by educators presents itself as the opposite of what used to be the case during the years of the struggle for liberation. At the time of the struggle for liberation and even prior to this period, educators had it in their power to maintain discipline and exercise their authority over the learners given the political climate at the time. This is attested to by Scheingold's (2004:60) assertion that,

In the contemporary period, the ruling class has neither legally or morally sanctioned dissent in South Africa. Thus encouragement to ask fundamental questions and to pursue the possibilities of the unorthodox or the non-doctrinaire represents a profound challenge to every presently existing policy. These call for an entire reconsideration of the status of rights of the learner, and hence of the teacher and lecturer, and require redefinition of the learning process as it is established by tradition and policy.

1.2 AIM OF THE STUDY

The aims of this study are as follows:

- The aim of this study was to establish that the root cause of the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators in the context of educational management.
- To establish that perceptions and practices of learner rights in African schools are largely informed by the socio-political situation prevailing at the time.

1.3 OBJECTIVE OF THE STUDY

The objective of this study was to establish that the perception of learner rights by both educators and learners is informed by conflictual and contradictory modes of social organization, namely, the hierarchical mode that is characteristically autocratic in its orientation and the democratic mode that is typically critical in its orientation.

1.4 HYPOTHESIS 1

Reconciling the conflict between the autocratic hierarchical mode and the critical democratic modes of social organization as they relate to

educational management necessitate a radical interrogation of the interests protected or promoted through each mode.

1.5 HYPOTHESIS 2

The new critical consciousness generated by the entire thrust towards liberation in South Africa necessitate an entire reconsideration of the status and rights of the learner and hence of the educator and also requires redefinition of the learning process as it is established by tradition and policy.

1.6. STATEMENT OF THE PROBLEM

The drive to build effective schooling follows the systematic collapse of teaching and learning which resulted from the political turbulence of the past (Mona & Dooms, 1997:6). Many African schools were caught up in the political battle of the seventies and the eighties when contesting groups used education as a site of struggle. The result was that many people were caught up in a web of conflict. They suffered declining teacher morale, learner motivation and a lack of discipline by both educators and learners. Nkondo (1995:11) states that children have been immersed in politics and anti-social behaviour for so long that parents face an uphill struggle to convince them that going to school is politically acceptable, let alone essential and vital for their progress towards responsible adulthood. In many schools, conflict manifests itself physically as confrontations between teachers and learners, mainly because learners have no respect for their educators (Bissety, 1997:1). This could be so because both educators and learners do not agree to a number of things because they do not see

and interpret things alike. According to Van Niekerk and Meier (1995:74) a major problem facing teachers is how to get children to attend school and how to make those children who attend school gain full benefit from their education. The problem that most schools are faced with is that, now that learners have the rights they have since been fighting for, schools are experiencing serious problems with regard to their implementation.

The situation in schools demonstrates clearly that there is a problem relating to the conceptualisation and implementation of the rights by educators.

1.7 THEORETICAL FRAMEWORK

This study used an African-centered point of view as an instrument for analysis. Most importantly Molefe Asante's views (as an approach) in the entire study were used in order to measure the reality of learner rights against socio-historical background. Other scholars were also used to substantiate, criticise, and evaluate Asante's views on the subject. The African-centred approach suggests that the problem was addressed from an African perspective in order for the research to be realistic. At the same time, African-centeredness was attempting to correct the experience of historical, cultural and psychological dislocation and relocate what has historically been wrongly projected, with particular reference to learner rights in schools.

1.8 MOTIVATION FOR THE STUDY

The assertion that age and education bring increasingly sophisticated and evasive attitudes toward obedience of the law and that an absolute duty to obey is typical of primary school children but middle scholars are more inclined to adopt a ‘morality of circumstance’ needs to be treated with circumspection. In our view, the prevailing lack of discipline and its accompanying disrespectful behaviour on the part of learners is predicated on a misguided interpretation of assertions such as “our right to have rights imparts a certain equality of status to all individuals in the society. We are made equal before the law and invited to take advantage of whatever opportunities are thereby afforded us”. We argue that an assertion such as the one above requires responsible interpretation that would culminate into responsible behaviour towards others. Such an assertion, therefore, cannot be construed as granting the individual grounds to do as he or she pleases and expects to do so with impunity as is the case now with learners in the previously so-called black South African schools. Writing in 1990, just four years before the coming into being of the new democratic dispensation, Nkomo (1990:114) had the following to say:

Schools and universities have been turned into sites of struggle over educational as well as national political issues. Thus the notion that schools are merely ideological reproduction sites or where the ‘correspondence principle’ operates unhindered is inadequate in explaining what is occurring in the previously so-called black schools. **Schools have become sites where official ideology has been challenged**, where **unintended consequences have set in** and, more significantly, a dialectical process that has produced a critical consciousness has undermined the official curriculum. **A culture of resistance is pervasive**. Already the idea has emerged from the National Consultative Conferences on the Educational Crisis in Education held in December 1985 and March 1986 that rather than boycotting schools, advantage should be taken of these sites in order to implement an alternative or people’s education.

The pronouncement “schools have become sites where official ideology has been challenged” is pertinent to the crisis faced by educators who do not seem to be aware of the intricate interplay between educational practice and ideological orientation that inform one’s political activities. It is also worth noting that although the set objectives of the struggle as envisaged by the political activists do not aim at undermining the role and status of educators, “unintended consequences” do ‘set in’ as exemplified by the production of a **critical consciousness** on the part of the learners. And since the educational practice and educational management are modeled after tradition and the hierarchical mode of social organization, a **culture of resistance** informed by the critical consciousness on the part of the learners ensues in response to the negative effects occasioned by the dehumanizing power relations that obtain between them (the learners) and the educators who are more often than not perceived as agents of the oppressive structures.

As observed by Nkomo (1990:115) official sanctioning of the idea of creatively using the schools in furtherance of the concept of people’s power and people’s education was issued by ANC President Oliver Tambo as part of the 1987 annual statement by declaring:

The school, the college, the university is for us more than a place for formal education. It is also our assembly point, the location at which we marshal our forces, organize them and take the opportunity to give the order of the day. We must fight the enemy for the right to be at our respective **institution of learning, within which we should build and organize our democratic structures and within which we should introduce the system of people’s education which is a decisive element in the future of our country and people.** To return to school must therefore be seen as a revolutionary act that puts us in a better position further to advance the struggle for a **people’s education in a society in which we, the people, shall govern.** How

difficult this struggle is, is of course, epitomized by the fact that, as no where else in the world, we have heavily armed soldiers and police inside and outside our classrooms trying to deny us the right to learn and teach, and attempting to impose on us a surrender we will never accept.

Again, the pronouncement that “the school, the college, the university is for us more than a place for formal education” had (and still has) serious political implications for both the educator and the learner in the context of the educational management in schools. It is against this background as depicted above that in this study we advocate the view that the political thrust that led to the attainment of liberation produced in the process unintended consequences which will continue to compromise educational management in the previously so-called black schools for a number of years to come. It is thus incumbent upon political organizations to engage learners and educators in dialogue to begin dealing with the contradictions inherent in using the new critical consciousness for political ends and its unintended consequences as exemplified in the lack of discipline and disrespectful behaviour displayed by learners towards the authority of educators within the school environment. This being the case, we advocate the view that since the predicament facing educators derives its origins, to a very large extent, from the political climate that prevailed during the years of the struggle for political emancipation, attempts towards resolving the problem at hand must of necessity be politically oriented.

In our view, therefore, educators cannot afford to ignore the new reality that has dawned in post-apartheid South Africa that is characterized by democratic structures within which the system of people’s education has become a decisive element in a society in which the people govern.

1.9 RESEARCH METHODOLOGY

Information for this study was gathered from both secondary and primary sources.

1.9.1 SECONDARY SOURCES

Useful information was obtained from various publications such as textbooks and previous studies on the subject.

1.9.2 PRIMARY SOURCES

Information was also gathered by means of an empirical study. Interviews were conducted to ascertain how different individuals perceive the issue of learner rights.

1.10 METHODOLOGY

1.10.1 INTRODUCTION

The methods that could be used to collect data differ depending upon the type of research that the researcher is faced with. Field research encompasses a wide variety of research procedures, the primary characteristics of which are to observe behavior in everyday life situation, rather than bringing objects to the laboratory to study their behavior. Of course, there exist several methods which are conventional to Human Rights research and these include, among others, Anthropological method of participant Observation, Interviewing, Questionnaire, Gaming Approach, Repertory Grid, Village dialogue Approach. Each of these methods is discussed as follows:

1.10.2 QUALITATIVE RESEARCH

Qualitative research is based on voluntary participation and active participation. It is well suited in cases where the aim is to elicit the understanding or experience of individuals or groups. Qualitative data are presented as texts: field notes, observation logs, and transcribed interviews. Michael Foucault (2001: 2) suggests the three levels of qualitative research:

- a) Data as stories, narratives about what happened and how
- b) Data as discourse, as meta-narratives, the why of the story
- c) Data indicating structural and relational connections: Analysis of the because of events

The researcher used the qualitative research method as reflected below:

1.10.3 A PARTICIPANT OBSERVATION

According to Rosman and Rubal (1989:8) this method refers to the process by which a person who wants to gain understanding of any other society steps out of the web of his or her own world in order to closely examine another, often a vastly different way of life. The level at which this is adopted depends largely on the objective of the study. The use of this method in eliciting any information (knowledge) on a particular issue provides thought patterns of the community concerned from the inside. This is because the researchers are able to observe the subjects' behavior as they occur and record observations as obtrusively as possible. Anthropologists who carefully observe cultures other than their own best use this method.

Participant observation of the necessary depth is often impracticable from the point of view of time and research support available. This approach can be likened to the Participatory Rural Appraisal (PRA) method, which requires the researcher's participation in the activities of the rural people in order to appreciate the impact of their developmental efforts. The aim of the technique is to get people involved in the identification of their basic needs and to obtain the rural perception of the people about their own environment. This is what the researcher has done in his study while visiting his school in a pilot study.

Chambers (1994:10) stresses that the significant principles of PRA concern the behavior and attitudes of outsider facilitators, including not rushing in to "handing over the stick and being self critically aware. Actually the popularity and power of PRA are partly explained, according to OLAWEPO (2002:06), by the unexpected analytical ability of local people when catalyzed by relaxed rapport, and expressed through sequences of participatory and especially visual methods. PRA, as enumerated by Olawepo (2002:6) can take the form of group discussions, transact walks, force field analysis, direct observation (do it by yourself), or Matrix scoring and ranking. It is significant to note that PRA is a qualitative research tool devised for use, more especially within the developing countries and the researcher found it necessary to make use of the method since South Africa is still a developing country.

While the method of observation may vary, there are a number of elements that are common to almost observational situations, which should be noted. Craig and Metze (1979:21) note these as follows:

- a) The subjects – Who are the subjects? What is their relationship with one another? How many are they?
- b) The situation – Where is the observation taking place?
- c) The circumstances – Has something special brought the subjects together or are they there by luck?
- d) Behavior – What is the behavior of the subject?
- e) Frequency and duration – How often and how long does behavior occur?
- f) Time – What is the logical order of events and behavior?

1.10.4 INTERVIEWING

An interview is a survey method in which a researcher asks the questions orally rather than in writing. This method follows the form of lengthy informal conversation with the people. Sometimes, their responses are tape-recorded and later transcribed for precision, accuracy and wider coverage. The interview questions are prepared on the basis of the researcher's knowledge of the research problem, which is often acquired through the secondary resources of data collection. It should, however be noted that new questions may emerge in the course of responding to prepared questions. Good responses and results are usually acquired through the interviewing technique, especially when preceded with in – depth understanding of the research problem in question and that is the reason that the researcher decided to use the interviewing technique. Indeed, interviewing questions with well articulated internal logic would assist respondents not to be biased.

To elicit data from the stakeholders (principals, teachers, learners, parents and area managers) about problems experienced with perceptions of learner rights, interviews were conducted. Semi-structured interviews were used. The reason for choosing semi-structured interviews was because the researcher was able to introduce the topic and guide the discussion by asking questions he regarded as relevant to the topic.

1.10.5 THE INTERVIEWS

The interviewees were encouraged to say anything that they thought would help in trying to understand perceptions and practices of learner rights. The interviews were conducted in both English, and IsiZulu to parents and learners. Most of the interviews were tape-recorded after the respondents had granted permission.

1.10.6 TIME–SCALE OF THE INTERVIEWS

Visits to schools started from 01 February 2003 and ended on 2 November 2005.

The intention of the school visits was to make a survey on how learners perceive and practice their rights.

1.10.7 OTHER METHODS

Other methods may take the form of story-telling in order to attract the interviewee's attention. When for instance people are told interesting stories, they tend to focus and listen attentively.

1.10.8 LIMITATIONS OF DATA COLLECTION METHOD

Difference in language (native tongue) may create difficulties in the use of interviewing methods. Even where interpreters could be employed, their interests in the subject, which may differ from that of the researcher, may affect their output. Culturally, too, specific concepts are often difficult to translate. The interview is more expensive in terms of both cost and time than a questionnaire.

- i) Participant observation in its own case may be time-consuming and probably rarely cost-effective.
- ii) The use of games may be difficult, especially in cases where not all members of the target population are familiar with the game. Also, observation and training may be time-consuming.

The above possible barriers were, however, guarded against in order to prevent any form of biasness.

1.10.9 THE APPROPRIATE METHOD

In order to avoid these limitations, quick, reliable and appropriate methodology in this study was pertinently necessary. Such method was that which could structure an interaction so that an interview would be a lively and reliable one. The method also involved some form of participant observation.

In order to buttress the efficiency of the suggested methodology of eliciting information, previous successful empirical studies can be cited. For instance, Osunade (1988:10) combined tape-recorded interview with field

– observation schools in order to understand how learners practice their rights at school. In addition to holding individual discussions with the people in their study of individual rights, Kante and Defoer (1994:20) became successful in their study by getting reliable information from their interviewees.

Since the researcher wanted to gain full description of whether learners perceive and practice their rights appropriately, listening to those who are involved relaying their experiences from their perspectives deemed to be important, thus qualitative research was adopted.

1.10.9 DATA COLLECTION

Three methods of data collection were used. They were: Observation, Interviewing, and Documentary analysis. The choice of these three methods was informed by the need to triangulate data so that all sides of the truth could be obtained. For example, where interviews had left some information, the observation method or documents supplemented and verified the data. The use of the three methods helped the researcher gain a broad and an insightful picture of the situation.

1.10.10 PILOT STUDY

A pilot study was done to check the nature of schools, which were purposively selected. It is important to note also that geographically, the two selected schools are from a poorly resourced background. This suggests that most of learner parents are unemployed. It is pivotal to note that during the pilot study, the researcher established that all (four)

There was no systematic procedure in the selection of the schools. Due to time constraints, the schools selected were basically those that are within the proximity to the researcher's place of work. The researcher acknowledges, however, that this might have influenced the results of the research.

The choice of the schools was also informed by the location of the school from Durban. Both schools were near the researcher's place.

It is also safe to say that the researcher's choice of respondents was informed by accessibility, as well as maturity and commitment of the respondents so that whatever responses he (researcher) obtained would be as reliable as possible. Thus the researcher selected four educators (two from each school), two parents who are serving as educators (one from each school), two learners (one from each school and both members of the Representative Council of Learners-RCL), and finally, two Regional Departmental officials who work with the learner affairs section.

1.11 SIGNIFICANCE OF THE STUDY

The significance of the study is that it proposes a radical interrogation of the interests protected or promoted by the conflictual autocratic hierarchical mode and the critical democratic mode of social organization as they relate to educational management. The study also highlights the fact that the issue of discipline and authority predicated on differential power relations between learners and educators in schools can be managed

or resolved if co-operation and reciprocal relations between learners and educators could be forged.

1.12 CONCLUSION

The issue of learner rights in schools has become a controversial issue in most South African schools. The problem of learner rights cannot be resolved over night. Even to try and provide absolute truths about this issue would be an attempt to oversimplify and undermine a highly complex matter. It is, however significant that the educator, as the initiator, the engineer, and the director of the teaching and learning situation has a major role to play. Learners and parents, as significant stakeholders have to work hand in hand in order to ensure that learners interpret and implement their rights accordingly and appropriately.

1.13 DEMARCATION OF THE STUDY

In this study, the thesis is demarcated as follows:

- (a) Chapter One** – Introduction
- (b) Chapter Two** – Literature Review
- (c) Chapter Three** – Research Methodology
- (d) Chapter Four** – Interview's Presentation
- (e) Chapter Five**- Reporting and interpretation of interview's responses
- (f) Chapter Six**- Findings, Recommendations and Conclusion

In the following chapter we discuss the sociopolitical and discursive context informing the coming into being of learner rights.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

In this chapter, we focus the discussion, among other things, on the historical origins of learner rights within the context of the struggle by the black majority for liberation. In embarking upon this historical reminiscence, we attempt to relate the question of learner rights to the perception of educators that the granting of rights to learners has significantly deprived them (educators) of their right to maintain discipline as agents of authority within the context of educational management. Educators claim to have made numerous attempts to bring about discipline in the South African black schools, but this has met with serious conflicts between educators and learners. It is for that reason that we consider our hypothesis to be as follows: “ Reconciling the conflict between the autocratic hierachical democratic modes of social organization as they relate to educational management necessitate a radical interrogation of the interests protected or promoted through each mode”. While this chapter shall be focusing on, among other things, historical origins of learner rights, the aim of this study to establish the root cause of the lack of discipline and disrespectful behaviour on the part of learners towards authority as exercised by educators in the context of educational management will not be overemphasized.

2.2 THE SOCIO-POLITICAL AND DISCURSIVE CONTEXT INFORMING LEARNER RIGHTS

Scheingold's (2004:60) argument that our right to have rights imparts a certain equality of status to all individuals in the society and that we are made equal before the law and invited to take advantage of whatever opportunities are thereby afforded us is central to the issue(s) under investigation in this study, namely, *Perceptions and Practices of Learner Rights in South African Black Schools*. The issue of learner rights as they relate to the discipline to be meted out by the educators and the exercise of authority by the educators, more often than not, strains relations between the two groups, namely, the learners and the educators. The following assertion by Scheingold (2004:91) reproduced hereunder, (quoted at length) attesting to this view on the relations between learners and educators becoming strained, is germane to the issue under investigation:

The most difficult aspect of the relationship between the youth and the older members of the community is the question of discipline and authority. Inside South Africa the youth have fought a consistent and bitter battle against the apartheid state for the right, among others, to have a decisive role in the running of affairs that affect them. COSAS and SANCO mobilized students around a concept of student representation that is anchored on the demand for a democratic and mutually respectful relationship between learners and school administration. This struggle continued to rage on inside South Africa, despite the declaration of state of emergency, vicious repression of students of all ages, and the detention, torture and murder of countless young people by the army and police.

Nkomo (1990:218-219) argues that the class origins and the positions that students take as a consequence of the education they receive will shape their role and contribution to the reconstruction of South Africa. The

education envisaged at the time of Nkomo's writing would be predicated on the concept of revolutionary education that would make democracy in South Africa become a reality. Correctly construed, therefore, Nkomo's pronouncement with regard to the role and contribution that students would make in the reconstruction of South Africa was, at the time of writing, a prophetic message whose prophecy has come to be realized in the fledgling democracy in South Africa. Again, as argued by Nkomo (1990:218), the Youth, because of its very nature, is that part of the society that absorbs and transforms cultural values from one generation to another. Thus, with the youth playing a role and also making a contribution in the reconstruction of South Africa, it was as it is today, to be expected that with the acquisition of a revolutionary consciousness they would, eventually claim to have a say in matters that affect them as the youth.

It is thus worth reiterating by way of a quotation the sentiments expressed by one learner at the Solomon Mahlangu Freedom College (SOMAFSCO) as regards the way they, as learners, were made to construe the ensuing relationship between them and the staff; and this is what the student had to say:

We are trying to create for ourselves an alternative education...The way we are taught and **the relationship between pupils and staff is a revolutionary one** and very different from what we were used to at home.... We are able to learn about our real history and become proud of the traditional civilization that existed before South Africa was colonized. We also learn about the history of Africa and the rest of the world. **This alternative education has at its core new outlooks and practices in regards to issues of generational difference,**

of student governance and of relationships between men and women, boys and girls (223).

As is evident in the quotation above, the issue of reciprocal relations between the educator and the learner has always characterized what any reasonable person in a democratic society would deem as normal human relations between or among individuals occupying different social positions deriving of course from the way society has been stratified and the status attached to this social stratification. It is worth noting that the alternative education they were seeking at the time had as its core new outlooks and practices in issues of generational difference, of student governance and of relationships between men and women, boys and girls. We argue, therefore, that by coming to terms with the generational difference that was obtained between the learners and the staff, the revolutionaries were bringing to the fore ways of charting out new forms of interaction and cooperation, new educational, sociopolitical and cultural structures and relationships (223) that would later characterize the fabric of post apartheid South Africa. Moreover, the issue of student governance and of relationships between men and women, boys and girls could not be left unattended to as if they were peripheral issues.

In retrospect, during the apartheid era the ruling class neither legally nor morally sanctioned dissent in South Africa. In consequence thereof, encouragement to ask fundamental questions and to pursue the possibilities of the unorthodox or the nondoctrinaire represented profound challenge to every policy that existed then. And with the student uprising of 1976 and

the years thereafter gaining momentum, it became, as a matter of principle, necessary for students to continue participating in the struggle for the holistic liberation of black people. As this happened, a new critical consciousness was being forged that would spur the learners to unprecedented activism predicated on a culture of defiance and resistance.

Thus in the previously so-called Black South African schools, the new critical consciousness generated by the entire thrust towards liberation has meant profound challenges to the control of education and by extension has meant threats to authority within the communities. As observed by Nkomo (1990:121) this new critical consciousness was essentially revolutionary in its intentions for society as a whole. At the time of this revolutionary consciousness the essential feature of power relations was its hierarchical nature in which authority, discipline, modes of decision making and the implantation of policy were autocratically exercised by those who wielded power at the time. As a result, within the revolutionary structures, the autocratic essence of the then educational management - the notion of order and discipline within the schools was deemed to be wholly inconsistent with the values of the envisaged democratic dispensation that would bestow upon every individual a certain equality of status.

This study, therefore, is to all intents and purposes predicated on the two hypotheses cited in chapter one. Thus it is worth reiterating that, firstly, we assume that reconciling the conflict between the autocratic hierarchical mode and the critical democratic mode of social organization as they relate to educational management necessitate a radical interrogation of the

interests protected and promoted through each mode. Secondly, we assume that the values of the new democratic dispensation in South Africa necessitate an entire reconsideration of the status and rights of the learner and hence of the educator and also requires redefinition of the learning process as it is established by tradition and policy. Thus, we argue that the values of the democratic dispensation in South Africa as enunciated in the Constitution in particular, necessitate the forging of mutually respectful relationship between learners and educators in schools. We also argue that there is a need for educators to be re-orientated into realizing that identities are characteristically fluid as they are forged through the acquisition of new consciousness in a specific socio-political environment.

2.3 THE DISCOURSES OF DIFFERENCE AND POWER BETWEEN EDUCATORS AND LEARNERS

As a way of placing our argument into perspective, we first embark on a retrospective probe into the discourses of difference between educators and learners and argue that these discourses of difference tend to legitimize and promote oppressive and dehumanizing social relations between educators and learners. In our view, these discourses of difference are premised on inauthentic base which when interrogated and challenged in the light of positive self-validating information lay bare the falsity and hideousness of their claims. We argue that the discourses of difference and power tend to naturalize and normalize otherness as though it is naturally given rather than conceiving of it as socially constructed. In our view, the social construction of otherness at its best is aimed at the reproduction of unequal

relations through which subjects are positioned and have particular identities ascribed to them. It is worth noting, therefore, that the term naturalization refers to the ways in which we come to think of certain conditions as unquestionably or naturally true. Moreover, it is necessary to mention that:

As subjects of discourse we are 'interpellated': we make imaginary identifications with culturally constructed identities and positions. We are called upon, 'hailed', and in responding we give assent to the positioning, the structuring being held out to us – within established frameworks (Peim, 2003:63).

In this study, we argue that fear and a sense of insecurity on the part of the educator make possible the restrictions of access and exclusion of the learner from participating or engaging in social relations and practices that would affirm the learner's human dignity and right to meaningful existence as would be desirable to both educator and learner. Our view in this regard is attested to Foucault's assertion that:

In a society like ours the process of exclusion is well known. The most obvious and familiar is the prohibition. We know quite well that we do not have the same right to say everything, that we cannot speak of just anything in any circumstances whatever, and that not everyone has the right to speak of anything whatever (Foucault in Young, 2001:52).

It can be inferred from Foucault's (2001:52) argument that one's identity is not inherently acquired but is socially determined in specific historical circumstances by the social forces that act upon individuals. It is, therefore, imperative to see the concrete socio-ideological factors surrounding the individual as playing a decisive and deterministic role in the construction

of identity. It is then necessary to recognize that processes of othering are historically specific, and that different groups have been “othered” differently under varying circumstances, and on the basis of different significations of “difference”. Moreover, the relationship between differences and the social relations of power is a relationship of domination and subordination between the educator and learner within the structure of representation. What needs to be emphasized though is that identity is never a fixed core and that changing identities do assume specific, and concrete patterns against particular sets of historical and social circumstances and do acquire specific meanings in a given context. The learner is then faced with the challenge and enormous responsibility to interrogate and refute his or her assumed presupposed otherness that, by definition, deprives the learner an affirming subject position. It needs mentioning that:

To have a subject position, however, is to occupy a place in discourse, to be able to speak- though it does not guarantee an audience. To be a subject is to be able to claim rights, to protest, and to be capable, therefore of devising a mode of resistance (Belsey in Wough, edit, 2002:146).

The above quotation is attested to by Choabi’s (2002:220) assertion that without the promotion of a revolutionary consciousness among the students and youth generally, the educational training of our people would lack one of the most important elements necessary for bringing about meaningful revolutionary social change in South Africa. The sentiments advocated above are echoed by Mills (2002:406) in his argument that the granting of learner rights is aimed at improving the education system of any given country and society. As a matter of fact the well being of

society depends on needs being met and on the capacities of individuals being developed for maximum productivity. As argued by Mills (2002:445) rights may be classified into two distinct categories, namely, welfare rights – aimed at the satisfaction of needs and development of capacities, and also freedom rights – geared towards the unhampered expression of human capacities in thought and action. Correctly construed, therefore, Mills’ position is that learners, whether as individuals or as a collective have a legitimate claim on rights having to be granted to them and that such rights be promoted and protected once they have been granted.

It is worth mentioning that the rights spoken here are legal rights that bestow an equal status on all human subjects irrespective of age. Such rights, therefore, are by their very nature entrenched with the legal system. In the South African context these rights are afforded learners to find expression in the activities of the newly established *Youth Parliament* where the youth is initiated into the practices of the governing structures within the context of governance.

The current activities of the Youth Parliament in the fledgling democratic South Africa are reminiscent of the active political role played by the youth within their community in exile. The following pronouncement by Mills, (2002:412) attests to the active role that the youth played in the struggle for political emancipation:

The availability of news and its analysis by young people is a crucial element in enabling them to play an active role in the politics of the community and the Movement. Culture has been given a new meaning, and through performances, meetings, discussions and encouragement of the youth to express itself freely, the cultural experience is politically and spiritually enriching to them. Culture has to reflect new ideas and aims, and the kind of future we want. This must be shown in real life, in the lives of real people.

Again, it was asserted at the time that,

Through the Educational Committee and the Bulletin Board Committee, the youth of SOMAFCO are able to practice and learn skills of writing, debate, critique and expression. It is necessary and good for young people to be able to stand up and speak clearly and confidently about who they are and what they understand the future to be (Nkomo, 1990:219).

It is worth noting that learners have been used in some instances as instruments of change in South Africa prior to 1994. It is thus significant also to learn that learners would deem themselves fit to be afforded an opportunity to enjoy what they have been initially part of, and in this particular context, learner rights.

2.4 THE RIGHT OF LEARNERS TO HAVE RIGHTS

It is apparent from the above extracts that the youth was granted the opportunity to participate in the political life of the community. As argued by Dickson (2000:39) rights to which learners are entitled in accordance with particular views may be withheld because minors lack intellectual maturity, experience of life, knowledge and insight and also because they (learners) are characterized by impetuosity, immaturity, unaccountability and a sense of being irresponsible. In contradiction to Dickson's view in respect of learner rights, Mills (2002:406) is of the view that the granting of learner right is aimed at the improvement of the education system of any country and society. Mills (2002:406) further argues that the well being of

learners depends on their needs being met and on their capacities being developed and exercised.

Rights may be classified into welfare rights – aimed at the satisfaction of needs and development of capacities, and freedom rights - geared towards unhampered expression of human capacities on thought and action. In Mill's (2002:8) view the problem with acknowledging students as fully fledged, legal processors of the fundamental rights that are identified in the constitution or charter is that it would allow young people to go through the motions of exercising political and civil rights without first developing full understanding of what they are about, without internalization of those skills and dispositions that are needed for the responsible exercise of such rights. Once a political or civil right is granted without a learner having prepared for such, it becomes immaterial whether it is discharged intelligently or not.

Similarly, Dickson (2003:40) contends that the legal competencies of the minor are limited because his or her contractual capacity is restricted. Thus the minor's contractual incapacity serves as grounds for limiting and restricting the minor's contractual capacity and is often a mirror image of his legal capacity (Dickson, 2002:67). It is argued that the withholding of a child's rights is justified on the grounds that one can detect a partial absence of discretion, rational thought and spiritual or intellectual qualities in the child. These reservations notwithstanding, Giroux (2001:8) argues that in the context of Harlem in New York, for example, the national court movement helps teenagers practice the skills of the legal system,

evaluating evidence and considering multiple perspectives, deliberating thoughtfully as they create the so-called appropriate sentences for peers who have committed offences. Giroux (2001:8) further argues that the City at Peace, in the nation's Capital brings together young people from widely different backgrounds to create theatre pieces that express their difference and their commonalities.

The scenario painted here indicates in no uncertain terms that the youth have the potential to be trained for leadership roles in their respective communities and to execute these roles as responsible citizens. It is in this respect, therefore, that the principle of equal basic liberties suggests that each citizen has an equal right to the most extensive system of equal basic personal and political liberties compatible with a similar system of liberties for others. A learner, therefore, has a participation right, liberty of association, liberty of integrity, and rights and liberties associated with the rule of law (Rawls, 1996:49).

Similarly, Giroux (2001:17) advocates a critical pedagogy that attempts to help learners to question and challenge domination, beliefs and practices that support domination. This theory and its practice help learners achieve a critical consciousness. As argued by Giroux (2001:37) the teacher is supposedly expectedly to guide and train learners how to question oppressive ideologies and practices with the view of creating collective and individual liberatory responses to actual conditions of their own lives. The paradoxical pronouncement by Giroux (2001:1) to the effect that young people are the problem and that young people are the solution exemplifies

the conflictual perceptions or rather views as regards the extent to which learners are to play an active role in determining their destiny within the educational system.

But as argued by Mills (2002:410) learners' freedom rights require a development of rational autonomy before granting freedom. This fact notwithstanding, we argue that the assertion of group rights always attests to the existence of the group as a unit of moral agency and having something of the boundedness and singularity claimed for individual persons. Notably, therefore, an agents' freedom is his or her capacity to select a way of life that suits him or her and act in accordance with this choice. Thus, learners, just like educators, have interests that distinguish them as educators. As already alluded to earlier on, "to have a subject position is to occupy a place in discourse, to be able speak...To be a subject is to be able to claim rights, to protest, and to be capable, therefore, of devising a mode of resistance" (Belsey in Waugh, edit, 1992:146). Similarly, Mills (2002:412) asserts, "to have a right is to have a justifiable claim against others that some interest be protected or promoted". Looking at what has been said above, it is important to look into whether learners deserve to be allowed an opportunity to exercise their (learner) rights.

2.5 FACTORS INFLUENCING LEARNER RIGHTS

Education in South Africa is faced with major challenges and forces as a result of many influences, some of which could be traced back from the transitional stage and transformation, which took place after 1994.

Transformation after 1994 influenced changes in economy, politics, culture, and education was no exception. The changes that affected many perspectives in South Africa, and with particular reference to education were pronounced through different educational policies. Such policies brought with them, learner rights.

The discourse of human rights is increasingly becoming one of the most globalized values. This however, does not guarantee the solution to a number of tensions, confrontations and contradictions embodied in various political contexts where rights are upheld with seriousness and in high conversations. Liberal discussions of rights have tended to view rights as trumps to political argument (Ranche, 1998:1). It is significant to note that this study will attempt to come to a more nuanced understanding of the politics of learner rights and a discussion of the limits of rights within various political struggles where rights have become central to political discourse. It will, however not be overemphasized that the objective of this study is to establish that the perception of learner rights by both educators and learners is informed by conflictual and contradictory modes of social organization, namely, the hierarchical mode that is characteristically autocratic in its orientation and the democratic mode that is typically critical in its orientation, hence the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators in the context of educational management.

Learner rights are depicted and reflected on a number of documents such as South the African Schools Act 84 of 1996, the Bill of Rights in the constitution of The Republic of South Africa, Act 108 of 1996 and the National Education policy Act, 27 of 1996. All these acts strictly endorse and emphasize the observation of learner rights by every citizen and with particular reference to educators. It is, however, interesting to note that particular individuals have produced such work. One may thus be tempted to ask a question as to how policy-makers, human rights activists and diplomats have understood and constructed ethnic conflicts and “solutions” and what are the contradictions in these policies, which often rein scribe national agendas. Policies which are about learner rights are in existence, but conflicts in schools are still observable, and in action. The conflicts, which are taking place in schools, suggest that something is wrong and needs some kind of attention in order to remedy the situation in schools.

Education in the South African history has been subjected to various political ideologies, which, in actual fact did not strive to satisfy the background and the aspirations of all South Africans, including the learners. It however, favoured the aspirations of the minority group. Black South Africans have always complained that such glaring disparities have made education, particularly in African schools, not only inferior, but also undermines the aspirations and South African culture which is not even considered when policies are planned in education.

After 1994 South Africa produced a democratic constitution, which is the supreme law in the country. In its preamble, this constitution provides that:

- this country requires a new national system for schools which will redress past injustices in educational provision,
- this country should provide an education of progressively high quality for all learners and capabilities,
- this country advances the democratic transformation of society,
- this country combats racism and sexism and all other forms of poverty and the economic well being of society,
- this country protects and advances diverse cultures and languages,
- this country upholds the right of all learners, parents and educators,
- and promote their acceptance of responsibility for the organization,
- governance and funding of schools is in partnership with the state,
- it is necessary to set uniform norms and standards for the education of learners at schools and the organization, governance of funding of schools throughout the Republic of South Africa.

Looking into the South African constitution one can see that the rights of learners are upheld with high respect and dignity across the country.

Learner rights are also embodied in the South African Schools Act, 84 of 1996, National Education Policy Act, 27 of 1996 and Employment of Educators Act, 27 of 1998. To further endorse the conditions of learner rights the South African government went on to introduce the South African Council for Educators. This council's main objective

was to ensure that an educator's code of conduct is adhered to. Besides observing the question of professionalism, this council pronounces in its primary expectations that an educator should respect the dignity, beliefs and constitutional rights of learners and in particular, children's rights, which include the right to privacy and confidentiality. (Education law and policy hand book, 1999:9). The council further stipulates what the relationship between learners and educators should entail:

- 1) Acknowledgment of uniqueness, individuality, and specific needs of each learner, guiding and encouraging each learner to realize his or her potentialities.
- 2) Strive to enable learners to develop a set of values consistent with these upheld in the Bill of Rights as contained in the constitution
- 3) Exercise authority with compassion.
- 4) Avoid any form of humiliation, and refrain from child abuse, physical, or psychological abuse.
- 5) Promote gender equality and refrain from any form of sexual relationship with learners or sexual harassment (physical or otherwise) of learners.
- 6) Use appropriate language and behaviour in his or her interaction with learners, and act in such a way as to illicit respect from learners.
- 7) Table reasonable steps to ensure the safety of the learner.
- 8) An educator does not abuse the position he or she holds for financial, political or personal gain.

- 9) Is not negligent or indolent in the performance of his or her professional duties.
- 10) Recognize where appropriate, learners as partners in education.

The above-cited South African Council for Educators' expectation from educators indicates that it is significant that educators treat learners with every possible respect.

It is interesting to note that in every policy and every right, a philosophy of a particular people is reflected. It is thus pivotal to understand that the South African policies are derived from a particular philosophy. In fact, education in any nation or country is governed by a certain policy. What is, however, interesting is that all policy theories are shaped, directed and determined by particular historical events and philosophy. Likewise, a right is derived from a particular philosophy and culture. Rancher (1985:5) argues that it is by analysing philosophical theories in a historical (and philosophical) context that man's permanent striving for existence becomes meaningful. Thus it is also vital to realize that the philosophical underpinnings of the policies are a reflection of the prevailing historical circumstances of the time, and these always attempt to provide solutions to particular conflicts, hindrances and problems that depict from current historical events. It is from this perspective that philosophy, policy, and learner rights can be understood.

2.6 TYPES OF LEARNER RIGHTS

2.6.1 LEARNER RIGHTS OUTSIDE THE CURRICULUM

Learner rights have been articulated in a number of ways. That is, learner rights have been pronounced in the curriculum as well as outside the curriculum. Learner rights have been pronounced through policies and Acts that have been produced by the Department of Education and Culture. There are a number of policies and Acts that have been produced by the Department Of Education in order to ensure the implementation and observation of such learner rights in schools. Amongst others, the Department of Education has reiterated the following rights in the South African schools:

- The Language In Education Policy (LIEP). The LIEP carries with it a number of significant rights and obligations as far as learners, schools and education departments are concerned, visa versa upholding and implementing these policies. The most important include the following:
 - 1 The right of the learner to choose the language of teaching upon application for admission to a school,
 - 2 The right of a learner to request the Provincial Department of Education to make provision for instruction in the chosen language where no school district offers the chosen language as the language of learning and teaching

- 3 The right of a learner or a school governing body to appeal to the Member of Executive Council (MEC) against the decision of the head of the Provincial Department of Education, and
- 4 The right of a learner or a governing body to appeal to the Pan South African Language Board (PANSALB) against the decision of an MEC (RSA, 1997:4-6).

It is thus significant that one perceives the right of learners contextually in order that everybody that is engaged in the system is able to give the correct interpretation of learner rights, which has its basis on the South African legislation. It is therefore imperative that even before one is able to justify and classify learner rights in the education system of South Africa, one understands the basis of the South African legislation as promulgated by the government of South Africa

2.7 THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA (ACT 108, OF 1996) ON LEARNER RIGHTS

On 8 May 1996, the final constitution of South Africa was adopted. The constitution (Act 108, of 1996) took effect on 4 February 1997. The constitution of South Africa pronounces the democratic right of every individual, including learners in South Africa. The constitution of South Africa before 1994 is different from the one after 1994 because the one after 1994 protects every South African citizen's rights. The one before 1994 was supreme in the sense that law was taking away people's basic

rights. It is also significant to note that learners are aware that their rights as learners are protected by the constitution.

It is also important to note that from within the constitution of South Africa, the Bill of Rights is reflected. The Bill of Rights is vital because it promotes the values that underlie an open and democratic society. It is based on human dignity, equality and freedom. Learners are no exception in the South African Bill of Rights. Section 39 of the constitution also requires that, when the Bill of Rights is interpreted, the interpretation “must promote the values that underlie an open and democratic society based on human dignity, equality and freedom.

As good as it may sound, one, however wonders whether learners, educators, parents and departmental officials perceive learner rights contextually in the South African education system. The researcher’s question in this regard is prompted by the conflicts that are currently multiplying and increasing in the education system, particularly in schools. We are even tempted to ask the question as to whether the rights that learners have in the new constitution of South Africa are in line with their needs as learners. Ranche (1995:5) reiterates this when he pronounces that in every policy and every right, a philosophy of a particular people reflects. Ranche (1995:5) further endorses this when he argues that it is by analyzing philosophical theories in a historical context that man’s striving for truth and recognition becomes meaningful.

It is from the above –mentioned perspective that learner rights may be understood. It is also from this perspective that this research will be focused. The question lies with their rights in accordance with their background as South Africans in Africa. The former Minister of Education, Sibusiso Bhengu emphasizes this when he suggests that more than the constitution is required to make complete provision for education, but the constitution is the starting point (White Paper, 1997:12).

People tend to think that they are literally entitled to each of the rights contained in the constitution. However, Professor Bhengu clearly suggests that the constitution should serve as a frame of reference.

2.8 THE RIGHT TO EDUCATION AS A UNIVERSAL RIGHT

It is evident that the previous education system(s), which were based on segregation and racial inequality had to be changed in a new democratic order. In order to correct the inequalities of such education systems, the constitution of the Republic of South Africa (Act 108 of 1996) introduced fundamental changes, one of the most important being the education clause. In terms of section 39 of the constitution, international law applies in South Africa under certain conditions. The right to education forms part of all the international documents that provide for the right to equality. Furthermore, it is interesting to read the following summaries of various international declarations, rules and conventions that show different provisions regarding the right to education as set out in international law

(Henrad, 1996:158). Article 2 of the Universal Declaration of Human Rights reads:

- 1) Everyone has a right to education.
- 2) Parents have a right to choose the kind of education that shall be given to their children.

Article 28 of the convention on the Rights of Children has certain provisions dealing with the right to education. State parties recognize the right of the child to education, and with a view to achieving this right progressively, and on the basis of equal opportunity. They shall in particular:

- a) Make primary education compulsory and available, free for all
- b) Make higher education accessible to all on the basis of capacity by every appropriate means
- c) Make educational and vocational information and guidance available and accessible to all children

The learner rights issue has always been a controversial and critical issue worldwide. That has led to many countries wanting this matter to be addressed as a matter of urgency. Many attempts to address learner rights issue have been made, more so because learner rights have brought with them confrontations between learners and educators, and this is probably more so because both parties, that is learner's educators and learners interpret learner rights differently.

In September, 2002 the General Assembly Of Langwidge (also known as “Ravi”) adopted and proclaimed the ‘Universal Declaration Of Langwidge Learner rights” the full text, which has different interpretations of learner Rights. Following this historic act, the Assembly called upon all member Countries (also known as “Achilles” to publicise the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other penal institutions, without distinction based on the political status of countries or territories.

Disregard and contempt, for Langladge (2002:14) learner rights have resulted in “barbarous memorization drills which have outraged the conscience of humankind and the advent of a world in which human beings shall enjoy learning without fear of improper inflections that have been proclaimed as the highest aspiration of the common people.

According to the Langladge (2002:14) it is essential if man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression. According to Langwidge learner rights should be protected and guided by the law of the country, however not leaving out learner historical, economic, political, cultural, philosophical, and religious background of the learner.

The General Assembly, therefore proclaims this Universal declaration of Langwidge Learner Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this declaration in mind and consistently, shall strive by

education to promote respect for learner rights and freedom and by progressive measures, national and international, in order to ensure their universal and effective recognition and observance, both among the people of member States themselves and amongst the schools of territories under this jurisdiction

2.9 LEARNER-EDUCATOR DIVERSE CONCEPTUALISATION OF LEARNER RIGHTS

The drive to build effective schooling follows the systematic collapse of teaching and learning which resulted from the political turbulence of the past (Mona & Dooms, 1997:6). Many African schools were caught in the political battle of the seventies and the eighties when contesting groups used education as a site of struggle. The result was that many people were caught up in a web of conflict. They suffered declining teacher morale, learner motivation and a lack of discipline by both educators and learners. Nkondo (1995:11) states that children have been immersed in politics and anti-social behaviour for so long that parents face an uphill struggle to convince them that going to school is politically acceptable, let alone essential and vital for their progress towards responsible adulthood.

In many schools, conflict manifests itself physically as confrontations between teachers and learners, mainly because learners have no respect for their educators (Bissety, 1997:1). This could be so because both educators and learners do not agree to a number of things because they do not see and interpret things alike. According to Van Niekerk and Meier (1995:74)

a major problem facing teachers is how to get children to attend school and how to make those children who attend school gain full benefit from their education. The problem that most schools are faced with is that, now that learners have the rights they have since been fighting for, schools are experiencing serious problems with regard to their implementation. Teachers, learners and parents are still struggling to conceptualise the rights as stipulated by the South African Schools' Act as these are not interpreted and implemented by both educators and learners similarly. It is thus the researcher's intention to look into the relevance of learner rights in terms of their authenticity, time and background. Molefe (1988:8) highlights the problem related to the conceptualisation of the rights of learners and their cultural orientation when he states that psychological dislocation creates automations who are unable to fully capture the historical moment because they are living in someone else's terms or space.

The following are two detailed examples of problems that are mostly affecting schools since learner rights have been advocated in the democratic constitution of South Africa.

a) For instance learners have a right to education. This means that learners have rights irrespective of pregnancy but the latter is not spelt out in SASA but implied. This has caused the following problem. A principal in Northern Province has expelled pregnant learners from their school whilst on the other hand the constitution guarantees the right of every child to education. According to the Teacher the National Department of Education spokesman Bheki Khumalo says the issue of

pregnancy in schools is of major concern to the government, but this does not mean violating a child's right to education.

On the one hand, the minister of education Kader Asmal is being forced to find methods to help pregnant learners finish their education. The Northern Province education department believes that it is unconstitutional to expel a child from school. Education spokesperson Rapule wa ga Matsane emphasises that there is no need to establish separate places for these children (Daily news, 12 August 2004:3). According to Boikanyo the pregnant learner is not allowed to sit in class with other children because she has contravened the school's law. Dikeledi Tawana is one of two girls who have been suspended for three years from Montshiwa Memorial School in Mafikeng. Even though the provincial government has regulated a two-year suspension, some principals, together with their school governing bodies, have decided to extend it to three years. Tawana says she already sees herself as a bad influence because her friends have distanced themselves from her.

The issue at hand is that a learner should not be deprived of her right to learn despite the fact that she is pregnant. At the same time, educators ask a question as to whether a learner may not influence other learners to fall pregnant as well. Perhaps, another issue that is raised is that of looking after a (unmarried) pregnant learner while at school since in an African culture an act of being pregnant while at school has never been condoned. The educators view it as *bringing disrepute and shame to the name of the school and community.*

b) Another problem that many South African schools are faced with is discipline related.

While faced with such problems, most educators prefer to resort to corporal punishment as a remedy to discipline problems. It is a long time since the constitutional court has outlawed corporal punishment, but it appears that changing the legislation was the easy part, getting schools and teachers to accept it would be a tough exercise. The rationale behind this is the philosophical stance that most African educators assume in relation to corporal punishment

In the year 2000 the *Star* spoke to educators with regard to corporal punishment in Atteridgeville near Pretoria, in Soweto and in schools in the Southern Suburbs of Johannesburg. Although all the educators were aware that corporal punishment was no longer allowed, some admitted to turning a blind eye to the law. It should, however be noted that administering corporal punishment means contravening the rule of law in this context.

In the very same *Star* one female educator by the name Ngcobo is alleged to have raised her concern by asserting that, "There are some very difficult kids in this school, and with such large classes it is difficult to keep them respecting educators. Often the only thing they respond to is threats of being hit with the cane", a Soweto teacher said.

In the year 2000 Anne Router of the Human Rights Commission visited the Eastern Cape School and mentioned that at that school that corporal

punishment is no longer allowed and is illegal. Anna Router further mentioned and explained to the learners that the use of corporal punishment was considered a criminal act and that learners should report any such incidents to the Human Rights Commission.

It was less than a month later when two learner-girls who had been punished for bad behaviour consulted Anne Router. Anne persuaded the learners to give her the names of the educators who punished them. She did that so that the principal of the school would initiate a charge against the said educator. The charges went ahead and the educator was expelled from the profession.

A woman teacher in the South of Johannesburg, only a few years older than some of her grade 12 students, explained that her students intimidated her and she felt that she had very little recourse against them. “They laugh at me when I threaten to punish them and they do not do the written punishment I give them.”

The woman educator was expressing her feelings as well as her concern about the behaviour of learners who were not even prepared to perform either the written punishment, which would be to their benefit, rather than punishing them corporally.

Routier in *The Teacher* (2002:34), however expressed that it was a common response from teachers felt that removal of corporal punishment had “left them powerless”. She advised educators who are faced with

learners with disruptive behaviour to investigate the cause and possibility of the learner having learning, hearing or visual disability, further than that to look into family conditions.

The above examples demonstrate clearly that there is a problem relating to the conceptualisation and implementation of the rights by educators.

2.10 THE LEARNER'S RIGHT TO EDUCATION IN TERMS OF THE SOUTH AFRICAN SCHOOLS ACT (SASA), 84 OF 1996

Chapter 2 of SASA is devoted to "learners". A learner is defined as any person "receiving obliged to receive education in terms of the Act. "Strangely, SASA says nothing about a learner's right to education. This is however, understandable since that matter is dealt with in section 28 (1) of the constitution. Section 28 of the constitution provides that everyone has a right to "basic education". Neither the constitution nor SASA provides a definition of "basic education". However, the period of compulsory education provided for in SASA would appear to be reasonable interpretation of the term "basic education".

It is however, interesting that though learners are entitled to compulsory education, some learners still refuse to go to school. Some learners, who attend school, go to school if they feel like going to school but do not go to school regularly. Amongst those who go to school, some come to school without having done the homework given to them, and then engage in misdemeanor and claim that it is their right not to be punished. It is thus

hard to believe whether learners understand and practice their rights accordingly.

2.11 THE RELATIONSHIP BETWEEN RIGHTS AND OBLIGATIONS

Although learner rights are a political philosophy, “rights” has come to be employed to describe a group of comprehensive philosophies (Rawls, 1993:27). Such philosophies are subject to rights with an obligation and responsibility. This suggests that in this context particularly, a learner may have a right, but a learner right does not supersede learner accountability. This suggests that meanwhile a learner has a right; he or she needs to observe it with responsibility and accountability depending on the context and place where he or she is exercising that particular right.

It should be clear that a right is something that a person is entitled to. For instance, an educator has a right to receive a salary for doing his job. A person may therefore claim a right if he or she has fulfilled or satisfied the corresponding duty. A learner, in the education system may have a right to quality education, but he or she has an obligation to attend school and to participate actively in the learning process. Joubert and Prinsloo (2001:25) concur with this when they suggest that every right has a corresponding duty.

2.12 UNITED NATIONS (UN) AS ONE OF THE DRIVING FORCES FOR LEARNER RIGHTS IN SOUTH AFRICA

2.12.1 INTRODUCTION

Education in South Africa is influenced by a number of factors inside and outside of South Africa. Learner rights in the South African education system are no exception in this. Amongst others, learner rights in South Africa are influenced by the international Human rights which are articulated by the International Human Rights Commission (IHRC), United Nations Organization, and its agencies such as International Labor Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

2.12.2 LEARNER RIGHTS AS EMBRACED IN THE HUMAN RIGHTS COMMISSION

The international Human Rights Commission consists of international norms, processes, and even institutional arrangements, as well as the activities of domestic and international pressure groups that are related to promoting respect for Human Rights. The United Nations is one part of the broader International commissions that must also embrace authentically Human Rights consciousness. UN agencies such as International Labor Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), mechanism such as the Conference on Security and co-operation in Europe and various organizations such as council of Europe, the organization of American States, and organization,

which are sub-ordinate and sub structured to the United Nations Organization one may thus be convinced that the questions of human and particularly learner rights would be addressed in order to minimize any probable dilemma and difficulties in so far as learner rights are concerned.

Alston (1995:1) argues that while the UN has a central and direct role with respect to only one part of the broader regime as thus defined, its activities have nevertheless, contributed to a every large measure to the task of creating, shaping and implementing that regime as a whole. Alston (1995:1) goes on to emphasize that it would thus be difficult if not impossible to understand, let alone evaluate the overall regime without an understanding of the functions performed by the UN Organizations. This is confined by the fact that most observers have treated the totality of UN Human Rights activities as constituting at least for the purpose of analysis, a regime in them.

The sketch below shall thus seek to do two things. The fist is to sketch evolution to the institutional component of the UN regime by providing a brief overview of the individual human rights organs and of their relationship to one another. The second is to look into what is, or should be involved in the process of evaluating or appraising the effectiveness of the UN Human Rights regime as a whole and of individual organs as against the background of learner rights in the South African education system.

2.12.3 A SKETCH OF THE UN HUMAN RIGHTS SYSTEM AND ITS EVOLUTION AS AGAINST LEARNER RIGHTS

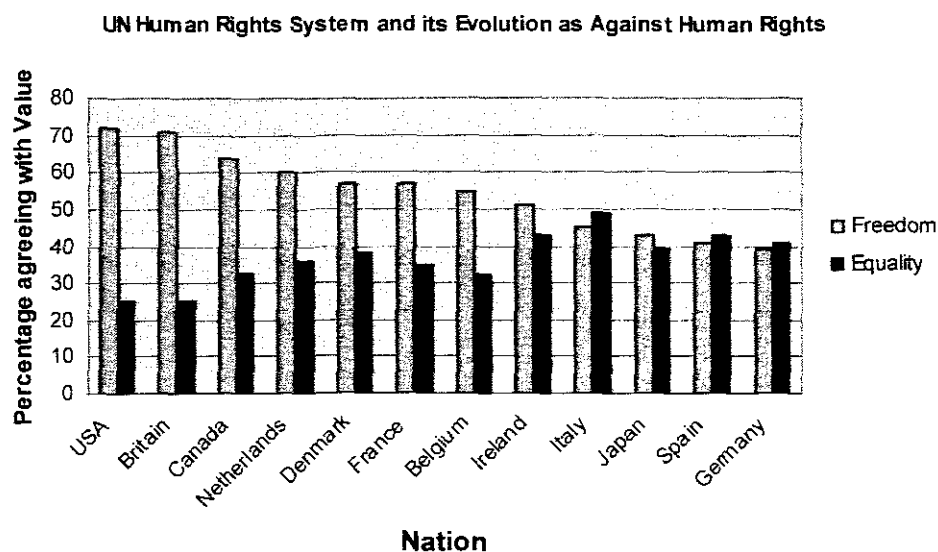


Figure 2.12

One other question at hand is whether learners have any rights. The exclusive stress on self sufficiency and autonomy which typifies the “will” or “power” theory of rights, the theory that is used to question the legitimacy and the usefulness of attributing rights to learners, is inadequate as an expression of the moral significance of persons, particularly learners. The equal moral worth of human persons, including learners, is often best protected by ensuring that they have properly protected positive rights justified in terms of their fundamental interests. The “interests” theory of rights, upon which this view is based, requires one to identify which interests are to be protected and furthered by learner rights policies (Campbell, 2003:407). In the case of learners (that is, in law, ‘minors’) it is helpful to distinguish between their interests as persons (which they have

in common with all other persons), as learners (which they have as immature and dependent persons), as juveniles (which they develop as they approach maturity) and as future adults (which relate to their future interest as adults). This analysis may enable one to refine the principle that 'the best interests' of the learner should determine how they are treated by adults, in a form of parents, educators, state and others, and may probably lead us to give rather more emphasis to the rights of the learner than those of the future adults.

2.12.4 THE INTENTION OF THE UN TO PROMOTE HUMAN AND OTHER RELATED RIGHTS IN AND OUTSIDE THE EDUCATION FRATERNITY

Between the years 1946 and 1966 many UN organizations devoted themselves to dealing with a number of issues pertaining to human rights. This was indeed part and parcel of their mandate. Competition with regards to human and individual rights was site.

In general then, the evolution of the regime has reflected specific political developments. The expansion of this subject has been a result of exploitation of the opportunities, which have arisen, in every given situation prevailing mix of public pressures, cohesiveness, the power and a number of offending states and international standing of their current governments, and ephemeral factors. For that reason, efforts to identify and describe priculupled patterns and the evolution of various procedures are generally misplaced. According to Alston (1995:2), pragmatism, rather

than principle has been the touchstone of the UN's evolution. This became obvious with most of the UN organizations.

Learner rights in the South African context are thus no exception in this discussion since South Africa is party to the United Nations Organizations. In other words, whatever development is as a result of the decision that has been taken at the UN level will always influence individuals, and more specifically, *learner rights in South Africa*.

2.12.5 CLASSIFYING THE ORGANISATIONS AND LEARNER RIGHTS

In order to obtain an overview, the identification of a limited number of categories into which of the organizations might be fitted, at least for purposes of analysis, is highly desirable goal in this context. Descriptions of the UN's activities, as opposed to its institutional arrangements, have traditionally seized upon these or even more "phases" of activity since 1947. They are standard-setting, promotion and protection and each phase is said to have been dominated by the activity in question.

It is of vital importance to note that other classifications have been proposed. Most of them reflect the UN's own distinction between organizations composed of experts, perhaps elected, appointed, but virtually always nominated by governments, and those composed of governmental representatives. From that point, many analysts have suggested several dichotomies. That is expert governmental, expert political, legal political, to describe variously the composition, the modus

operandi, or rather the basis of decision-making. It is of paramount importance to note that such classification with regards has an impact on learner rights in the South African context

2.12.6 APPRAISING EFFECTIVENESS OF UN HUMAN RIGHTS AS THE ENGINEER FOR LEARNER RIGHTS

Evaluation of the UN Human Rights has, in effect been placed as a priority in the international committees' Human Rights agenda by virtue of the objectives adopted by the UN General Assembly for the world conference on Human rights that was due to be held in Berlin in June 1993. According to Carlston (1995:13) the aims of the conference were as follows:

- i) A review and assessment of progress made in the field of Human Rights since 1998.*
- ii) The identification of obstacles in this regard and ways of overcoming them.*
- iii) An examination of ways and means to improve implementation of existing human rights standards and instruments.*
- iv) An evaluation of the "effectiveness of the methods and mechanisms used by the UN in the field of Human rights.*
- v) The formulation of concrete recommendations for improving that effectiveness.*

2.13 THE RELATIONSHIP BETWEEN SECTION 28 OF THE SOUTH AFRICAN CONSTITUTION AND LEARNER RIGHTS AS REFLECTED IN CHILDREN'S RIGHTS

2.13.1 LEARNER RIGHTS PROTECTION

Section 28 sets out a range of rights that provide for protection for children additional to the protection they are given by the remainder of the Bill of Rights. In terms of Section 28 of the constitution of South Africa, constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess Constitutional rights.

Section 9 may prove to be particularly useful for children since it presumes that discrimination on the basis of age is unfair. According to Section 28 of the South African Constitution (White Paper, 1998:102) this means that there must be a good reason for not according the same rights, privileges or benefits to children as to adults. Some of the common law rules and statutory provisions may be open to a challenge on the basis that they are arbitrary or constitute unfair discrimination on the basis of youth. Unlike age, illegitimacy is not specifically listed as a ground of unfair discrimination in Section 9(3). Arguably, however, it is covered by the grounds of 'birth'. In any event, any form of differentiation between 'legitimate' and 'illegitimate' children will impact on the dignity of those affected and, for that reason, it is likely to be considered unfair discrimination.

It must also be stated at the outset that Section 28 does not confer on children a right to individual self-determination. According to Section 28 of the South African constitution (2001: 35) the question whether children are entitled to choose their own lifestyle, religion and so on has always been difficult to resolve since it requires a balance to be struck between the interests of the children, in this case the learners, parents and the state. In such disputes, learners, must like everyone else, derive their claims to personal autonomy and personal self-fulfillment from the right to privacy, and from the right to freedom of religion, speech and, perhaps, association. In the case of learners, limitation of the rights becomes more difficult to justify as the learner grows older, since the responsibilities of parents and the state towards a child are linked to the child's age. Parent's 'power' over their children is derived from and is dependent on their responsibilities towards their children and it therefore diminishes as the child (learner) gets older.

Parental or educator authority as such is not protected by the Constitution. For example, parents or educators cannot derive a right from the Constitution to veto their child or learner's decision to terminate her pregnancy. Similarly, educators have no right to administer corporal punishment to their children (learners). However, and for obvious reasons, the state shows considerable difference to methods used by educators to fulfill their common law, statutory and constitutional obligations towards their children. The state will only interfere when it is necessary to protect the child, and in exceptional cases, to secure more autonomy for the child (learner). For example, the state has a strong interest in ensuring that

educators do not use their learners to further their own political or religious convictions. It is unacceptable for either parents or educators to force learners to sell religious magazines or to take part in political rallies, and so on. Educators have no right to express their beliefs ‘through learners’.

Section 28 does have an impact on one aspect of problematic relationship between educators, learners, and the state. The purpose of Section 28 of the Constitution is to protect learners in situations where they are likely to be vulnerable. In this respect, the additional rights in Section 28 enhance the protection contained in the rest of the Bill Of Rights.

To give effect to the duties imposed by Section 28 of the Constitution, the state will have to pass additional legislation setting out clearly the rights of learners and the duties of parents and the state in relation to those rights. Additional impetus is given to these duties by South Africa’s ratification in 1995 of the UN Convention on the Rights of the Learner (1989). The convention requires the domestic law of the state to be consistent with its provisions. This will further require legislative reform of a number of areas of South African family and education law.

2.13.2 LEARNER RIGHT OF NAME

The Constitutional protection of a child’s (learner) right to a name and nationality from birth and the right to have his or her name and other basic family and school information registered, comprise a child’s (learner) right to a legal identity. The learner right to a legal identity should also be seen

as an extension of his or her right to human dignity in section 10 of the Constitution of South Africa (White Paper, 2001: 220). The right to an identity has important psychological and emotional content because a name connects a child (learner) to his or her family.

The right to a name starts with birth and it includes the right to be registered by the state in a birth register immediately after birth. The subsection also protects a child (learner) right to privacy and recognition of legal personality. It covers the registration of a family name, as well as first name freely chosen by parents. The constitutional right to have a name at birth has important implications for adopted children's searches for their parents' identities. Section 25 of the Child Care Act 74 of 1983, permits an adopted child's name at birth to be changed to that of the adoptive parent or parents. Unless special provision is made under national legislation for accessing the birth records of adoptees, section 25 can operate to undermine the right of adoptees to know their legal identity at birth. It has been generally suggested that, denying children information that relates to their birth parents may lead to genealogical bewilderment.

The child Care Act makes information regarding an adopted child's identity at birth more readily available than it has been under previous legislation. The child's constitutional right to a name at birth should be interpreted in order to prevent adoptees' right to their birth records from being subject to ministerial discretion. Constitutional protection of adoptees' rights to information about their birth parents will minimize genealogical bewilderment and maintain the protection afforded birth

parents by the current discretionary system because the adoptees' rights must be limited by the birth parents' right to privacy, contained in Section 14 of the Constitution (White Paper, 2001: 221).

2.13.3 LEARNER NATIONALITY RIGHT

The right to nationality is a traditional right for children, and in this particular instance, learners, enunciated in several international instruments. The importance of nationality is to prevent statelessness (White Paper, 2001: 239). By denying a person a right to nationality, it is possible to deny him or her many other rights such as the right to vote, and a right to live in a particular country, and let alone denying him a right to exist. It will be observed that the homeland policy during the apartheid years was a way of using nationality to limit people's rights. People associated with the 'independent' TBVC states ceased to be South African citizens when the independence was conferred on these territories. As a result they enjoyed no civil and political rights in South Africa, nor were they entitled to South African passports or diplomatic protection. The Constitution seeks to prevent a repeat of this exercise in denationalization by attaching the right to nationality to the fact of a person's birth. Learners are also citizens, and are therefore also protected by the citizenship rights in subsection 20 and 21 to enter, remain in, leave and reside in the Republic and the right not to be deprived of citizenship

2.14 LEARNER RIGHT PROVISION IN THE CONTEXT OF EDUCATION

It is worth noting bear in mind that the aim of this study was to establish the root cause of the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators in the context of educational management.

To respond to the above statement, (Conde, 1999: 57) argues that human dignity is the innate value of a human being, existing by the very nature of humanity as recognized as a juridical philosophical basis of all human rights. Central to a human rights culture, is the upholding of the human dignity of the individual and society generally through education.

In the process of teaching and learning, factors such as discipline, discrimination, and corporal punishment affect learner's dignity. For instance, a learner who is punished corporally will tend to lack concentration during lessons because of the pain inflicted on the body. In this regard, Article 28 (2) of the Convention on the Rights of the Child reads:

States are obliged to take all appropriate measures to ensure that discipline is consistent with the child's human dignity.

The theory of the rod as a "desirable and necessary instrument of restraint upon sin and immorality and as an aid to learning" is in accord with

orthodox views and practices of the past (Falk, 1996: 48). In essence, the international view on corporal punishment is that it (corporal punishment) should be abolished. Learners should thus receive the education that will always promote respect for human dignity.

2.15 SUMMARY

It is worth noting that learners played a major role in the liberation struggle of South Africa. Furthermore, it is important to understand the role that educators have played and the authority they have had in the apartheid era. It is true that, unless the two parties, that is educators and learners understand each other in so far as their background is concerned politically, confrontations will always be the order of the day between them. Scheingold (2004:91) supports this idea when he suggests that the discrepancy between the actual and possible helps to make the adolescent a rebel. Besley in Wough (2002:146) attests to this when he mentions that:

To have a subject position, however, is to occupy a place in discourse. to be able to speak though it does not guarantee an audience. To be a subject is to be able to claim rights, to protest, and to be capable, therefore of devising a made of resistance.

The above citations indicate the significance that educators should allow learners an opportunity to exercise their rights as learners as much as learners were party to the struggle for the liberation of South Africa. The intention for student rights is aimed at the improvement of the education system of any country or society. As a matter of fact, their well-being

depends on the needs such as rights and on their capacities to be developed and exercised. In fact, this is a legitimate goal for any society that is characterized by the principles of democracy.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 INTRODUCTION

In quantitative research, the researcher concentrates on producing objective data in the form of statistics (McNeil, 1990:10 and Reeler and Davey, 1991:120). The researcher formulates laws that allow the description, explanation and prediction of social phenomena (Lemmer, 1992:292 and Halfpenny, 1979:801). In qualitative research, as Patton (1990:20) argues, validity is dependent on careful instrument construction so as to be able to make sure that the instrument has measured what it is supposed to measure. There should be no suspicion that the data collected have been affected by the values of the researcher and the data are not fully reliable. For instance, the aim of this study was to establish the root cause of the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators in the educational management. It is thus significant that the data collected to attain this aim should not be influenced by the values and the interest of the researcher in the study. In other words, if the data is influenced by the values of the researcher, that data may not be fully reliable. Thus it should be possible to claim that whoever collected the data would arrive at a similar conclusion. Such a position constitutes a basis of behaviorism, in which Lundburg (in: Ferreira, 1988:4), in his foundation of sociology illustrates that:

- ❖ 'All philosophies are equally tangible, observable and measurable

and

- ❖ All subjective actions such as “mind” and “feelings” are meaningful to the scientist in so far as they are operationalized in terms of overt characteristics, if not, they are unverifiable.’

It is significant to note that qualitative and quantitative research methods use different techniques of presentation to project different assumptions about the world and employ different means to persuade the readers of their conclusions. It is, however imperative to observe that each approach has its strengths as well as its weaknesses. They both present the reader with different kinds of information and can be used to triangulate in order to gain more confidence in one’s conclusions. Quantitative approach is based on a positivist theory, which assumes that there are social facts with an objective reality apart from individual beliefs. Qualitative research on the one hand is rooted in a phenomenological paradigm, which suggests that reality is socially constructed through individuals or collective definitions. Qualitative research is an inquiry into a personal world of those who are studied. According to Sears (1992:147) those who embark on qualitative research observe that their choice of problem and goals is *prema facie* a question of values. A qualitative researcher acknowledges that the instruments and techniques used in the research are part of this world and that knowledge is always partly (Greene, 1996:69). Higgs and Smith (1997b: 50) point out that:

We are in the situation, we are trying to describe and, as such, any of our descriptions must have an element of subjectivity to them.

3.2 IMPORTANCE OF QUALITATIVE RESEARCH

Qualitative research seeks understanding and employs qualitative methods such as in-depth interviews and participant observation.

Qualitative research intends to describe and explain human thoughts and emotions, behavior which is difficult to quantify in numerical terms. Cognizance is taken of the total person, including a study of those human features, which can pass unseen (Masseman, 1976:378). Because of qualitative research it is thus not easy to overlook some features.

Qualitative research is descriptive and the data collected in the study are much better because they are in verbal form rather than in numerical form in the quantitative research. Qualitative research allows explanation of every data that is collected, and it is unlike the quantitative research, which does not provide allowance for explanation of data but worries itself about *the accumulation of data*. The written result of the research carries with it quotations from the data to illustrate and substantiate the findings.

The duty and task of the qualitative researcher is to describe the meanings shared with the participants, which may make it possible to explain why people behave in a particular way or mode.

Qualitative methods are humanistic in nature. This has a bearing on how people are viewed. When people's utterances and actions are reduced to equations, we lose the *human side of social life*. The qualitative method

allows people to learn about concepts such as responsibility, accountability, frustration, abuse, love, hatred, whose essence is lost through other research approaches.

It is pivotal to get meaning in the qualitative research. Researchers who engage in this kind of a research approach have their interest in the way they interpret and view their lives.

Qualitative researchers tend to analyze their data inductively (Bogdan and Biklen, 1992:31). They do not search data to prove or disprove hypothesis they hold before engaging in a study, but rather, the abstractions are developed as the particulars that have been gathered are put together (Bogdan and Biklen, 1992:29). However, it is imperative to note that the researcher may still have the hypothesis but that should not be an instrument which will definitely measure the findings that have been gathered for the purpose of his study. For instance, one of the researcher's hypothesis in the study is: Reconciling the conflict between the autocratic hierarchical mode and the critical democratic modes of social organization as they relate to educational management necessitate a radical interrogation of the interests protected and promoted through each mode. This should be confirmed by the data collected without bias and influence by the researcher, otherwise, it will not be realistic and it may tend to lack accurate representation.

In this study the researcher uses a qualitative type of an approach because the intention is to draw and get the direct, most reliable, and most probable

understanding, feelings, attitudes and perceptions of educators towards learner rights in schools and this could be facilitated through interacting with the stakeholders concerned (Govender, 1997:167). In this case the researcher is an instrument. The interconnectedness between the researcher and the stakeholders concerned could therefore not be overemphasized hence the researcher has been working very close with them. The researcher felt that it would not suffice to make use of questionnaires hence he decided to employ interviews in order to entice the respondents into a conversation with him. Qualitative research has been found to be a very reliable method to arrive at reliable information of a study under investigation. Qualitative and phenomenological approach also has a very close relationship (Realer and Dave, 1991:125). Both methods are more interested in the content of thinking-and with both, thinking is described in terms of what is perceived and thought about.

3.3 SAMPLING

There is a vast difference between sampling in the qualitative research and sampling in the quantitative research. It has been indicated that the logic of each approach is unique and the purpose of each strategy is different. In most cases the quantitative method relies on large samples that are randomly selected from the existent population. In contrast the qualitative focuses deeply on relatively small samples, even on single cases selected purposefully Patten, (1990:169).

According to Patton, there are no rules for ample size in qualitative research.

The size of the sample depends on what the researcher wants to find out about the study under investigation, the purpose of the research, what will be useful and what can be done within the time available and what can be done with the available information.

The intention of the researcher was to acquire information from stakeholders concerned but time constraints caused the researcher to confine his investigation to a more accessible population. In the present researcher's opinion, a small purposive sample of ten respondents, four educators, two parents, who are also serving as educators, two departmental officials of education in the South Durban Region of KZN, and two learners suffice for the purpose of the study under investigation. Purposive sampling occurs when the researcher chooses a particular group or place to investigate the study because it is known to be the type he or she wanted (McNeil, 1992:39). The researcher focuses on a small sample since this type of research looks into the detail and quality of an individual or a smaller group experience (Gay, 1992:231).

Validity in this instance does not depend that much on the number of cases studied as upon the degree to which a respondent faithfully represents a certain educational experience. According to Borg and Gall (1989:237), small samples probe deeply into the characteristics of the respondents and they often supply more knowledge than a study that attacks the same problem by collecting shallow information from a large sample.

3.4 THE ROLE OF THE RESEARCHER

Patton (1990:14) contends that in a qualitative research the researcher is an instrument. It is thus imperative to note that validity and reliability depends on the competence and rigor of the researcher. That means that the nature of both the negotiated relationship between the researcher and the respondent can have a serious impact on the conclusion drawn on the study. It is for this reason that the researcher has to develop a better understanding of the skills of working with people in order for him to accomplish the objectives of his study. Becker and Geer (in: Van Wyk, 1996: 129), argue, “the researcher’s own actions are as much part of the study design as the research instrument used”. The researcher has thus done his best to maintain a good relationship between himself and his respondents in order that the intention of pursuing his study does not lose focus. For instance, the researcher would not force the circumstances if he needed to secure an appointment with the respondent and suddenly, the respondent refuses the appointment because of personal commitments. If such cases prevailed, the researcher would allow the respondent to suggest the alternative dates suitable to him or her.

3.5 ETHICAL CONSIDERATIONS

In this study even before an actual interview could take place, anonymity was assured by indicating that no names would be revealed during the entire process of the investigation. The respondents were assured that the information they will supply will be used solely for the purpose of the

research and it would be made available to the promoter and examiners concerned and that if the respondents happen to be interested in the study, the findings will be made available to them (Netshiketa, 1995:5).

Having made mention of the above one may thus think or get the impression that this method is without potential errors, though it is not so. The researcher is aware that there is no perfect method in any investigation thus he felt a need to expatiate more on the advantages of the qualitative interviewing as a research technique.

3.6 ADVANTAGES OF INTERVIEWS

Flexibility is one of the most significant characteristics of the interview. The interviewer has an opportunity to observe the status of the subject under scrutiny and the way in which he or she is responding (Airy et al, 1985:342, Bailey, 1978:182 and Gay, 1992:203). In case of questions being ambiguous, not clear or misunderstood, meanings and clarity can be provided to the respondents. The interviewer can make follow up questions if he or she feels that the responses are incomplete or unclear. In other words the interviewer can press for additional information when the response seems incomplete or not entirely relevant (Airy et al, 1990: 342). The interview is most relevant for asking questions, which cannot be effectively structured into a multiple format, such as a question, which has a bearing on personal experience (Gay, 1992: 203). By ensuring a good and a trusting relationship, the interviewer may obtain the data that he would not acquire if he were to use a questionnaire. It is also imperative to

observe that the interview may result to the most reliable and sincere responses in an interview and that is more so because he can clarify and explain the purposes of the research and individual questions just like he did in the study (Gay, 1992:203).

There is great likelihood for the completion rate of the study under investigation in an interview process. That is more so because personal contact ascertains the likelihood for the individual respondent to partake and provide the desired information. Best and Kahn (1993:202) add to Bailey's finding (1978:182) that those who are unable to read and write may still be able to answer questions and even those who are not keen to write are still allowed an opportunity to respond verbally and they would feel happy to talk. Many people prefer to talk to the interviewer.

One other main advantage of an interview is that the researcher has got most, if not full control over his work. In some cases it is significant that respondents do not know the nature of their later questions because these may tend to influence earlier questions. This problem may mostly be encountered in the qualitative type of research because the subject does not know the forthcoming questions and cannot go back and change questions previously provided.

In an interview the interviewee may not obtain the answers from others as it often happens in mail studies (Bailey, 1978:183).

Although the qualitative research has its advantages, one needs to indicate that there is no perfect research method. It is thus of vital significance to refer to problems and disadvantages of qualitative interviewing as a research method.

3.7 DISADVANTAGES OF INTERVIEWS

Interviews are more expensive. The number of interviewees is less than the number of people that could respond to questionnaires (Weinberg and Pointer 1999:130).

Interviews are also time-consuming. Similarly Airy et al (1990:342) found that interviews are time-consuming and they further suggest that interviewers who opt for this kind of an investigation should plan their work well and set aside enough time for their interviews.

Furthermore, it is time consuming to arrange the notes, type them, and transcribe the recorded interview (Sparg et al, 1999:130). Interviewing does not require only a research skill, but also a variety of communication and interpersonal skills (Gay, 1992:203).

Another problem that qualitative research is faced with is that of respondents providing the researcher with inaccurate information, or more precisely the difference between the answer given by the responses and the true answer (Borg and Gall, 1989:448). Sometimes one cannot guarantee that the answers provided by the interviewee are an accurate account of

what happens in reality. This is called a response effect. To minimize this, the researcher will revisit the interviewees in case that there are observed gaps in the process of interviewing. This will be intended to interrogate the interviewees with an intention of collating adequate data in order to arrive at the most reliable findings to the perceptions and practices of learner rights in the South African schools.

It is harder for an interview to preserve the anonymity than the mailed questionnaire study, more especially if the latter does not make any follow-ups. The interviewer knows his respondent's name, address and telephone number. Thus the interview poses some element of threat to the respondent, more especially if the information is sensitive or embarrassing (Bailey, 1978:183).

Problems may also emerge if the interviewee is reluctant to divulge some information and if he is not keen to respond to some questions. Respondents sometimes tend to exaggerate matters and feelings, probably in order to emphasize their beliefs on an issue under investigation. Sometimes they do this in order to make the interview more interesting thus diverting from the issue under study.

The researcher is quite conscious of the danger that these disadvantages may make the research less reliable and less valid. Smith, however, (1972:26) contends "... in spite of these sources of error, that interviews remain the richest source of data in qualitative research". According to Wiersma (1991:194) there is no methodological technique that can ensure

complete accuracy of information. It is, however possible to get the most reliable information on the study under investigation. If that is the case, then one may rest assured that the study has been successful. Although the outline sources of error may attempt to interfere with the researchers work, he will make every possible attempt to take them into account in order to prevent any possible negative impact that may be incurred on the evaluation of the responses and evaluation of data.

The researcher also tried his best to prevent at any stage slanting in favor of his own beliefs and values in the study. The researcher attempted to conduct a fair and balanced investigation, without allowing his personal, political, and ideological beliefs to affect the findings of the study.

3.8 PREPARATIONS FOR INTERVIEWS

In order for the researcher to administer the interview process in schools, the researcher wrote a letter to the district manager of uMlazi district in April 2003 and permission was granted on 16 April 2003. A formal letter was issued out to the researcher on the 20th of April 2003.

3.9 REPORTING AND INTERPRETATION OF INTERVIEWS

According to Lofland (in Bogdan, 1992:193) there is no single conventional mode of presenting the findings. That suggests that researchers are flexible in dealing with their studies. There are diverse ways of reporting the findings, which may be influenced by the objectives

of the researcher. Patton (1990:249) suggests that the most significant principle in the interpretation of qualitative data is “focus”. This includes responding and addressing the major questions outlined in the research.

Sometimes, in certain instances, there is a duplication of responses by respondents hence the researcher does not present all the responses in full as they reflect on the interview design. It is sometimes improbable to report everything that has been collected in the interviews because even the comprehensive report will have to leave out a lot of information collected by the researcher. The researcher who tries to include everything in his study runs a risk of losing readers in the sheer volume of the presentation. Lofland supports this (in Patton, 1990:429) when he points out that:

Unless one decides to write a relatively disconnected report, probably because he lacked guidance and understanding of what qualitative research entails and intends unpacking he must face the hard truth that no overall analytical structure is likely to encompass every small piece of analysis and all the empirical material one has on hand.

The responses, which are presented, are, in the researcher’s opinion the important concerns in the area of study, and that is the perceptions and practices of learner rights in schools.

The researcher visited two schools in the KZN province. It is also of vital importance to note that all provinces are regulated by one policy on learner rights in South Africa. All these schools have the same cultural background, and are all Black South African Schools.

The researcher is aware that critical readers may raise objections to the subjectivity and generalizations of the findings that have been collected by means of interviews. It has, however been pointed out that it was on the researcher's opinion to choose what is relevant for this research. The research was primarily concerned with the experience, feelings, attitudes, perceptions and practices of learner rights in schools hence all the questions he prepared were centered around the question of learner rights in schools.

The qualitative researcher searches for meaning by means of phenomenological reduction (Powder maker in: Firestone, 1987:17). In this instance the respondents tried to respond to the question of perceptions and practices of learner rights in the South African schools.

The researcher has had his focus on an individual's experience in so far as learner rights are concerned. Smith (1972:41) argues, "With a small purposive system of selection, a small number of people can represent the opinions of the whole population under study or scrutiny". Fran Zen (1993:256) contended that it is not unusual in the human sciences for the views of the individual person to be applied to a tribe or even a large group for that matter. It is for that reason that the researcher focused his attention on a few individuals. This helped the researcher to get focused and avoid any form of confusion in so far as the study intended to investigate. It is for that reason that the researcher focused on learners in the school leadership positions because he believes such learners are likely to provide the reliable information when interviewed.

3.10 SUMMARY

In this chapter, the planning and design of the empirical research was discussed and a description of the interviews as research instrument was given.

Sampling comprised two schools, which were regarded as school A and school B in order to maintain anonymity. The two schools are used as setting. It is worth noting that the problem of learner rights cannot be resolved overnight. Even to try and provide absolute truths about the issue would be an attempt to oversimplify and undermine a highly complex matter, is however significant that the educator, as the initiator, engineer, and the director of the teaching and learning situation is a major role. Learners and parents as significant stakeholders have to work hand in hand with each other in order to ensure that learners interpret and implement their right accordingly and appropriately.

CHAPTER 4

PRESENTATION OF INTERVIEWS

4.1. INTRODUCTION

This chapter presents and illustrates the interviews conducted with the different interviewees. The interviewees comprise the parents, learners, educators and departmental officials. It suffices also to indicate that some of the questions asked vary, depending on whether the interviewees are exposed to those areas that the researcher intends investigating and considering that this is purposive sampling. For instance, the researcher deemed it fair to refer to the question of whether or not all stakeholders are involved in the drafting of the learner rights. The likelihood was that it is the departmental officials who should know about the dissemination of such information to all the relevant stakeholders in the education department after the education policies on learner rights have been drafted because they (departmental officials) work directly with the education department policy makers in the departmental office sections.

The data on the interviews following hereunder have been reproduced without editing. As such they represent or rather reflect the interviewees' responses on the perceptions and practices of learner rights in Black South African Schools. It is also safe to indicate that the aim of this study was to establish the root cause of the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators

in the context of educational management. It has, therefore been important that the drafting of the interview questions be derived from the aim of the study, and that is exactly what the researcher considered when he was preparing his interview questions.

4.1.1 EDUCATOR INTERVIEWS

A INTERVIEW# 1

IDENTIFICATION PARTICULARS

Name of the educator Mr. A

Name of school: High School 1

Learner enrolment: 622

Educator enrolment: 16

Date of interview 10/04/2003

PROFESSIONAL QUALIFICATION AS A TEACHER

My qualifications are B. Ed. and STD in education.

HOW LONG HAVE YOU BEEN TEACHING IN THE DEPARTMENT OF EDUCATION?

It is seven years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

Geography and English.

WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering English and Maths.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE SUBJECTS?

From grade 10 to 12

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 8

Right, now I am coming to the questions that brought us together today.

I just want us to delve on how you understand and feel about learner rights in schools. I also want to tell you that the information you will provide to

me regarding learner rights will never be used against you, but the purpose is to complete my study on learner rights in the South African schools.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

I think it is a right for a learner to receive education. Like, for instance, no learner has got to be refused entry in any school. Again, learners have got a right to receive good education, in fact, that is education of quality, and, of course, to receive all that under the banner of respect, and that is to be treated with respect they deserve as full South African citizens. Learner right, in short is based on the rights of learners in a school to be given the right education, which is in accordance with their needs. In fact, the rights of learners protect learners against abuse as it happened during the apartheid era. During the apartheid era learners were given the education, which was inferior so that the Whites would always be able to dominate them. The education, which was provided to Africans, did not provide learners with the skills they needed.

Do learners have rights in schools?

I will say, yes. Learners have got rights in schools though I am not sure if they know them. Why I say that is because in principle, learners' rights are

there in the constitution of the school, and in the school policy, but whether they understand them or not is a different issue because sometimes, you think learners are going to practice their rights effectively, but you find that they do their own things. What I am trying to say is that though learners have rights, it is sometimes hard to say that learners now know and understand their rights. Sometimes one thinks learners understand their rights and all of a sudden, you find that learners are doing something, which is contrary to their rights while at the same time claiming that they are doing something which is within their rights.

What kind of rights do learners have in schools?

To learn, to get equal rights with others, to get education of quality, not to be punished, to learn what they want, to be respected and so forth. For instance, learners have a right to be taught by people who understand their needs, thus such people will be able to provide learners with good education, which will be characterized by their needs. That, however does not mean that people of their race can only teach learners, but learners need to be taught by people who will treat him with respect. It is thus important that the educators who teach learners must understand learners' needs so that they will always respect learner' needs and learners themselves

What do rights mean to learners?

They mean that they must not do their work. I will not lie and say that learner rights mean that learners look at them (*learner rights*) as something

they respect and something that could help them. Like, learners believe that they can use their rights to rebel against teachers, and do all sorts of things against their educators, like disrespecting educators and at the same time justify themselves that it is within their rights to disrespect educators. Actually, learners think that rights are a weapon through which they can attack educators, reason, probably because they think teachers are their enemies. Learners never think that they have to use their rights in a way that will benefit them in their education.

How?

Like, not to be punished for not doing their homework, not going to school if they do not feel like going to school, and not paying the school fees and things like that. More especially when learners talk about their rights, they only think about how they would go about defending themselves against their educators. They never think of their rights in a more positive way. In short, I will just say that learners are not sure between what is their right and what is not their right. All I can say to you is that learners are crazy of these so-called rights of theirs.

In your own opinion, do you think learner rights help learners?

I do not think learner rights help learners. For as long as learners think that their rights should be used to fight educators, their (learners' rights) will not help them because learners always remember their rights when they have done something wrong to their educators. Once they have done

something wrong and they have to be punished, learners will then remember that, by the way, there is something called learner rights. Learners can hardly think that their rights are there to help them facilitate their learning and also protect them against exploitation by “naughty” adults.

Do you think learners understand their rights?

I would say, yes but partly and not all of them. In short most of them do not understand their rights. In fact, to be very straight forward in trying to answer your question, I would say that learners do not understand their rights, otherwise we would not be sitting with so many problems which are caused by learners who always claim to have their rights, and more especially learners who always claim that teachers are interfering with their rights. I think educators are always willing to make learners understand their rights accordingly.

In your own understanding, what is a right?

There is no right without an obligation. In fact it is significant for anyone to have

Commitment before he can talk about rights so that his right can be actualized to the fullest. Actually, after all is said and done, one should be responsible for his or her own right; hence learners should be able to strike a balance between a right and an obligation. One cannot separate a right from an obligation. A right is therefore something that one is entitled to,

but a right is not existent without a commitment. In other words, a right becomes invalid if it is not accompanied by a commitment. In order for one to have his or her rights observed, one needs to exercise his right with responsibility and commitment.

Do learner rights have a bearing on African culture?

Very little if at all it does. In fact learner rights are still influenced by the White culture. There is nothing African in the learner rights. I just don't think there is anything at all. There is still a lot to be done in South Africa if at all we want the education to address the problems we have in the education of our learners. I will say that there is no African culture in learner rights currently in South Africa. If it was so we would not be experiencing what we are experiencing in our schools because learners have lost even respect, which is part of our African culture.

How far does Western education influence learner rights?

A lot because no African way is touched in learner rights and its formulation, but instead, we are getting a too westernized way of dealing with learner rights. In fact, if the department of education was serious about addressing the question of learner rights, it would have even prepared a document in one of the African languages in order for learners to have a better understanding of what is documented as well as better understanding of their rights.

What is the relationship between African culture and Western culture in relation to learner rights?

There is none. There is nothing existent at the moment. May be later on we shall have something reflective of such, but currently I don't think there is anything. Maybe what I can say is that the relation one can talk about is that the African culture was swallowed by the Western culture hence African smell something good from the Western culture, hence forgetting about their culture.

You mean the two do not reflect in the rights of learners?

Maybe only the western culture is more emphasized, even the structures of discipline are too European and do not cater for African learners in so far as their cultural background is concerned. For example, if a learner has done something wrong there must be a number of people listening to that case. For instance, in some structures there must be even the representative of the learner who has done something wrong. You know, this has never happened previously. A learner has done something wrong, but a learner who is also a culprit represents him. Maybe he has his own wrong things he has done. Besides the wrong things he has done, you know, Mr. Mkhize, in the past a learner who is not even matured would never be party to a decision, which would be taken by adults against a learner. A child would not sit with his elders. I just do not understand how that would ever happen.

IMPLEMENTATION/PRACTICE OF RIGHTS

Do learners practice their rights?

No. I do not think so. In fact what learners practice is the total opposite of what should be regarded as learner rights. Instead of practicing their rights, learners prefer to fight their teachers, and that is detrimental to them. Otherwise I will just tell you straight away that learners do not practice their rights.

Why do you think they do not practice their rights?

They cannot practice something they do not understand. Learners do not understand their rights hence they cannot practice them. In fact learner rights are designed to suit a particular group and that is the Whites. Blacks are not accommodated in learner rights. There is very little or nothing which can be attributed to Africans in so far as learner rights are concerned. That thing is for “Abelungu”. Actually I am sorry to put it that way but it is real. In our culture there is nothing like children will at any stage have any rights. Learners are learners and of course, they need to be looked after by elders but they have never in the history of South Africa had anything like “ilungelo. That is just new.

Are rights implemented in schools practically?

Like I have said before, learners cannot practice something they do not understand. In short, no rights are practically practiced in schools. Yes, there are structures such as the Representative Council of Learners, but that does not mean that what learners do from those structures, they understand, and that is why they sometimes take wrong decisions on behalf of learners. Sometimes you will find that they make submissions about a teacher who is strict in the school. If that teacher punishes them for the wrong they have done, then they will say that they do not need that teacher in the school because he is infringing with their rights. That is really not in order because that educator may be helping a learner so that he remains disciplined.

Do learner rights have any influence on educator-learner relationship?

Of course, yes

How?

At times you will find that learners quarrel with educators over what they would regard as their rights. One would not expect that to happen where there is a relationship between a learner and an educator because the two are not enemies and besides, learners have a duty to respect their educators, and not to disrespect them. In fact, how does one start to disrespect a

person who has come to offer him some help, more especially, his parent, because an educator is his or her parent?

Like for instance, again an educator would want to punish a learner for not doing his homework and in response to that a learner would resist punishment, claiming that the teacher is infringing with his democratic right not to be punished.

Are learner rights in conflict with schools?

If they could be properly pronounced, I do not think they could be in conflict with schools. But I would say, for now, and in many institutions there are serious conflicts between learners and educators as a result of learners claiming that teachers are infringing with their rights. Like for instance, I have made an example that a teacher is trying to help learners get disciplined by punishing them, and suddenly learners begin to claim that the teacher is infringing with their rights. I would just say that this “learner right thing” is nonsense because it doesn’t help a learner towards achieving what he intended to achieve when he came to school. In fact it is the very thing that violates a learner right to learn. You know, recently, in a school which is my next door, an educator was stabbed, in fact it is two educators who were seriously stabbed by learners because they (educators) refused him to join them in a school trip to Newcastle because was not in a school uniform. What is annoying most is that learners had been told that they should be in school uniform. Two poor educators are trying to maintain discipline and unfortunately they do not know that they are digging their own grave by so doing. What is most irritating is that the

learners who did that they are still at school because of these so-called learner rights, but if a teacher could hit a learner for whatever reason, that teacher wouldn't be at school as we speak. He (the educator) would get a letter to stop him from coming to school with immediate effect and without notice, and I don't think that is fair. Learner rights are just a useless jargon, which has come to destroy our learners, unless all stakeholders are involved in learner rights construction so that everyone has input on how learner rights should be like and pronounced.

What do you mean by "properly pronounced"?

I mean if they could be clarified and given their meaning within the school context, learners would not abuse their rights, but, instead they would be, you know, eager to use their rights in a manner that would benefit them, and truly speaking, there would be no problem with that because that would help develop learners.

So you mean they are currently in conflict with schools?

Yes, I would definitely say so. More so because they are not a solution to learner problems but instead they create more problems for learners. In most cases, learners remember their rights if there is a confrontation between themselves and their teachers. I will say that learner forget that they have a right if their right is about them afforded a chance to do their work. Just like I said, learners remember to have their rights when the want to be rude to their educators.

Do learner rights have influence on the learning of learners?

Most definitely, you are correct. They have a very negative influence.

Why do you think so?

I am so saying because the learners tend to forget what they have come to school for and begin to concentrate on what they would think is their right and yet they do not even understand it. Even if you may check learners' results before 1994 when learners did not have any rights and learners' results after 1994 you will see a big difference. The grade 12 results before 1994 are much better than the grade results after 1994, and I am sure that learner rights have had a very big influence on learners' performance in school. I am just confident to tell you that learners are no more worried about their work now. All they are worried about is their right.

Do learner rights help learners in any way?

If learner rights could be properly explained to learners, I am sure they would make a difference in their learning and otherwise, but as for now I do not think learner rights are of any help to learners in the South African situation. May be in other developed countries, where learners take their rights with understanding and responsibility, probably there is no problem with regards to learner rights.

Are you suggesting that learner rights are currently not making any influence on learner education?

There is an influence but it is negative and learners do not gain anything out of it. Instead learner rights, currently in the South African situation are just destroying learner's education. Learner rights will actually take decades to be of value and of help to learners because the main problem is that learners do not understand their rights.

How do learner rights help learners?

Currently, I would be lying if I would suggest learner rights help learners in any way. Instead, I would confidently say that learner rights do not help learners.

They do not help learners at all. Instead of helping learners, learner's rights make the education of our learners more complex and complex. This will always for as long learners do not understand what learner rights mean.

Do learner rights influence teaching?

What do you mean by learner right's influence on teaching? Can you please explain that in a more simplified manner?

I mean in any way, be it positive or negative.

Ok, I think learner rights influence teaching very negatively because teachers find it hard to teach with the so called “learner rights” before themselves. Learner rights make the education of learners difficult, more especially when learners try to struggle with their rights, which they themselves do not understand.

Why do you think that is the case?

It is probably because learners do not understand their rights and as a result they end up frustrating teachers. You will see that when learners forget about what they came to school to do, but instead begin to fight their educators because they think their rights are a weapon to fight educators.

How?

By demanding something they do not understand, and when teachers try to make them understand their rights, they will fight them.

How do learner rights influence teaching?

Very badly and negatively, I would say.

Can you furnish me with one example of that negative influence?

For instance, learners would interrupt teachers during lessons, like by coming late to class without any sound reason and expect that teachers would keep quiet in return. You know, there are so many other examples

that one can refer to. These rights for learners are really spoiling learners. Learners have developed disrespect for their educators as a result of these rights. Really, I don't understand what the intention of this Government is to our generation and nation.

Do learner rights facilitate learning?

If they could be properly related to learners, they would serve a very good purpose. Learner abuse by any individuals would be brought to a stop, and learners would be in a position to receive quality education. That would, however if every stakeholder could be afforded an opportunity to say something on the development of learner rights.

What else?

Like that learners would observe their rights with commitment. Learners would take their rights seriously, thus learning to apply them accordingly and appropriately. Learner rights should observe learners' background, like their religious, economic cultural and even historical background.

Do learner rights facilitate teaching?

I would say no. In actual fact learner rights should be meant to facilitate learner education, but the opposite of that happens when learners themselves do not understand their rights because it is then that learners begin to do wrong things and they use these rights to challenge educators

in a wrong way like refusing punishment after they have done something wrong.

Do learners have rights at home?

In most cases, you will learn that the rights of learners are a new thing to Blacks. I must just say that even to those families who are trying to make their lifestyle look like that of the Whites, but it is hard to adjust fully to the "White's lifestyle". Otherwise, coming back to your question, I want to say that learners do not have any rights at home. The right that the learner has at home is that of being looked after by her or his parents, and maybe get what he needs as a learner, other than that, a learner at home is a learner. Maybe, before one says a lot, regarding your question, Mr. Mkhize, I think that it is important to bring to your attention that in our (African) culture, children have got to respect the elders. All these new terms like child abuse, and all these things are just a new thing. You know, I am not saying that we do not have genuine cases of child abuse, but what I am saying is that children are abusing these rights. Some learners go to an extent of laying charges against their own parents for punishing them for the wrong things they do. Otherwise, at home learners do not have any rights. Yes, the government is trying to force these things (children rights) down our thoughts but the children are still belonging to their parents who have their own ways of doing things in their communities.

B. INTERVIEW # 2

IDENTIFICATION PARTICULARS

Name of the educator: Mr. B

Name of school: High School 1

Learner enrolment: 622

Educator enrolment: 16

Date of interview 10/04/2003

PROFESSIONAL QUALIFICATION AS A TEACHER?

My qualifications are STD in education.

HOW LONG HAVE YOU BEEN TEACHING WITH THE DEPARTMENT OF EDUCATION?

Its twelve years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

Geography and English.

OK. I SEE. WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR

YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering English and Maths.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE SUBJECTS?

From grade 10 to 12

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 8

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

It means a learner right to education.

Can you elaborate on what you mean by “learner right to education”?

I mean err... njengokuthi eeh, that every learner should be allowed education under any circumstances. For instance be it the learner has money or not, regardless of his race but he is still entitled to quality education. You know, during apartheid, for instance even if you wanted to learn in a particular institution, but you could not be allowed to enroll in that institution if it was meant for Whites.

Do learners have rights?

Ja, learners have rights. I mean, rights of learners are a “buzz” term these days. Learners definitely have rights today. These rights are always spoken of even in the media and schools. Very few people can say today that they do not know a thing about learner rights. No one can say, like he or she does not know that it is learner’s right not to be punished with the stick at school. That on its own is a learner right at school. That should be there even in the school policy.

What kinds of rights do learners have in schools?

Too many rights.

Like what? Just mention a few.

Like abusing educators, not to be punished for doing wrong, a right to pass, a right not to do the school work if it does not please him to do it, a right to be absent from school and many more.

How do learners respond to their rights?

Anything that suits them. Even if it means it is detrimental to their lives, but for as long as learners want it, they will always regard it as their right. That is how learners respond to their rights. It is so stupid and naïve. What I am saying to you is not a joke, Mr. Mkhize. You know, the government can protect learners when they talk of their rights. Rights, to our learners are anything they want at any time.

Like what?

Just like when the learner does not want to do the teacher's work and he does not want to be punished for that. If the teacher insists that he will punish him or her because he (the learner) did not do the teacher's work, the learner would refuse to take any form of punishment from the teacher.

Do learners understand their rights?

I do not think learners understand their rights because so many a times you find them infringing with other people's rights and claiming that that is their right to do that. You will also find that learners do not find anything wrong with that kind of behavior.

Can learners differentiate between a right and an obligation?

If learners understood that, schools would not be experiencing so many problems with learner's discipline at school. In fact, to respond to your

question, I would boldly say that learners do not understand their rights. Instead, learners like to create problems with the so-called learner rights at schools.

Which problems are you talking about?

Sometimes you find that learners demand to pass to the next class even if a learner has failed because he believes it is his right not to repeat a class, let alone that one of being punished for contravening some of the school rules. Sometimes, learners tend to confuse some clauses reflected in some policy documents of the department Of Education, for instance, one clause talks about continuous assessment, and learners would make assumptions that no learner can repeat a class, and they further think that every learner has a right to be pushed into the next grade or class.

Can you justify or speak to that?

Just, like I said before I don't think learners are interpreting their rights appropriately. So many bad things have now happened as a result of these "learner rights"

I think there is such a bad influence because this "right thing" is too American. Learners do not respect their teachers now. You know during our times, there were no rights.

Learners were just learners and they got very good education.

How do you think learners reconcile the rights before and after 1994?

Is there any difference in terms of how learner rights are perceived?

I would say there is no African culture or “Ubuntu” accommodated in the whole thing. In fact that is the main reason I would say causes people to interpret these learner right thing. Mainly because learners have no basic rights from home, now it will be a problem to link these rights with nothing at school. Most learners know nothing about rights at home. The right that a learner would probably have is to be guided towards responsible adulthood, but that would not warrant them to challenge elders, even when we were still growing up, that would never happen, but I mean today things have changed, children are giving orders to their teachers, and teachers have got to subscribe to that, unfortunately.

Do you think learners understand their rights according to their way of life as Africans?

Not at all. You know, Mr. Mkhize, it will never happen that learners understand these rights because these so-called “rights thing” is a strange thing to them and it has not been properly explained to them hence it is bringing us so many problems in our schools. You will find that at school learn about all these things, which may not be wrong, but communication between all the stakeholders in the system because we all come from different backgrounds politically, historically, religiously, culturally ensoforth. When a learner goes to schools, he is told about all these rights and at home learners can hardly have rights because the learner is the

responsibility of learners and that tends to confuse learners even when they go home now after school. Learners are just confused by these rights because they themselves do not understand these rights of theirs.

Do learners have rights at home?

Very few parents if there are any who will ever say that a child has a right at home. You know, “chief”, African parents are not like “white” parents. In our “African” culture there is nothing like learner or children’s rights. Yes, learners deserve respect from anyone be it is an adult or their peers, but these are not observed so much that learners o should I say children would begin to question what they are told by their parents. In an African way, there is no way that a child would question an adult. That would be treated as total disrespect

IMPLEMENTATION/PRACTICE OF RIGHTS

Do learners practice their rights?

I do not think learners know their rights therefore I do not think a person can practice what he does not understand. More especially that very little has been made or done to make learners understand their rights hence learners cannot adequately practice something that they have no knowledge of.

Are rights implemented in schools practically?

They are implemented, but wrongly. That is why we have so many crisis in our schools, learners trying to fiddle with something that they do not understand, and on the other side, educators are trying to defend themselves against learners who to them look like crazy with this “rights thing”

What makes you say so?

I say so because everyone interprets the learner rights, as he wants. I do not think anyone is certain of the actual meaning of learner rights, and really, Mr. Mkhize, I would personally tell you that learners do not understand their rights, and let alone actualizing them, that’s another issue, “int’ engekho mf’wethu, and we need to admit, it’s non-existent. We still have a long way to go with this thing. Something is going wrong here, and unless it is corrected, our education is heading for trouble. You know “lezi zingane will kill us with this right thing”

Can you give a practical example to that effect?

Just like many learners believe that they have got a right not to pay the school fees, of which is not the case. A learner right is that one to learn but not to abstain from paying school fees. And I am afraid because the Government does not explain this adequately and explicitly to learners hence confrontations take place between educators and learners

Do learner rights have any influence on educator-learner relationship?

A big influence. It is, however important to state that the influence is negative because at the end of it all that influence does not benefit the client, which in this case is the learner.

Why do you think so?

Because learners sometimes claim from their teachers what they think is their rights and they suddenly find themselves in serious confrontations with their teachers. It is thus a problem because once a learner has a confrontation with his teacher, and then it is unlikely that he listens to what the teacher says to him hence finding learning difficult for him, which may eventually lead to his failure at school.

Can you quote one example of such?

Think of a child who is rude during the teacher's lesson and expect a teacher to turn a blind eye because a teacher has no right to punish the learner. Once that happens at school the situation will no more be conducive for teaching and learning because there will start unnecessary confrontations between learners and teachers.

Are learner rights in conflict with schools?

I believe, yes, more especially if they are not correctly interpreted and practiced.

If such happens that causes unnecessary conflicts between educators and learners. For instance for whatever school and learners to be successful, discipline is a prerequisite but in most cases it is hard for our schools to preserve discipline whilst our learner are concentrating on their rights and not on their studies.

Do learner rights have influence on the learning of learners?

Yes, if properly carried out, these would produce good influence but if not, then unfortunately these will have bad influence, as it is happening right now. Learner rights have led to so many negative effects on our education and more especially to the education of our learners, and it is so unfortunate because learners are not aware how this is destroying their future.

Do learner rights help learners in any way?

It depends.

On what?

On whether learners understand those rights as well as their origin. But as I speak, learner rights in the South African context do not help our learners. May be in other countries, learner rights help learners because they understand them, but with us and here in South Africa, no, no, no, I don't want to deceive you, may be it's still going to take decades if not more than that because learners still have to be taught the intention of their

right, things like, what is the intention of their rights, where do these rights come from when after so long learners have survived without rights. All that has to be addressed in learner rights school documentation

How do learner rights help learners?

They help learners to receive quality education, but that is provided learners fully understand their rights, otherwise they will destroy them.

Do learner rights influence teaching?

Yes but depending on whether they are adequately understood or not. Like, just now in South Africa learner rights are influencing teaching, but in a very negative way because very few people understand them, even educators themselves, I do not think they understand these learner rights because they are new to them as well. Then, how do you expect people to monitor something that they do not understand?

How do learner rights influence teaching?

If well carried out and understood as I mentioned earlier on, these will bear good fruit, but if not carried out appropriately then the system is going to suffer just like it is happening in our schools.

Can you explain how the system is suffering in our schools?

Like say learners are no more focusing on their work instead they are absorbed into what they themselves not understand and that does not help them because they have forgotten the primary reason for going to school and that is to learn and nothing else. In essence, learners' lack "inhlonipho", they lack respect for education and their educators.

Do learner rights facilitate learning?

If properly understood by all stakeholders.

Who are those stakeholders?

I mean educators and learners. Those are actually very active stakeholders in education and it is for that reason that these people clearly understand everything that happens in the school in order for their schools to be successful.

Do learner rights facilitate teaching?

If they are well looked after and they carry meaning and interpretation which is common to both educators and learners.

Do you think learner rights currently in South Africa carry that commonality in terms in terms of what they should be doing?

No, no, no, not at all.

What do you think could be the reason for that?

Mm...may be there was no enough time to communicate learner right to both learners and educators. I think a lot has got to be done because the question of the origin of these rights has got to be looked into as well, more especially since this learner right issue is a new thing altogether to our learners.

INTERVIEW # 3

IDENTIFICATION PARTICULARS

Name of the educator: Mr. C

Name of school: High School 1

Learner enrolment: 622

Educator enrolment: 16

Date of interview 12/06/2003

PROFESSIONAL QUALIFICATION AS A TEACHER

My qualifications are B. Ed, FDE and STD in education.

HOW LONG HAVE YOU BEEN TEACHING WITH THE DEPARTMENT OF EDUCATION?

Its eighteen years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

History and English.

OK. I SEE. WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR

YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering English and Maths.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE SUBJECTS?

From grade 10 to 12

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 8.

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do we mean by learner rights?

When we talk about learner rights, ehh I think it is when learners are accommodated and given quality education, and of course quite a number of other things that they are entitled to in the education fraternity, but mainly, I would say quality education

What do you mean by quality education?

It refers to good education, like the one, the Whites have been receiving in the past during the apartheid era. To be allowed an opportunity to learn in small manageable classes so that the teacher will be able to focus on every learner in his class, also must get good learning material.

Do learners have rights in the school?

According to the South African constitution, learners have rights at home, but those rights are not observed at home because learners have got parents who are looking after them at home. Literally speaking, what is important is that learners must respect their parents thus in return parents ensure that they are looking after learners. Children's rights are not talked about in our context in South Africa.

What kind of rights do learners have in schools?

Learners cannot be punished today, they can get free education, they can sit in the governing body and represent other learners, and they can get free stationery and books without payments and things like that.

What do rights mean to learners?

I cannot say because I do not think learners understand their rights properly. If there is anything that learners understand with regards to their rights, it must be few and by very few learners.

What makes you say so?

Learners do things and they think those are their rights, eer...like you find that a learner hits another learner in class when the teacher is there and if the teacher wants to punish him, he or she resists punishment and even say that the teacher is infringing with his rights as a learner.

Do you think learners understand their rights?

Just like I said previously, learners do not understand their rights. If there are any learners who understand their rights they must be very few because to most learners, their rights are a certificate to be rude to their teachers.

Do you think learners are committed to their rights?

That is just a monster to our learners. I doubt even if the term obligation exists in their vocabulary. Inganekwane (fairy tale) leyo to learners. These learners of ours have no sense of responsibility. If at all they understand the difference, it is in theory and not in practice. I will just say that learners are not committed to their rights.

Do learner rights have a bearing on African culture?

No, I do not think so. This is just a European something which does not have to do with the African culture.

How far does Western education influence learner rights?

A lot because everything on learner rights has its basis on the European culture. In fact the entire thing is just centered around the Western culture because there is no mention of the African culture in the entire thing. This is just colonization in disguise. That is why things are like this.

How far have learner rights influenced their behavior after 1994 and currently?

If there is any influence, what is the difference between the way learners understand their rights and what rights should be portrayed to them?

There is none because all learner rights are based on the Western type of the system. Instead, what I can say is that learner rights are misleading

learners so that they think they can do what they want to do without the consent of their teachers. With the so-called learner rights, learners think they have been granted a license to disrespect their educators, do what they want to do at school, use drugs, refuse to take punishment and so on. To me, this is not in line with the manner in which learners should be carrying themselves. Learners have developed a negative attitude towards their educators. Learners are so unruly. They cannot listen to anyone. Learners are so obsessed with their rights. Learners need a person who is going to tell them that this is not how things are done if they want to succeed, but unfortunately it cannot be teachers. Maybe the Department of Education with the government can do that because they are the cause of this entire thing. They brought these rights with them to learners because they wanted to be voted for but they do not have the interest of the learners. Learner rights are just a political terminology, and it will never work with the African learners.

Do you have rights at home?

It is hard to say that learners have rights at home because such a language is not even discussed at home. A learner at home is that of a right to be a child. For instance, parents have to provide children with a right to be a child, get security, food and a shelter. Other than that learners do not even demand their rights at home.

IMPLEMENTATION /PRACTICE OF RIGHTS

Do learners practice their rights?

Yes, learners do practice their rights, but wrongly.

What do you mean by practicing their rights wrongly?

I mean that they do wrong things and say they are their rights. Like, you will find that they demand that their educators do not punish them even if it means they have done something wrong because they will suggest that if they are punished, then the teacher is infringing with their rights.

Are rights implemented in schools practically?

Some of them, I would say yes, and some not at all, more especially they like to practice those to their favor.

Can you give me the example of that which is in their favor?

Like not to be punished for doing wrong.

Do learner rights have any influence on educator-learner relationship?

A big one.

Just elaborate on that, please.

If learners observe their rights accordingly then it would help facilitate the teachers' work in the class but if learners use their rights to attack educators, it becomes a problem.

Is that your experience in your school?

Though I would not delve much on that, but I would say yes.

Are learner rights in conflict with schools?

I believe so, you know learners always demand what they do not understand and it frustrates innocent educators as if they do not have any rights.

Do learner rights have influence on the learning of learners?

Yes.

How?

For instance, it gives a chance to learners not to work to the maximum because they know that no one will punish them for not doing the schoolwork. Learner rights teach learners to be lax with their work. Learners are no more serious about their work.

Do you think that is a good idea?

No, no, no, never. I don't think so. Learners are supposed to be doing their work seriously because if they do not do that, then the first people to suffer is learners since learner rights, in most cases will harm them, more especially when they work against them when learners are beginning to be rebellious against their educators.

What would you propose must be done, then?

Like I said before, learners have forgotten to concentrate on their studies and they are busy challenging teachers with something that they themselves do not understand, and that is their so-called rights.

Do learner rights help learners in any way?

Yes, but provided that they are carried out properly and they are fully understood by both learners and educators. But as for now, I don't think learner rights are of any help to learners other than destroying learners.

In your school, do learner rights help learners?

Not until learners understand them. Otherwise, I would without any uncertainty say that learner rights do not help learners at all in my school. That, however does not mean that, if learner rights are properly instituted in a school, they would not serve the purpose they are intended to serve.

How do learner rights help learners?

Learner rights must actually help learners unsure that they receive quality education without discrimination as it used to happen in the past. Learner rights may also help to protect learners against exploitation by non-committed educators in the school because, mind you, not all educators are honest.

Do learner rights influence teaching?

Yes.

How does this happen?

This could be positive or negative depending on whether an educator and a learner have a common understanding of learner rights. And, of course, if there is no common understanding of the theme between the two, conflicts is likely to prevail as it is happening with many of our schools.

How do learner rights influence teaching in the classroom?

In many ways.

Can you mention a few?

You will find that a learner provokes a teacher with what he may call learner rights, like say he wants to leave the class without the teacher's

permission, then the misunderstanding between the teacher and the learner begins. A learner, however who knows what he is doing at school and understand his right to learn will always respect the teacher because he wants to observe his right to learn. Such as his studies. That is what is happening in our schools, even in this school of mine.

Do learner rights facilitate teaching?

I think I answered that question when I said that would be determined by whether both the teacher and the learner understand the learner rights. If that is so, then teaching will definitely be successful, unlike what is happening because people are talking about something they do not understand.

INTERVIEW #: 4

IDENTIFICATION PARTICULARS

Name of the educator: Mr. D

Name of school: High School 2

Learner enrolment: 924

Educator enrolment: 16

Date of interview 12/06/2003

PROFESSIONAL QUALIFICATION AS A TEACHER

My qualifications is STD

HOW LONG HAVE YOU BEEN TEACHING WITH THE DEPARTMENT OF EDUCATION?

Its ten years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

Geography and Afrikaans.

OK. I SEE. WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering English and Afrikaans.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE SUBJECTS?

From grade 8 to 11

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 8

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

It is when learners are entitled to quality education regardless of their color. Quality education that learners should be entitled to is that on which does not discriminate, but that which allows them an opportunity to actualize their potential without prejudice.

Do learners have rights in the school?

You know besides that most parents would argue against learner rights at home, even learners, most of them see no reason to be against learner rights at home. Learners are not worried about their rights at home. They just submit to the rules laid for them by their parents. Learners have got to respect their parents, and in return to that, parents are able to arrest and listened to them

What rights do learners have in schools?

Rights to learn, right to any institution of education, a right not to be corporally punished and a right to his opinion, and a right to be allowed an opportunity to express himself.

What do rights mean to learners?

To learners that we have in our schools, rights mean to disrespect their teachers, to abstain from doing their work and to be unruly, "badelele". That is how learners interpret their rights in our schools.

Do you think learners understand their rights?

No, I do not think so. If learners had the understanding of their rights properly, then teachers would not as we speak be confronted by so many learner problems. Everything would be smooth without a problem.

Why is that the case?

Maybe these rights were not properly communicated to learners so that they understand them well. May be one other thing is the question of training learners and educators so that they will all understand these rights, and not leaving out the background of these rights. Where do these rights come from is a big question because learners need to be taught about that as well. But all that centers around the issue of communication.

What do you mean by “communicating them well”?

I mean like explaining what they mean as well as how learners should use them for the good of their education, and probably even their origin. All that should not be ignored if we are serious about proper implementation of learner rights.

Can learners differentiate between a right and an obligation?

They cannot because they can hardly understand a right then how can they understand such a complicated term such as obligation. Just like I indicated earlier on, there are a number of things learners are to be taught regarding their rights.

Do learner rights have a bearing on African culture?

Very little African culture can be spotted on learner rights. In actual fact I is possible that there is nothing at all. All learner rights are a reflection of White supremacy and culture. Unfortunately that is the truth.

Why could that be the case?

Because education is still in the hands of the whites and they are still dominating education. That is why then most of the prescripts in the education department, and every with other departments the reflection is that one of White supremacy and culture.

How far do learner rights influence learner rights?

I would say everything in education is still under Whites hence their ideologies are still dominant. Educational policies and many other documentation still show most of the Western culture. I would then say that that influences learners in many ways because eventually, learners have a problem of identity. They are unable to identify with their people hence making many mistakes in and outside the school situation.

What is the relationship between African culture and Western culture in relation to learner rights?

There is small relationship because the Western culture still dominates. In fact there is very little of African culture that is touched on education of our learners. It is when they have gone home that learners begin feel that they are African because they can do things the African way.

IMPLEMENTATION / PRACTICE OF RIGHTS

Do learners practice their rights?

Not practically. Theoretically, yes they talk about rights but in practice it does not happen. I don't understand what learners practice, but we do not have it in the African culture, it's just something I cannot explain because you will sometimes find learners quarrelling with their own educators, and things you would not find in our times, when we grew up.

Are rights implemented in schools practically?

As I said, no.

Do learner rights have influence on educator-learner relationship?

A big influence because learners derive joy from the teachers lesson that respect their rights. Learners like to be respected though of course some learners want to be feared by teachers.

Are learner rights in conflict with school?

Yes they are in conflict if there is a party that wants to abuse its power in which this case learners tend to abuse their rights against educators. But sometimes you cannot blame them because these rights were not properly disseminated to learners hence so many problems in our education.

How?

Maybe a learner would not take orders, like writing the educator's homework and further claim a right not to be punished for such conduct. Such a learner is in no uncertain terms abusing his or her power.

Do learner rights have an influence on the learning of the learners?

Yes but it all depends on how learners understand their rights. Just like it is happening, learners do not understand their rights thus interpreting them

wrongly and that makes the whole system suffer because many a times learners spend a lot of time trying to understand something which was not explained to them adequately.

Do learner rights help learners in any way?

Provided that they understand what do there rights mean. Otherwise their rights will never help them as they currently do not help them.

How do learner rights help learners in your school?

They would help them if they understood them, otherwise, no. Until learners understand their rights, they won't help them. Learners need to be workshopped about their rights until they understand and accept them as part of their lives, then we will talk about learner rights working for learners in a more positive way.

Do learner rights influence teaching?

Yes and no because they do not have much to do with the teacher. Very little or nothing which speaks to the teaching aspect and position as against learner rights and as a result of that teaching suffers because learners do not understand that rights are there to protect their right to be taught so that their learning will be successful

Why do you think they have got nothing to do with the teacher?

Because they belong to learners and the teacher only teaches. Actually, educators were not even consulted when learner rights were formulated. But it is surprising that the very people who are not involved have got to monitor that process.

How do learner rights influence teaching?

I have said that learner rights have no influence on teaching except for disturbing educators who want to do their work, and unfortunately educators who are serious about their work.

Do learner rights facilitate learning?

Yes, because learners will work with confidence knowing that their educators observe their rights as students. Unfortunately, that doesn't happen because learners do not understand their rights hence currently we do not have a situation where we can proudly say that learner rights are facilitating learning in our schools.

Do learner rights facilitate teaching?

I do not think so. Even in the previous education system learners had no rights but still learners passed and they used to pass very well. And besides, if learner rights were properly presented to learners, together with

their intention, I think they would serve the purpose, but as for now, I think instead of remedying the situation, learner rights make matters worse in our education.

Do learners have rights at home?

Now that things have changed, the government of South Africa introduced rights for everyone, be it its at school or home thus I would agree that learners have got rights at home. This is also correct because some parents abuse innocent learners. Some adults, including parents rape their children. It is therefore good that learners have rights in schools

4.1.2 PARENTS' (EDUCATOR) INTERVIEWS

INTERVIEW #: 5

IDENTIFICATION PARTICULARS

Name of parent (educator): Mr. E

Name of school: High School 2

Learner enrolment: 924

Educator enrolment: 16

Date of interview 24/09/2003

PROFESSIONAL QUALIFICATION AS A TEACHER?

My qualifications are FDE and STD in education.

HOW LONG HAVE YOU BEEN TEACHING WITH THE
DEPARTMENT OF
EDUCATION?

Its six years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

Biology and Maths.

OK. I SEE. WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR
YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering English and Maths.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE
SUBJECTS?

From grade 8 to 12

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 8 and 9.

Right, now I am coming to the questions that have gathered us today. I just want us to delve on your understanding of learner rights.

What do you understand by learner rights?

A learner right means a learner's right to learn.

What do you mean by a right to learn?

It means a learner's right to have an educator in front of him and be taught. It is significant that in the process of him being taught, a learner must be taught the relevant and quality education.

It means every learner must be allowed an opportunity to learn regardless of any circumstances, be it money hindrances or whatever.

Do learners have rights in the school?

Of course, learners have rights in schools. If it was not so, we would not be having so many problems in schools. Learners use the very rights to quarrel with their educators if they try to discipline them if they do the wrong things at school. Learners have rights to express themselves the way they like and get away with it. No one can do anything to them. Even

the principal of the school cannot punish them. Even if a learner may beat another learner, the culprit cannot be punished because everything in the education department is a process. Such a case can take even three years before it is finalized, and by the time the sentence I given to the wrong learner, he has even forgotten what the charge was. If this is the case then, the entire thing is a joke and it does not serve the purpose it is intended to serve.

What kind of rights do learners have in schools?

Mm...rights like to be protected against any form of abuse like against any form of corporal punishment. Learners have a right to participate in any decisions that are to be taken by the school on their behalf.

What do you think rights mean to learners?

To learners rights mean nothing constructive. All learners know is that they must be rude to their educators and adults. That is what rights mean to learners, and other than that, I do not personally think learner rights mean anything constructive to learners.

Do learners understand their rights?

Not at all. If learners knew their rights they would not abscond classes and be rude to their teachers. This happens because learners do not know their rights. Learners do not even value their rights. In essence, rights of

learners should be used to work towards learner benefit, but its' vice versa. Learners use their rights to work against them. I really can't explain this. As a result of these rights, learners have totally lost respect of their educators. They fight educators and do all sorts of bad things, and that cripples their education.

Do you ever think learners can differentiate between a right and an obligation?

I do not think as for now learners can draw a line between the two. Everything is just the same to them. Learners are just crazy about rights and nothing else. Understanding them is another issue that they have nothing to do with. Learners' concern is that educators must observe their rights and that is all they need.

Do learner rights have a bearing on African culture?

No, I would not agree with that. If it was so, learner would not be doing all these wrong things they do because they would behaving a good understanding of their rights, but because they don't, then that is why learners behave as they do. Basically learner rights are something, I should say strange to learners. Learners have not been properly introduced to these "Western rights".

How far does the western culture influence learner rights?

Very well and to the benefit of the Whites only because all the rights are based on their culture. As for Africans to whom and by whom these rights have got to be practiced, there is no base. I must say that is to the detriment of the learners, more especially, African learners they end up suffering when they cannot interpret their rights properly without understanding where they come from.

What is the relationship between African culture and Western culture in relation to learner rights?

There is small relationship, because the designers of these policies are still the very Whites who were suppressing us during the apartheid regime. They never cared about the impact these rights will have in the education of the learners. I won't even talk about the politicians because they agree to these rights so that they will get the support of the learners during the "voting times". That is why they don't border themselves whether the learner rights are ok or not for learners. Just look, they themselves are not the product of learner rights, but when they speak about learner rights, they speak as if they know something about them. Our own learners have become a sacrifice because people are worried about their political power. It is unfair.

Do learners have rights at home?

That is what the government is saying but in my house, I have got my principles. I am not saying that I do not adhere to what the government is saying in terms of the constitution, but as a parent I have got my rules for my house. One other thing that we do not need to forget is that there are so many things that regulate the rules I lay for my children at home. For instance, I am a Christian, thus I expect that every six o'clock in the evening everyone is at home for prayers, and no one should be telling me that I am abusing my child if I expect him to be home by six o'clock for prayers. That is my home and if it is so, everyone will have to follow the line. I am the parent in my house and I deserve to be respected. Of course there are cases where some parents exploit children, but those are very rare cases, and I would say, yes, such cases have to be dealt with accordingly and where discipline against whoever is wrong in the process is to be instituted, let that be so. My observation, however informs me that learners are taking too much advantage with these rights they have. They want to rule their parents at home and when they get to school they want to rule their educators.

IMPLEMENTATION / PRACTICE OF RIGHTS

Do learners practice their rights at the school?

They practice them, but in a wrong way, hence our education department is this sick. There are so many problems in our education, and one contributory factor is the question of learner rights.

Like?

Like confronting educators if they are not happy about something at school. Learners have developed a sense of disrespect for their educators. They do not care who you are. Learners think it is within their right to challenge educators, and what makes matters worse is that they don't challenge educators in a more constructive way, but in a very destructive way, you can see that when you go to some schools. Our learners and their so-called rights have turned educators to nothing.

Are rights implemented in schools practically?

Very little is practiced by learners as their rights in the true sense of the word. Most of it is what learners claim to be their rights. I do not think learners have full understanding of what rights are supposed to mean to them.

Like?

Like resisting order and instructions from their educators. Learners are not prepared to take any instruction from their learners. I want you to get me well. I am not saying that learners must take whatever comes from educators without question, but the point I am making is that while challenging educators, let them do it with respect, and not with arrogance learners display to their own educators. Teachers are their parents, no matter what.

Do learner rights have any influence on learner-educator relationship?

Most definitely.

How?

Yes, for instance some learners are rude to their teachers so that educators even begin to fear them. That automatically influence teaching in a classroom situation because the teacher does not teach freely in class because of the learners' attitude in the school. Sometimes this will sound like a joke, but I have observed a situation where a learner bit an educator in front of me and nothing happened to the learner as a form of punishment. That learner is still at school as I speak to you. Educators are discouraged and the system will keep losing good educators. No one will tolerate this thing. Learners are full of disrespect as a result of these learner rights.

Are learner rights in conflict with schools?

If you are talking about the learner rights that we have in our schools, I would definitely say yes.

Can you elaborate on that?

For instance, some learners refuse punishment after doing something wrong and claim that has to do with their rights. It is surprising that if one has a right, then the other party does not have a right, and that's exactly what happens with our learners. In most cases, you will go to our schools and you will find serious confrontations and serious conflicts between educators and learners.

Do learner rights have any influence on the learning of learners?

So far the influence is very bad because learners do not understand their rights. And may be one other thing is that learners, even other adult people will always think that which is good, it is good because it has come from a White somebody. For instance learner rights have no link with the Black man's culture, but people are adopting it because it comes from a White man hence so many problems in the schools.

Do learner rights help learners in any way?

Yes, but rarely happens because learners are very resistant and yet they do not know. In most cases, learners use their rights for wrong things because

they have not been schooled in them. If learners could use their rights in order to avoid any form of exploitation, like not being taught, these rights would be working to the benefit of learners.

How do learner rights help learners?

As for now, they do not help them anywhere except for them to resist order and instructions from educators. Learners just misuse their rights because they do not understand their significance.

Do learner rights influence teaching?

They must influence teaching, like, for instance my little experience informs me that teachers who are usually confronted by learners who always claim their so-called rights always find it hard to teach because of the frustrations they face from their learners.

How do learner rights influence teaching?

By having learners receiving poor performance from learners who do not want to co-operate with them because their so-called rights are not yet observed by educators. Again, it's negative influence when these learner rights can lead to unhealthy confrontations between learners and educators.

Do learner rights facilitate learning?

Not these rights we have for now. In fact, these rights are frustrating learners. They do not facilitate learner studies at all. I don't think it happens. Instead these rights make learning more difficult, I should say.

Do learner rights facilitate teaching?

Of course, not, same with learning. Educators cannot exercise good and successful teaching when they fear their own learners who are always ready to fight and challenge them destructively.

Why do you think so?

No, no no no, this too many learner rights that they are not even familiar with frustrate Teachers. It is even worse if educators themselves are not familiar with these rights, and suddenly, they have to adjust to them. What makes matters worse is that these rights are not even based on their culture and origin.

How can then a teacher teach happily and sense when he teaches under unhappy conditions. Unless these rights are revised and suit everyone shall then influence and facilitate teaching in a more positive way.

INTERVIEW #: 6

IDENTIFICATION PARTICULARS

Name of the parent (educator): Mr. F

Name of School: High School 2

Learner enrolment: 924

Educator enrolment: 36

Date of interview 06/10/2003

PROFESSIONAL QUALIFICATION AS A TEACHER

My qualifications are STD in education.

HOW LONG HAVE YOU BEEN TEACHING WITH THE
DEPARTMENT OF
EDUCATION?

Its seven years now.

WHAT WERE YOUR MAJOR SUBJECTS FOR YOUR STUDY?

Accounting and Economics.

OK. I SEE. WHAT SUBJECTS HAVE YOU TAUGHT DURING YOUR YEARS OF TEACHING BETWEEN 1997 AND 2003?

I have just been offering Accounting.

AT WHAT LEVEL OR CLASSES HAVE YOU OFFERED THESE SUBJECTS?

From grade 11 to 12

WHICH OTHER SCHOOL GRADES HAVE YOU TAUGHT IN YOUR SCHOOL?

For one year I taught grade 10.

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

Learner rights is nothing else but a right of a learner not to be prejudiced so that he receives quality education which is in line with his societal needs. It will be remembered that. The Blacks have been discriminated against for decades previously, thus after 1994 democracy took its course, and as a

result of that a need was seen to address equity in the education of the learners so that learners as well are ensured quality education.

Quality education. For what good reason?

Like to serve his people where he comes from. For instance, today we talk of globalization thus if a learner finishes school, he or she has to serve people from all walks of life thus it is significant that he receives education of quality. The education the learner has received at school must be such that a learner is able to operate anywhere in the world. He must be able to serve anyone and anywhere in the world, and a learner must be able to provide solutions he can meet, economically, politically and otherwise.

Do learners have rights in the school?

Any school that is regulated by the South African Schools Act 84 of 1996 has got the rights of learners. One may however not run away from the reality that all learners handle their rights differently, depending on their experience, purpose and interpretation of their rights. Like, in my school, most learners do not understand their rights. There are very few learners I think understand their rights, and the rest of the learners do not understand their rights. Otherwise we cannot do anything because the government says learners must be allowed rights. One just feels a lot has got to be done to correct learner attitude in so far as their rights are concerned. Let me tell you, a number of things have gone wrong with the introduction of

rights after the democratic elections in 1994. Learners do not know their educators. Learners do not respect their educators at all. Maybe, to learners, rights mean disrespecting those who are senior to you, I really do not know. All the same, however, it does not mean that when learners do not understand their rights, then they need to be physically punished. Learner rights have not been well communicated to learners and that is why we have so many problems in our schools. Learners eventually think that their rights are a weapon that they can use to fight their educators. It is not so. One would, then find that some educators would behave just like those learners, and they would start beating up learners. I think what is important here, is the attitude of respect that should be displayed by an educator to a learner so that the learner will also respect the educator. It is important that learners are trained on their rights in order that unnecessary confrontations between learners and educators are avoided.

What rights do learners have in schools?

A right to learn quality education, which is non-discriminative just like I have indicated. The education that learners receive in schools today should be free from racism, but determined by learner's potential and ability.

What do rights mean to learners?

To some learners, they mean something.

What is that something?

Something like err...to be provided with good learning material, to be taught thoroughly and, that, which is relevant. Further to that learner rights mean freedom to choose the subjects that the learner feels confident with, and not those which the educator will feel like he or she wants the learner to do.

Do you think learners understand their rights?

To some extent, I would say yes.

What do you mean by that?

I mean err...learners tend to concentrate more on that which supports them even if it does not help them at the end of the day. That make s me say that learners understand their rights, but if one goes dipper with learner rights, you will learn that somewhere along the way learners tend to get lost in so far as their rights are concerned.

Can you give an example of that which may not help them?

Like refusing to take punishment from the teacher when they did the wrong thing. Sometimes will feel that if they don't want something they have a right not to do it and the educator has got nothing to do with that, no matter what.

Can learners differentiate between a right and an obligation?

Learners know the difference between the two but they pretend they do not when they want to provoke teachers. Sometimes they sacrifice even their future benefits like passing exams just because they want to look big before their friends.

Do learner rights have any bearing on African culture?

Not as yet in the new South Africa. I find it very difficult to detect any African identity in the learner rights. If it is there, it is very little. But as far as I am concerned, I haven't identified anything African in the learner rights.

How far does Western culture influence learner rights?

It does so fully.

How?

Fine, just, like, most of the way things are related to them, they are very western. Sometimes you will find that they cannot be punished for the wrong they do in the class because they have rights. You know, during the olden days, if you could do something wrong at school, and even at home any adult person would just punish you because every adult person was like your parent.

What is the relationship between African culture and Western culture in relation to learner rights?

The two do not have any relationship. The European ideology is still dominant. I want to believe that if the two will at any stage balance each other, it will take some time because everything is still literally in the hands of the Whites. The South African culture is not even mentioned in the learner rights. It is so unfortunate because the government wants to do this even in our homes, and this is culture assassination, which I do not think should be allowed.

Do learners have rights at home?

Ja, the rights of learners are all over. Learners have got rights at home as children. The government justifies itself that it is providing learners with rights at school, and children with rights at home because the feeling is that there are people who are abusing learners and children at home. I am not denying that but a fair person will tell you that learner and children rights have come with a number of problems which manifest in learner and children indiscipline. This happens because parents and educators are not involved in the formulation of these rights hence learners give the wrong interpretation of these rights. For instance, who can train learners on these rights if the parents themselves were not trained and not even involved in the formulation of these rights of learners?

IMPLEMENTATION / PRACTICE OF RIGHTS

Do learners practice their rights?

No.

I say no because learners do not understand their rights. I say no because instead of using their rights in a way that is going to help them achieve good education, learners are using their rights in order to justify their wrong acts or wrongdoing.

Are rights implemented in schools practically?

If learners do not understand their rights they cannot practice them thus I would argue that although learners may think that they are practicing their rights, I would argue against that because learners do not understand their rights.

Do learner rights have any influence on educator-learner relationship?

Yes, a very big influence. More especially when these learner rights lead to fights between educators and learners. This usually leads to a bad influence of relationship between learners and educators, more especially when learners are not prepared to listen to their educators, saying all sorts of things, like that their educators must give them space. Learners want

educators to take instructions from them and not them from educators, and that affects the relationship in a negative way.

How also do learner rights influence educator-learner relationship?

Teachers would for instance not tolerate it when learners are trying to be cruel when using their so-called rights, then the friction between educators and learners always begins.

For instance, what rights would learners try to use against teachers?

Like, a learner refuses a punishment after having not done his homework, then the teacher gets angry and the conflicts starts. Sometimes learners would not want to listen and also refuse to take instruction from educators. Sometimes learners would just become aggressive to educators because they know that educators will not do anything to punish them because they have too many rights.

Ok I see.

In your observation, are learner rights in conflict with schools rules?

Yes.

Why do you say so?

Because learners have not been told that even if they have rights but they still have to respect the school rules and their educators. Learners today “do not know” their educators and that is why they use these rights to disrespect their teachers.

Are learner rights in conflict with schools?

Yes, of course that is why I said earlier on that because learners do not understand their rights, then they begin to quarrel with their teachers and learners do not just only quarrel with their educators, but they even challenge them in a very disrespectful manner.

Do learner rights help learners in any way?

No ways, you cannot be helped by something you do not understand. Learner rights are supposed to be helping learners, but that cannot happen when learners do not understand the intention of their rights. Learners think that their rights are a tool to fight educators and the school rules and regulations.

So you are saying learner rights do not help learners?

Yes, that is exactly what I said.

Do learner rights influence teaching at all?

Yes, I think so.

How does that happen?

We have got cases in the school, for instance where teachers find it very hard to teach because some learners challenge them with their so-called rights. Sometimes even before the educator goes to class you will find that he or she is already demotivated because he or she knows that learners do not respect educators. Some learners just play in the class in the presence of the teacher. Meanwhile the poor teacher is trying to discipline them time is wasted because other learners who were listening are affected. At the end of the day, the whole lesson is affected.

What challenges would they give them for instance?

Like a learner hits another learner in class even in the presence of the teacher while teaching and when the teacher wants to give that learner a punishment the learner refuses to take a punishment saying that he will refer the matter to the department of education for the educator to be disciplined. Sometimes, some learners will even come to school drunk, but you cannot punish them because they are protected by what they believe is their rights. And, really, this kind of thing frustrates innocent teachers.

How do learner rights influence teaching?

Badly

How bad?

Like teachers find it a hard exercise teaching learners who threaten to take them to the department of education for doing the wrong like punishing them. Sometimes it is difficult because the Department Of Education is not even prepared to support these educators once they are in trouble with learners, but instead the Education department would also sit on educators. Even if you buy the newspaper you will read of a number of offences by educators but nothing is said about learner offences in schools.

Do you think learner rights facilitate learning?

No, I think instead they make the learning very difficult. In fact, its very difficult to teach with these unlimited learner rights, mfowethu. Actually it makes one very angry because all this is happening at the expense of educators and this makes life hard for poor educators.

Why do you think so?

Obviously because teachers are teaching under serious threats like I have said and there is no one to help teachers out of these problems. If they try to make their voice heard, everyone says teachers are not prepared to

transform. One wonders from what teachers are going to transform. It really makes one “mad.”

And if teachers cannot teach, learners will not be able to learn adequately.

Do learner rights facilitate teaching?

Just like I have said previously, learner rights do not at all facilitate teaching, but instead these learner rights make the educators’ task to teach difficult hence high learner failure rate in schools.

4.1.3 LEARNER INTERVIEWS

INTERVIEW #: 7

IDENTIFICATION PARTICULARS

Name of the learner: Mr. G

Name of school: High School 1

Learner enrolment: 622

Educator enrolment: 16

Date of interview 16/10/2003

LEARNER LEADERSHIP EXPERIENCE

WHEN DID YOU COME TO THIS SCHOOL?

In 1998.

WHAT GRADE ARE YOU DOING RIGHT NOW?

Grade eleven.

WHAT ROLE DO YOU PLAY IN THE SCHOOL LEADERSHIP?

I am the chairperson of the RCL.

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

It is anything that has to do with the right of the learner at school. Like, learners deserve to have a right, more especially, now that we are living in a democratic country in South Africa. Learners like any South African citizen deserve a right to be treated with respect and dignity.

Like what?

Like being allowed a right to learn. A learner has a right to learn under conducive environment as it has been happening with the Whites during the apartheid times. Learners deserve a right not to be punished anyhow by educators. Some educators come to school drunk, and sometimes want to punish learners for nothing. I know there are genuine cases, but sometimes, you just find that some educators are abusing learners, and that is where we as learners we will fight for our rights.

Do you have rights at school?

Yes, we do have rights at school. We have rights outlined in the constitution as well as in the Bill Of rights of the country. These rights are also shown in section 28 and 29 of the constitution of the Republic Of South Africa. These rights of learners have got to be given meaning to in the broken down policies of the school. I hope that is happening with all the schools, like the schools I have visited have got these rights of learners but I cannot guarantee that all other schools exercise these rights but what I can say is that if there is a school that prejudices learners of these rights, that is against the South African law. The rights of learners in schools have to be well expressed in a number of documents and legal prescripts of the school.

What kind of rights do learners have in schools?

Not to be punished corporally, a right to free education, a right to free expression and a right to quality education, and other rights such as not to be sexually harassed by educators. That has got to be observed by any stakeholder in the education and in our schools. A learner has a right to confidentiality if he has something that is private and he has discussed it with his educator. The educator has to keep that a secret, which is between himself and his learner. Disclosing it is a serious offence and a teacher should be investigated and punished if he is found doing that.

What do rights mean to you as learners?

They mean nothing to some learners, except to be wild and rude to their teachers though to some learners they help a lot because some teachers do not do their work. Our rights help us because we are able to deal with those things we are not happy about from our educators although it happens that some of the learners abuse the rights. But shortly I will say these rights help us. You know, Sir here in the school, one educator would come to school, but he never taught us, but when the year ended he gave us marks. Eventually we reported him to the Principal because he was not helping us by so doing. That helped us because that issue was dealt with and the educator was given a warning and he stopped that kind of behavior

Do learners understand their rights?

I would say about 30% of them understand their rights. Yes some people come to school because they are forced by their parents, and unfortunately we can't help such learners, more especially because some of the learners understand their rights but they pretend not to understand their rights when they make offences.

Do you think learners can differentiate between a right and an obligation?

Yes they can, more especially learners in a high school. Of course there are learners who understand the difference but who would pretend not because they have got their own agendas.

Agendas like what?

Like frustrating the educators, or even getting away with the wrong things they do at school.

Do learner rights have a bearing on African culture?

Not at all. Most of the things in the school are influenced by the European culture.

How far does the Western culture influence learner rights?

That is a problem because the Western culture is dominant over every sphere of education hence we have such problems in the education learner rights. Even the language in which policies and documents are written is Western so that sometimes you find that for some learners it is hard to interpret these policies most accurately.

What is the relationship between African culture and Western culture in relation to learner rights?

There is no relationship because the Western is still dominant. It allows no space to other cultures. Even the way we are taught, even the way we are dressed in terms of the school uniform, for instance, boys would be forced to wear ties. In Africa there were no ties, and to me really, that is forcing people and in fact indoctrinating them to believe that what is Western is the only thing that is good.

Do you have rights at home?

Yes, we do have rights at home, but not like at school. Mr. Mkhize, my father does not believe in the rights of children. If we talk about the rights of children at home, even when we are joking, he just tells us (children) that no child will ever have rights in his house. He says in his house, he is dealing with young children and if at any stage one feels that he is now a grown up, he or she must leave his house and leave to have his or her own family. My father goes on to argue that children and learner rights are not the way of life of the Africans. As a result of that when we are at home we cannot question and challenge the parents because that would be treated as

rudeness and one would be severely punished for that. The rule is that you cannot argue with parent at home, otherwise you are herding for trouble. A parent at home is a parent and *nothing will change that*. Mainly, the right that we have at home is that one to have a shelter and afforded education, given shelter and things like that.

IMPLEMENTATION / PRACTICE OF RIGHTS

Do learners practice their rights?

I would say, partly yes and partly not.

Why do you think partly not?

Because there are learners who abuse their rights against teachers to achieve their *dirty goals*. For instance there are relevant cases where educators do not do their work which they are paid for, and sometimes even find that there are educators who are abusing learners in many ways, like sexually harassing a learner, in such a case a learner right will come to learner's rescue, but there are as well other cases where our own school mates tend to use learner rights in a more bad manner which is somehow detrimental to us as learners. For instance what I have seen from my school mates some of the learners want us to represent them at school even when they did a wrong thing. For an example my schoolmate wants me to protect him *from being punished for not doing the teacher's homework*.

That is practically wrong because it is not the educator who suffers eventually, but the learner who came to school to learn.

Are rights implemented in schools practically?

Yes but it is hard because in some cases some learners prefer to abuse their rights once they are allowed a chance to practice them. But in some cases learner rights are used and they help learners.

Do learner rights have any influence on learner-educator relationship?

A huge influence.

How?

Because there is a good relationship between the two if they both have common understanding of the learner rights, otherwise if it not so, everything becomes chaos. I would add that currently things are hard in our schools because most learners still have a problem of accurate interpretation of these rights, though some of us, I know do that deliberately.

Are learner rights in conflict with schools?

Not if they are carried out and understood accordingly. Practically speaking I think there is a great conflict between the school and learner

rights. Learners for instance, ever since we as learners had rights, many learners can come to school anytime and bunk classes because they know they won't receive corporal punishment, but they will only be counseled. Unfortunately that is a long process and learners know that that will not work because it is also time consuming and teachers won't have time to do that on a daily basis whilst confronted with fifty learner in a class. Learners will then take advantage because they know that nothing will happen to them. If the educator does something, learners would use us to report the matter to the department of education and there would be no option but to have the educator charged. Unfortunately, I'm talking about something that has happened even in our school here.

Do learner rights have an influence on the learning of the learners?

Yes, the influence can either be negative or positive both educators and learners give depending on the interpretation and the understanding learner rights. In our case, although some cases have been resolved by means of learner rights, in some cases learning suffers because learners, though not all, tend to take advantage of the circumstances hence the purpose to learn suffers.

Do learner rights help learners in any way?

Yes, they help them if they understand them appropriately.

Like how?

Like protecting them against those who exploit them. These could be education department, educators or even parents for that matter. But, unfortunately, as I pointed out earlier on, some of our schoolmates abuse them hence learner rights work for them or should I say us in a more negative way.

How do learner rights help learners?

Against exploitation by those who have more power as I have just indicated. For instance, teachers who come to school drunk and those who do not do their work satisfactorily. Learner rights help us as learners deal with such behavior as portrayed by our educators. There are educators, for instance who exploit learners and fall in love with them. With our rights observed, such educators are disciplined and such behavior by educators who are naughty is discouraged because educators know what will happen if they abuse learners. Some educators even make learners pregnant and learner rights do not allow such behavior by educators.

Do learner rights influence teaching?

Most definitely. For instance if the learners understand their rights accordingly everything tends to go well with the teaching but if learners do not understand their rights accordingly, then the teaching is likely to suffer.
How do learner rights influence teaching?

I think I have already responded to that question when I said teaching suffers if learners do not understand learner rights. That could either be in a negative way or positive way. If rights are properly instituted, they will work to the benefit of us as learners, but if not properly instituted they work against us as learners. The whole teaching and learning becomes unsuccessful.

Ok, thank you. Do you think learner rights facilitate learning?

Provided that both educators and learners understand them, and not only learner rights but even their role in the process. In our schools currently, I think we still have a problem because these rights were not properly relayed to us thus we are still experiencing so many problems, thus probably suggesting that as for now learner rights do not facilitate learning yet.

Do learner rights facilitate teaching?

Only if they can be properly understood and once understood they must be adhered to in order to avoid unnecessary confrontations between educators and learners, otherwise and currently in our situation, if I may talk about my school, we are in most cases experiencing some problems in many ways because we are still trying to get the full understanding of our rights. I am hoping that as time goes by, we as learners shall understand our rights, and once we understand them, we shall try to use them to the best of our benefit.

INTERVIEW #: 8

IDENTIFICATION PARTICULARS

Name of the learner: Mr. H

Name of School: High School 1

Learner enrolment: 622

Educator enrolment: 16

Date of interview 25/10/2002

LEARNER LEADERSHIP EXPERIENCE

WHEN DID YOU COME TO THIS SCHOOL

In 1998

WHAT GRADE ARE YOU DOING RIGHT NOW?

Grade twelve.

WHAT ROLE DO YOU PLAY IN THE SCHOOL LEADERSHIP?

I am the chair of the RCL.

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner rights.

PERCEPTION OF LEARNER RIGHTS

What do you understand by learner rights?

It is all that can be regarded as rights of learners. There are so many things.

Like what?

Right to dignity and good education. There are many other things such as right not to be abused, and a right to access learning material without discrimination of any kind. In other words, it is about justice to be applied to learners so that we as learners shall receive education under a good environment.

Do you have rights as learners?

Yes, learners have got rights. We have rights in schools. Previously we did not have rights but after 1994 we began to have rights. Any learner who is in South Africa has a right to enroll with the school of his choice. Unfortunately, some learners are not aware of their rights as learners. Very few learners are not aware that they have rights in schools, otherwise most learners are highly aware of their rights. This helps us as learners so that

no one will take advantage of us as learners in the school. For instance no educator will just come and give lashes for having arrived late at school. If you can provide the reason for you're coming late to school, that is enough. There is no need to be punished. If the teacher goes on to punish you, then, it is simple. You just report him to the relevant structures so that he will be disciplined.

What rights do learners have in schools?

Right to be treated with dignity, good education, free education, freedom from abuse by educators, a right to exercise a talent without interruption, a right to freedom of speech, and a right not to be corporally punished with the intention to inflict pain. You know, there are educators who like to inflict pain on learners. Some educators just like to punish learner even for minor things, and it is not nice to be punished. It is very painful, and besides, educators know that they are not allowed to cane us. If they do that, they are interfering with our (learner) rights. There are many other rights that we have as learners in the education.

What do rights mean to learners?

They mean that learners have to be responsible and accountable if these rights are to work for them and if I am saying learners, I am including myself as well as a learner in the learner leadership position at school.

Are learners accountable and responsible at your school?

Some yes, but some are not. Some learners are immature in decision making, but at least we've got the learner leadership which helps in guiding learners where we can and where we cannot we normally seek the advise of our educators.

Do learners understand their rights?

Learners understand very little about their rights if you look at what they do on a daily basis in the schools. For instance in my school, learners always come late even after several warnings by educators. Some of these learners have at some stage been detained, made to cut grass, some of their parents have been called to school to discuss their late coming and absenteeism, but everything has failed because, either, our schoolmates know that they will no receive any pain if they get warnings and minor punishment. Sometimes they disrespect even us their leaders in the school. Learners disrespect even educators in the school. They do not care who speaks to them.

What do learners do to abuse their rights?

They absent themselves from school without reason, enjoy if teachers do not teach in the class, rejoice in the teacher is absent from school and even quarrel with educators over minor things like refusing punishment for wrong doing.

Can learners differentiate between a right and an obligation?

Very few can understand the difference, probably those who are in the school leadership positions; otherwise I do not think so. All that learners know very well is that they have rights. How these rights may impact on them or other people in a long run, they don't think about.

Do learner rights have a bearing on African culture?

I do not think so. Learner rights are too American if may say. Our parents always tell us that there used to be no rights in Africa, Other than that children have got to be protected and looked after by adults, but that children can have rights is just new to them, and if that is the case I would say learner rights have no bearing on the African culture. Our rights as learners are more western than African.

How far does Western culture influence learner rights?

In every way, for instance, they talk detention for a learner who has misbehaved.

When is that learner going to do the housework at home? After school, learners have work to do at home. Most learners do not have workers at home hence work is waiting for them at home.

What is the relationship between African culture and Western culture in relation to learner rights?

There is no visible relationship between the two except that the Western culture is dominating the scene in education whereas the African culture, I would say is being swallowed and colonized by the Western culture. Even the structures, which could be there in place if a learner is having a hearing, are structured in a more Western way of doing things.

Do you have rights at home?

Well, the home is not like the school. At least even if your parent at home is punishing you, but he punishes you as a parent, and not like a “donkey”. It is true that there are serious cases where a parent terribly punishes a child badly but those are rare cases. One must, however mention that if your parent punishes you as a child he cannot injure you and get away with it because even that is not allowed. No one is allowed to infringe pain on anyone because everyone makes mistakes. But at least at home the punishment is not as severe as it has been at school when corporal punishment was alive and kicking. Learners would come from school with marks on the buttocks. That is total exploitation because teachers would never punish their children like that. Basically, whether one is at school or home rights of learners and children are the same. At the end of the day, these are regulated Section 28 of the South African constitution. According to this, no one is supposed to infringe a pain on any other one.

IMPLEMENTATION / PRACTICE OF RIGHTS

Do learners practice their rights?

Some do and some do not but a big number of learners do not. It is, however important to make known that even those learners who practice rights do not practice them correctly, though we have cases where learners practice rights to the best of their attempt

Are rights implemented in schools practically?

Not at all. What they are practicing is a total distortion of what rights are. They just want to do things, which suit them, and then they consider that to be their rights. Otherwise as I have said before very few learners if at all they are there can claim to be practicing learner rights adequately.

Do learner rights have any influence on educator-learner relationship?

Yes, I should think so.

How?

I cannot think of it right now but I think there is some influence. Yes, some good influence if for instance all parties, that is educators, and learners respect learner rights and learners respect their teachers. But, truly speaking, in my school, we have a few instances where there has been serious cases, for instance where educators and learners would not talk to

each other because of previous confrontations because learners were rude and disrespectfully challenging educators because they claim that they have rights. Learners, then make mistakes of disrespecting their own educators.

Are learner rights in conflict with schools?

Yes, there is a serious clash because learners are misinterpreting things and want things to favor them although sometimes learners have genuine cases where teachers are not doing their work or they are exploiting learners, like giving them corporal punishment for minor things

Do learner rights have an influence on the learning of the learners?

A very big influence. The influence is, however very negative. Since some learners prefer to disrespect educators, they won't be able to listen and understand those educators in a classroom situation, thus that leading to them failing at the end of the year.

Do learner rights help learners in any way?

They help learners if they understand them but in our case, learners can hardly understand their rights unless they want to justify their ill deeds.

Ill-deeds, like what?

Sometimes learners do not want to be punished for being absent from school and thus claiming that the teacher is abusing him or her. Learners would just refuse any form of punishment, more especially those learners who are rude. They will just tell the teacher that they are not prepared to take any form of punishment. I have cases where that has happened in front of other learners, here in the school. It would be hard thing for a teacher to tolerate and one cannot expect that teacher to be as motivated as he was before he entered that class. In that manner, it is the learner who is going to suffer at the end of the day because the poor educator is learned and getting his fat pay at the end of the month.

How do learner rights help learners?

Learner rights are there to help learners attain good and quality education but instead of that these rights do not currently help learners because they do not understand them. That is a problem in our schools. That is why even learners misuse their rights; hence the very same rights are working against learners. Instead of learner rights to work to the benefit of us as learners, they work against us because educators get demotulated because of the manner in which learners handle themselves in schools thus teachers begin to work without motivation.

Do learner rights influence teaching?

Yes, they can influence it either positively or negatively depending on the situation. Like if learners frustrate the teacher with the rights they do not understand, that will influence the teaching negatively. That is what is currently happening in our schools. In my school it happens almost on a daily basis. There is no day without learners abusing their rights, and eventually that disturbs the teacher in the class. The educator just gets off the peak.

Do learner rights facilitate learning?

Provided that they are understood and properly carried out, would learner rights facilitate learning. I would rather say that learner rights for now are not facilitating learning. They so far make learning complex until we shall have a situation in our education that learner rights will be addressed accordingly. I think it is then that we shall refer to learner rights as facilitating learning in schools, and in my school in particular.

Do learner rights facilitate teaching?

That is exactly what should be happening in our schools, but it does not happen because both educators and learners do not have a common understanding of learner rights. Besides the fact that learner rights are not originally an African oriented something, I don't think enough has been done to relay learner rights in terms of consultation by the Department of

education to address the learner rights interpretation as well as the accurate practice of these rights by learners. That is why learners are practicing their rights wrongly. There has not been enough or workshops at all around the issue of learner rights, thus these rights of learners cannot address the actual needs of learners. On the other hand educators are seeing these rights as a monster that has come to disempower them because they have not been properly related to these learner rights. I just think that all stakeholders will have to find time and address all these areas so that learner rights will serve the most accurate purpose, which will be to the benefit of both educators and learners.

4.1.4 DEPARTMENTAL OFFICIALS INTERVIEWS

INTERVIEW #: 9

PROFESSIONAL QUALIFICATION

My qualifications are M. ed., B. ed., and STD.

HOW LONG HAVE YOU BEEN WORKING FOR THE DEPARTMENT
OF
EDUCATION?

Its ten years now.

WHICH DIRECTORATE DO YOU WORK FOR?

Learner affairs.

Right, now I am coming to the questions that have gathered us together today. I just want us to delve on your understanding of learner right.

What do you understand by learner rights?

These are based on a right of a learner to receive quality education. This means that learners must have freedom of choice when it comes to learner courses. Learner rights incorporate from amongst others, the right to choose subjects as determined by learner potential in those particular stream or field of study. Learners also have a right to receive education under a relaxed atmosphere, which is free from oppression. In other words, when one talks about learner rights, he is referring to those rights, which will enable a learner to say at the end of it all that the education he has, is quality and fair education.

What do you mean by that?

I mean, like no learner should be discriminated against because of color or gender, but all learners in a new South Africa should be treated equally in terms of resource material and otherwise. Learners should not receive education, which is influenced by color or injustice or even gender biasness. Again I want to point out that it is significant that learners should

get the education which they (learners) will be able to say is helping them serve the society where they come from with confidence because they understand it.

Do learners have rights in schools?

Most definitely. I must say to you that all the schools in South Africa have learner rights. It might, however happen that some schools do not practice learner rights, but if there is a school which does not practice learner rights, then that school is inviting trouble because that would mean that such a school is counter acting the constitution of the country and that can be classified as high treason. All the principals who do not administer learner rights in his school are inviting trouble because all the principals have been given documentation, which speak to all these learner rights. A principal who does not have any document, which speaks to learner rights, has got a responsibility to liaise with the Department Of Education in order that such documents will be provided to a school without learner rights documentation. The principal of the school has a responsibility to initiate structures, which will facilitate the appropriate interpretation as well as accurate implementation of learner rights in schools. If the principal feels that he has some problems ensuring that the school enjoys having learner rights, that principal has a duty to consult the Department Of Education with an intention to solicit its advice, otherwise, learners have rights in all schools, which are in the new South Africa.

What kind of rights do learners have in schools?

Rights to quality education as I have expanded. Learners have rights such as a right to choose the subjects he or she wants to do at school, learners have a right not to be in any form abused by adults, for instance, no learner can be sexually abused, and no learner must be deprived of a right to receive education because he or she doesn't have money to pay school fees. Even In terms of the South African Schools Act (SASA) of 1984, every learner has a right to access education regardless of whether he has money to pay the school fees or not. Every learner has a right to receive education at the school of his choice without being discriminated against. One other area which is always seen by educators as critical is that one where the Department Of Education is saying that no educator has a right to inflict pain on a learner hence a learner has a right not to be corporally punished at school. If educators want to punish learners, they need to explore other methods, but they can by no means exercise corporal punishment because that will be treated as educator misconduct. Ehh, you know Mr. Mkhize, in our education department we have had cases where good educators have been dismissed from work because of corporal punishment. Learners should just be free from corporal punishment.

Do you think rights bear any meaning to learners?

They must, more especially if learners have been trained on them. Well, one cannot deny that enough preparation of learners for these rights have been administered. Anyway, there are so many things to be done and if we

say we going to wait until people receive enough training on the subject, learner rights might end up not implemented in our system and on the one hand learners are suffering.

Do you think learners understand their rights?

Well, I am not too sure about that because we are not at the implementation level. What I can, however say is that one cannot expect the full understanding of learner rights because this is a new thing to both learners and educators. I only hope that as time goes on all stakeholders will adjust and thus getting used to learner rights. Anyway, in the beginning everything begins with problems and misconceptions but that does not mean that it has to be brought to rest. Attempts have got to be made to make sure that it works.

OK, I see. Do you think learners can differentiate between a right and an obligation?

I am not sure because I am not with learners most of the time. Teachers spend most of the time with them and I am just office-based. What I can, however tell you is that I have heard of some of the problems which are said to be experienced by educators at schools as a result of these rights. One cannot, however guarantee that such problems can exactly be as a result of learner rights, though at the same time one may not deny what people are saying completely. Educators however should know better whether they (learners) understand their rights or not.

Does the department educate teachers on learner rights?

Not really but they do receive workshops. Probably one may just cite that there are so many things to be done at a Departmental level hence I don't think it will be fair to expect the Department Of Education to do everything for its employees and its people. If people need more workshops on learner rights, for instance, they can organize themselves locally, and help each other out if there are any problems. There are people who are educators and knowledgeable in these issues. Educator unions are also there to help people for further training on these issues.

Do you think those workshops by the Department Of Education are enough for them to understand learner rights?

No I do not think so. I will be very honest with that. Educators and learners need full training on these issues because the first thing is to get them to accept change, let alone teaching them about how to lead the process where educators have to monitor the process at a school situation where we are dealing with critical issues such as banishment of learner rights with an intent to ensure learner rights. In fact it's not an easy thing at all. It needs some time.

Do learners receive any training on their rights?

Through workshops, yes. There are as well other forms through which people receive information on learner rights such as through policy

documents, seminars, educator meetings, unions, even on the newspapers, there is information around these issues.

Do you think such workshops are enough to make learners understand their rights?

If they are serious, yes, although I said this is their profession and people are serious about their work, they will look for more information on these learner rights issues. Unfortunately, its not a question of whether they (educators) like to know more about learner rights or not, but it's a matter of must. They are supposed to be helping learners understand these rights as well.

Who designs these rights for learners?

It's the Department Of Education.

Are educators involved in this?

No, no, no. There are people who are employed by the department to do that. Those people are schooled to carry out that duty and they are specialist in the subject. I think they know their job. I therefore do not think there is that much of a need to involve educators. Unless, there are some problems that these people can speculate, but it is really up to these specialist whether they want to involve educators or not. The question of involving everyone sometimes look good, and good as it may be but at

times too much involvement of people in the formulation of these policies is time consuming because sometimes people will come up with things which will delay the formulation of a particular policy with the intention of holding the progress. I therefore think it is fair to involve people at the implementation level in order to avoid any unnecessary delays with regard to the implementation of the policy including, of course the learner rights policy.

INTERVIEW # 10

PROFESSIONAL QUALIFICATON?

I have got B. Ed, BA and STD.

HOW LONG HAVE YOU BEEN WORKING WITH THE DEPARTMENT OF EDUCATION?

Its seven years now.

WHICH DIRECTORATE DO YOU WORK FOR?

I work for learner affairs directorate.

Thank you very much, Sir, now, I want us to come to the questions that I want us to focus upon, regarding learner rights in the schools which belong to the Department Of Education that you work for.

Can you just relate to me what you understand by learner rights?

Learner rights eh...it's a learner privilege or right to be respected and given equal rights in his education at school. For instance you will remember that during the times of apartheid in South Africa, there are a number of things our learners were not enjoying, and amongst those were learner rights. As a result of that, educators and other adult people have taken advantage of the situation, thus in so many ways learners have been exploited learners. The previous system of apartheid has also discriminated against African learners when the education of the Blacks has been treated with inferiority when they were deprived of many opportunities like not being allowed to enroll with the school of their choice because of their color. While that was happening, it allowed the system to improve only the education of the Whites by, for instance providing good teaching and learning material to White learners whereas Black learners were not provided with such. Learner rights are trying to address such imbalances in the education system and in our schools in particular.

Do learners have rights in schools?

I will say that every learner who is a learner in any school, which is regulated by the South African Schools Act, 84 of 1996, is entitled to the rights of learners. If there is a learner who is not enjoying his or her rights as a learner in anyone of the South African school, it is not because the constitution of South Africa is discriminating against that learner but

somewhere along the line, somebody is not doing his job in order that at the end of the day every learner enjoys his or her rights as a learner in a democratic South Africa. What I am trying to say to you is that all learners in all schools in South Africa have got their rights. It is also of great significance to state that the intention of learner rights is to protect learners against any form of exploitation and corruption that might be instituted against any learner for whatever reason. Such unfair practice against the learner who is defenseless and cannot protect himself are cases such as learner rape by anybody, any form of corporal punishment, any form of intimidation, and many more cases that could manifest themselves in the education fraternity. Learner rights are thus there in order to ensure the safety of learners against any of these corrupted activities against innocent learners.

What rights do learners have in schools?

Its just obvious rights that of a learner to get education of quality level as I have explained. Learners have a right not to be physically punished at school. Learners have a right to access education on quality, learners have a right to freedom of speech, learners have a right to choose subjects of their choice, learners have a right to exercise their potential, but most importantly, learners have a right to quality education.

What do rights mean to learners?

They mean that learners have to do things responsibly at school, however, I will be realistic that that is how things must be though they are not so and some people are blaming learner rights for the wrong behavior that is demonstrated by learner in schools. I personally cannot defend learners but one would remind people that learner rights are a new thing to learners. People are still in a learning process. One cannot expect people to master everything same time on their rights. I think it is also important to know where learners come from. Learners are still crazy about their rights, we must admit that they have suffered for a long period of time, and they are in the learning process.

In your opinion do learners do things responsibly at school?

Very few learners do so. You will remember what I have just said. Learners still have to be taught about what responsibility means and how it links to their rights. I don't think learners are responsible enough to carry out their rights fully at the moment because the rights issue is a new thing to them, but they will learn in the process

What could be the actual reason for learner irresponsibility with regards to *their rights*?

Maybe it's because learners do not understand the implications of their rights at school. More so because as I have explained, learner rights are a new thing to learners. Probably another area could be that learners have

not acquired adequate training on their rights hence learner failure to carry out their rights with irresponsibility. Another thing is that learners are lacking support by their own educators on their rights. Educators are not supporting learners at the implementation level to exercise their rights with responsibility, and instead educators are discouraging learner rights and further suggest that learner rights is not an African thing hence they are not prepared to support it. I mean, they say it is based on colonization of some kind. They say it intends to destroy the education of the Blacks.

Do you think learners understand their rights?

Not really, though some are very clear about their rights. And the reasons could be those I have just mentioned like lacking support by educators and lacking understanding of their right because they have not received enough training of their rights. But it is also true that not, only parents are discouraging this learner rights thing, but even some responsible parents still object to learner rights because they say they say they were not consulted in the formulation of learner rights, and even if it means they were consulted they would still object to learner rights because they are not originating from the African culture. They say it is rooted from the Western culture, which intends to destroy the African learner respect and respect for educators in schools.

Can learners differentiate between a right and an obligation?

I should think, yes. Generally speaking, I don't think learners would have a problem with that. The problem with learner rights is because learner rights have not been properly spelt out to learners in so far as what they are intended to achieve. May be that is why you find that learner are abusing their rights, I would say unconsciously because I don't want to believe learners are aware of what they are doing to their future and their education.

Do you think educators understand learner rights?

Yes, of course, but that does not mean that they do not need further training on learner rights. I want to repeat myself that learner rights are a new thing in the entire South Africa hence a lot still needs to be done in order to familiarize all stakeholders with learner rights. I would say due to time constraints, little has been done to make sure that all stakeholders are certain of the contents and implications of learner rights to both educators and learners, and even to parents for that matter, because parents can also not be left out when we talk about learner rights. They also need to know about learner rights because learners are their children.

Are educators receiving any training on learner rights?

To be honest, yes but very little. As I have said, more training has to be conducted in order to ensure that learners are well acquainted with the

actual meaning of their rights. One cannot lie and say that the training that learners have received on their rights is enough. We, as a department of education, we still have lot to do to educate learners on learner rights so that these rights will work positively for learners

Do you think learners practice their rights accordingly at schools?

Not exactly. In most cases learner think they are exercising their rights if they quarrel with the educators. The reason for that is because learners do not have the full understanding of their rights, hence they are misusing their rights to fight educators, which is wrong for them to do because learner are supposed to be working hand in hand with their educators.

Do learners receive any form of training on their rights?

Though little but it does happen. It is thus imperative that the Department Of Education has a duty to organize more training workshops in order to train learner on their rights in order that learners will have accurate interpretation of their rights so that their rights will work to their benefit.

How are these learners trained on this?

Through workshops and seminars. There are other mean through which learners may be taught about their rights such as reading policy documents and magazines about learner rights in the schools.

By who?

By the departmental officials. Educators as well are supposed to be training learners on their rights but it rarely happens because many educators have an attitude towards learner rights. Many educators still believe that learner rights belong to the Whites hence they have a fear that it is means by which the Whites are trying to colonize them.

Do you think that would be enough for learners to understand their rights appropriately?

No, I don't think so, but a lot can be done in terms of training in order to ensure that learners behave and observe their rights accordingly, for instance involving all stakeholders in the planning of rights as well as training sessions.

Ok, thank you very much for your time as well as your responses.

CHAPTER 5

FINDINGS, REPORTING AND INTERPRETATION OF INTERVIEWS' RESPONSES

5.1 INTRODUCTION

In this chapter we embark on a discussion of the findings, reporting and the interpretation of responses of interviewees on the “perceptions and practices of learner rights in the Black South African Schools. It is important to note that the researcher has had his focus on an individual’s experiences in so far as learner rights are concerned.

According to Lofland (1992: 193) there is no single conventional mode of presenting the findings. That means that researchers are flexible in dealing with their studies. There are diverse ways of reporting the findings, which may be influenced by the objectives of the researcher. Patton (1990: 249) asserts that the most significant principle in the interpretation of qualitative data is “focus”. This includes responding and addressing the major questions outlined in the research. It is important to note that the researcher was also guided by the aim of his study which is as follows: “To establish the root cause of the lack of discipline and the disrespectful behaviour on the part of learners towards authority exercised by educators in the context of educational management”. The researcher has had this in order to keep verifying the authenticity of his aims and hypothesis of the study as well as to avoid losing focus. This is also confirmed by all other

four respondents that there is a dire need for the attention to be given to the conflict that is observed between educators and learners.

Furthermore, in certain instances, there is a duplication of responses by respondents hence the researcher does not present all the responses in full as they reflect on the interview design. It is also difficult to report everything that has been collected in the interviews because even a comprehensive report will have to leave out a lot of information collected by the researcher. It is thus safe to reiterate that the researcher who tries to include everything in his study runs a risk of losing readers in the sheer volume of the presentation. It is for that reason that the researcher, particularly in this study has considered to have focus and concentration on those issues of perceptions of learner rights in the Black South African schools.

5.2 LEARNER RIGHTS CONCEPTUAL CONFUSION WITH CORPORAL PUNISHMENT

It is interesting that in all the responses regarding the question of learner rights, all the learners who responded to this question indicated that not to be punished (*ukungashaywa*) is one of their rights. It is also interesting to note that prior to 1994, learners were heavily punished and learners come from families where corporal punishment is still in force and in use in many families. This would tend to create problems in many schools because many schools are still administering corporal punishment, and this is contrary to learner rights and it is also unlawful.

5.3 ATTITUDE BY BOTH EDUCATORS AND LEARNERS

What emerges in the analysis based on the research in progress is common threat thus leading to learners developing an attitude that is as a result of the learner rights that they (learners) have in schools.

If one further looks at this clearly, a conclusion be drawn that the attitude that educators have with regard to learner rights is characterized by “power struggle”. Educators have the fear of the unknown and it seems that they are not ready to face the era that is characterized by democracy. This tends to lead to a power struggle between educators and learners. This is more so because if one looks at the statistics, out of six educators who were asked about learner understanding of their (learner) rights, all six of these educators indicated that learners do not interpret their rights accordingly. This suggests that educators have something against learner rights.

When one respondent was asked about the meaning of learner rights, he responded that learner rights have to do with the rights of learners to education. While that is the case, it is interesting that from amongst all four of the educators who were interviewed, not a single educator alluded to the fact that learners understand their rights. This suggests a mere negative attitude towards learner rights by educators. This suggests resistance to change by educators. This is also confirmed by the Star newspaper in the interview that was held between them (the Star newspaper) and the educators in Atteridgville near Pretoria, in Soweto and in the Southern Suburbs of Johannesburg in the year 2000 with regard to

corporal punishment in schools. It transpired that although all educators were aware that corporal punishment has been banned, some admitted to turning a blind eye to the law. It is in the very same Star Newspaper that when interviewed around the issue of corporal punishment, one female educator by the name of Ngcobo raised her concern by asserting that “There are some very difficult learners in school, and with such large classes it is difficult to keep them respecting educators. Often the only thing they respond to is threats of being hit with a cane”(vide supra: 37) The statement that has been made by this educator in this context is generalized and suggests a negative attitude towards a learner right not to corporally punish a learner. Such an attitude is strengthened by the fact that the very same educator does not want to explore other avenues that might minimize learner misbehavior at school.

It is significant to note that when one responded was asked about the meaning of rights to learners he indicated that there is no meaning of rights to learners. It is also important that 100%, and that is all four educator respondents indicated during their interviews that learners have no clear understanding of learner rights. This would suggest that learners would deliberately attach no meaning to their rights because they do not understand them or else they have their secret agenda in so far as their rights are concerned. The reason for the respondents to suggest that “...there is no meaning for learner rights to learners” could also suggest lack of appropriate understanding of learner rights by learners hence attaching inadequate or wrong interpretation of their (learner) rights when they are supposed to either interpret or actualize their rights in the real context, thus

making mistakes about their rights. It is for that reason that when learners make an attempt to practice what they regard to be their rights, confrontations crop up between learners and their educators.

It is however significant to note that the version that learners do not understand their rights is coming from all educator respondents, of which this could still be as a result of them (educator respondents) not willing to adapt to transformation and probably adapt to new methods of handling learner rights issues since this has come with democratic rights of all the individual persons as reflected in the new Constitution of South Africa after 1994.

All four educator respondents came out clear that learners do not understand their rights. This response is because learners are, according to educators not doing what they ought to do in terms of what is reflected on a number of learner rights documentations. The reason why educators think learners do not understand their rights could be because educators themselves have a negative attitude towards learner rights.

On whether learners can differentiate between their rights and obligations all four educator respondents responded with a big "no". This suggests that learners do not understand the commitment they have when looking at their rights.

When asked about their (learner) practice of rights, all four-educator respondents answered that learners do not practice their rights accordingly.

This could be because they do not understand their rights. Obviously the answer to whether learners implement their rights was “no”. It can be observed that all educator respondents respond more or less the same and negative way to learner acquisition of rights. This suggests the fear that educators have if learners have these rights. They fear that their authority is threatened.

The response to the influence of learner rights on educator-learner relationship was “yes” by all four educator respondents. It is also significant to note that the influence that is referred to is the negative influence. This suggests bad relationship, which is remarkable between learners and educators because of the wrong interpretation of learner rights by both educators and learners (vide supra: 26)

On whether learner rights are in conflict with schools, the response was “yes” by all four-educator respondents. This suggests that there is a problem after the official introduction of rights of learners in the schools. It is observable that, in order to deal with the conflict that is manifested in many schools, many educators end up resorting to corporal punishment. This is the case because most educators are not prepared to introduce new methods of dealing and handling learners with discipline problems hence resorting to corporal punishment. Most of the educators feel that they have been disempowered and their power has been taken away and given to learners hence developing a negative attitude towards learner rights.

With regard to the influence learner rights have of learners’ learning, one respondent said that there is a big influence and it is negative, which also

suggests that there is a problem with the presentation and implementation of learner rights. It is also significant to note that almost all the respondents responded that learner rights have a negative influence on learner relationship. (Vide supra: 104)

All educator respondents indicated that learner rights do not help learners in any way. This is still suggesting a conflict of interest presented by educators on learner rights. All educator respondents said that learner rights do not help learners in any way. That informs one that there is a problem because learner rights should be designed to help learners.

The respondents suggested that learner rights influence teaching negatively, which may be indicative that the way educators understand learner rights is different from learner understanding of what should be done with learner rights in order to benefit learners. That shows a serious problem regarding the rights of learners.

Four educator respondents suggested that learner rights should be facilitating learning, but they do not and that must be seen as a problem. That is a huge problem because educator respondents are not indicating anywhere in their responses what they (educators) are doing to assist in ensuring that learner rights help learners to facilitate their learning. Obviously, this is happening because educators have a negative attitude towards learner rights.

When asked about whether learner rights facilitate teaching, four educator respondents said “no” which is actually highlighting a serious problem

regarding these rights of learners. Whenever learners have been given and afforded rights there has always been conflicts between educators and learners. The learner rights issue has actually been a controversial and critical issue worldwide. That has led to many countries wanting this matter to be addressed as a matter of urgency. Many attempts to address learner rights have been made, more so because learner rights have brought with them confrontations between learners and educators, and this is more so because both parties, that is educators and learners interpret learner rights differently (vide supra: 11). This suggests that there is an outcry and both learners and educators in the education fraternity are concerned and there is dissatisfaction regarding the accurate interpretation of learner rights.

One educator respondent who is presented as Mr. B is of the idea that learners do not understand their rights accordingly. This, the respondent is trying to substantiate when he asserts that learners think their rights are about disrespecting their educators and demanding to be passed to the next grade, even if they are not ready to be passed to the next grade. By that, he is indicating that learners lack a sense of commitment. Although all other educator respondents in their responses to this question do not use the same wording as Mr. B, but they all emphasize in their responses that learners do not understand their rights. It is, however interesting that they (respondents) do not indicate what they have done so that learners are able to catch up with their rights. All that they are doing in the process is mere criticism of learners who do not understand their rights. This is an element of people who are characterized by negative attitude as a result of them not

fully ready to deal with the new situation where learners have rights in South Africa.

When speaking about learner rights background, one respondent puts it explicitly that learner rights have no bearing and have no roots in the African culture (vide supra: 17). This is supported by respondent number four when in his response he says “Very little African culture can be spotted on learner rights”. The respondents think this could be one of the contributory factors why learners do not understand their rights hence they misinterpret them even practically at school. Asante (1997: 32) also concurs with the statement that it may be hard to interpret or understand any idea or something if it is not based on your background when he says “...peoples’ soul is, however dead when it can no longer breath its own air or speak its own language, and when the air of another culture smells sweeter (vide supra: p.31). This suggests that it is a problem, which may bear even more problems when one is able to appreciate other peoples’ philosophies and culture while he does not appreciate his own philosophical and cultural background. For instance, in the African context, it is cultural that a child would greet the elderly. This is, amongst others, one of the ways of showing respect to an elderly person, even though, in terms of the new constitution, adults, just like children have a responsibility to greet children, and a child cannot be held accountable if he did not greet an adult. It is, however, common practice that when people are failing to do what they are supposed to do, they would refer to their past as better because of bureaucratic kind of leadership where learners had no right to question adults. The same goes with the learner

rights in the South African Black schools where educators feel that learner rights are threatening their authority. Most educators will then begin to blame a number of things that will help them do away with learner rights.

One educator respondent feels that learners do not understand their rights accordingly. He further feels that the rights of learners in South Africa have their base in the Western type of culture hence learners do not understand and practice their rights appropriately. The respondent feels that it would have been better if learner rights were rooted in the learner African background because learners would understand them much better (vide supra: 30).

Mr. D. feels that learner rights have to do with learner right to quality education. He further contends that learners do not understand their rights, hence they disrespect their teachers because they are holding onto what they think is their right while it is not so. He also believes everything is still in the hands of the whites hence they are very influential and dominant over Blacks thus learner rights are White oriented and do not serve the purpose of providing quality education to African learners. As educators,

5.4 POWER RELATIONS

One educator respondent feels that learner rights do not mean anything vital to learners. The four educator respondents have felt the same, when for instance respondent number one responded that 'Learner rights to learners mean that they (learners) should not do their work'. He doubts if

learners understand their rights. All educator respondents feel that learner rights have no value to learners. All that they feel is that learners are crazy about the concept they do not even understand. They feel learners are wrongly practicing their rights because they do not understand them well, and besides, they (learner rights) are not even based on their cultural background, but instead they are Western in nature. Instead of facilitating educator learner relationship, Mr. E feels that learner rights create unnecessary complications between educators and learners. He further feels that learner rights tend to complicate the relationship between learners and educators instead of facilitating good relationship (vide supra: 26). Such a statement is supported by Dickson (2003:67) when he contends that the practice of withholding a child's right is justified on the grounds that one can detect a partial absence of discretion, rational thought and spiritual or intellectual qualities of the child (vide supra: 18).

The responses provided by most educator respondents is such that educators feel that they have been left powerless after the banning of corporal punishment in schools. To argue against this, Routier (2002: 34), however expressed that it was a common response from teachers to feel that the removal of corporal punishment has "left them (educators) powerless"(vide supra: 38) Routier advised educators who are faced with learner's disruptive behaviour to investigate the cause and possibility of the learner having problems such as problems of hearing, visual disability, and further than that to look into family conditions.

One parent respondent is of the feeling that learner rights should be addressing quality education by attending to issues such as discrimination, which has always been persistent in South Africa with regards to education. He feels that there should be equal distribution of resource material so that learner quality education will always be ensured. He feels that learner rights have no base on the African culture hence learners do not understand their rights but, instead they (learner rights) lead to disrespect of educators by learners. He suggests that learners have no respect for their educators. Mr. F expresses his concern that the Western culture is still dominant in the South African education so much so that it is dominating the education and there is no bearing of the African culture in education, which might be a contributory factor to the problems, which the education in South Africa is confronted with. It is significant to note that the same feeling that respondent Mr. F feels about learner rights is the same feeling that Mr. E has, including the first four educator respondents. It is thus imperative to note that 60% of the respondents are of the feeling that one of the reasons why there is a probable misinterpretation of learner rights by learners is because learner rights have no bearing on the 'African culture', and it is vital to note that a statement of that nature is supported by Hammerly (2005:17) when he contends that if learner background is considered when helping the learner master a particular aspect, the learner will thus have the accurate interpretation of any idea he (learner) is struggling with (vide supra: 18).

It is also probable that all the four educator respondents' response that learners do not understand their (learner) rights is related to their fear of

losing power over learners. This may be more so because evidence reflects that very little has been done to prepare educators for different situations that they might be confronted with in the new democratic situation (vide supra: 119).

5.5 MISCONCEPTION OF RIGHTS BY LEARNERS

One parent respondent feels that learner rights have seriously led to conflicts between educators and their learners because they (learners) do not understand learner rights. Learners do not respect their educators hence conflicts between the two is noticeable. This statement is supported by an educator from Soweto, and by the name of Ngcobo when she states that “there are some difficult kids in this school, and with such large classes it is difficult to keep them respecting educators...Often the only thing they respond to is threats of being hit with a cane’ (vide supra: 29). Mr. F further refers to the idea that learners have since developed a very bad behavior, which might be as a result of these so-called rights of learners. In brief, Mr. F strongly feels that these learner rights are a stumbling block towards learner progress hence it is hard for educators to handle their work without fail. It is also interesting that Mr. F. is supported by 4 educator respondents in what he suggests as leading to learner misbehavior as a result of learner rights acknowledgement. In other words, 100% of the educators who are the interviewees are of the idea that learner rights have since led to learner-educator confrontations.

Although Mr. G feels that some learners understand their rights, there are those who still have a problem of not understanding their rights. He suggests that that is a problem because those who do not understand them (learner rights) may influence those who understand their rights. Mr. G feels strongly against the domination of education by the Western culture because this may mislead learners in so far as their rights are concerned. Mr. G. is of the feeling that learner rights, if they could be presented in a very explicit and a just manner, they would attempt to address the rights of a learner to receive quality education. Mr. G feels that current learner rights lead to a complex situation in South African schools because they are not rooted in the African culture. Such an idea is also proposed by McNrgney & Herbert (1995:250-1) when they suggest that it is vital to consider learner cultural background when dealing with learner rights. The same idea is supported by 70 % of the respondents who are four educators, two parents and two departmental officials who strongly suggest the importance of looking into the question of learner cultural background when formulating learner rights. This would probably suggest the significance of engaging learner cultural background when formulating learner rights.

In practice, Mr. G feels that some of these learners do not worry about what learner rights are concerned about. He even suggests that there are learners who abuse their rights in order to serve their purpose, and that of being irresponsible. The same is being felt by 100% of the respondents, including learner representatives who are respondents in this case. Giroux (2002:1) concurs with this statement when he suggests that the young

people are a problem, and the young people are the solution (vide supra: 30).

Although Mr. H does not give a clear meaning of learner rights, he is able to speak to the “dignity” of learners in so far as how they ought to be treated. He feels that though some learners observe their rights accordingly and according to transcripts, some learners have a problem because they do not understand these rights, of which, its result could be traced back from where these rights originate. Mr. G suggests that these rights have their basis on the Western culture. The learner rights have their base on the euro centric type of a system of philosophy. He further states that these rights have no bearing on the African culture, which could probably be the reason why they do not understand these rights. It is also imperative to note that 100% of the respondents are of the same opinion that the learner’s cultural, economic, social, historical, and philosophical background must be considered when wanting to arrive at a decision which will bind the child, including those aspects which are critical and those which are as important as the learner rights aspects. Such a statement is also supported by Hammerly (2005:17) when he contends that learner background is considered in helping the learner master a particular aspect, the learner will thus have the accurate interpretation of any idea he (learner) is struggling with (vide supra: 106).

Mr. G asserts that a big number of learners do not practice their rights as reflected in the legal prescripts. With regards to this, it is imperative that 70% of the respondents who are educators and parents concur with Mr. G

that learners have conceptual problems with regards to learner rights. It is important to note that prior to 1994 and in the South African context though learners had rights as children, however, they (learner rights) were never spelt out and emphasized. What was emphasized however was positive behavior by learners. The rights of children were encapsulated on what was to be done in relation to children. For instance, it was well known that children used to eat first, and then followed by adults. That was one of the rights of children although that was never spelt out; hence it is probable that the reason for learners to misconstrue their rights is because they are trying to battle with the strange thing where they have to understand the new way of dealing with their rights. This could be as a result that they (learners) do not understand these rights, probably because they are not originally based on the culture an Africans. He further stipulates that learners abuse their rights with an intention to satisfy their goals, such as disrespecting their educators. This would probably lead to educator-learner conflicts. This idea is supported by Mill (2002:8) when he states that the problem with acknowledging students as fully fledged, legal processors of the fundamental rights that are identified in the Constitution or charter is that it would allow young people to go through the emotions of exercising political and civil rights without first developing full understanding of what they are about, without internalization of those skills and dispositions that are needed for the responsible exercise of such rights...Once a political or civil right is granted without a learner having prepared for such, it becomes immaterial, whether it is discharged intelligently or not. (Vide supra: 26).

5.6 INADEQUATE LEARNER AND EDUCATOR TRAINING ON THE SUBJECT OF LEARNER RIGHTS

The departmental official respondent has since expressed in no uncertain terms that learner rights have to do with learner quality education. On top of that, he is suggesting that in order for learners to understand their rights well, they need to receive thorough training. However, it is interesting to note that he is confessing that learners did not receive enough training on their rights, thus learners do not understand their rights adequately. The response that he is since providing is the same as the responses that one has since received from all the other respondents. It is also interesting that Mr. I who is a department official is confessing that even educators themselves were not given adequate training on learner rights but it is interesting that they, as department officials expect that educators educate learners on something they (educators) themselves cannot claim to know because they also did not receive adequate training on it.

5.7 EDUCATOR INVOLVEMENT IN THE FORMULATION OF LEARNER RIGHTS

Mr. I is confirming that no parents were consulted in the formulation of the legal prescripts on learner rights. This suggests that educators themselves are observing a problem with learner rights because they (learner rights) have no bearing on what they believe should be incorporated in learner rights, otherwise if they were involved at a primary level, they (parents) as a community would have noted that and made a constructive input. Such a

statement has been supported by Giroux (2002: 9) when he emphasizes that it is interesting that peacemaking rituals drawn from native traditions are helping make a safe space for mutual communication that can heal even deep-rooted that young people experience both in school and in the community...this shows the vitality of connections between the school and the community where the learner comes from (vide supra: 119). The input that the parents would make would be that which would help them understand learner rights in a much more acceptable and easy way. It is thus significant to note that whatever input parents would make would be that which would be to the advantage of both learners and educators because parents have a vested interest in the education of their children. Policy makers may be civil servants in the education system, but they do not have the vested interest that the parents in the education of their (parents') children have. It is also significant that it is sometimes probable that the departmental officials' decision on any policy making is influenced by the political position of the ruling party. For instance, during the apartheid regime, the education of the learners was such that Africans remain poor and inferior, however, after the 1994 elections in South Africa, the education system in South Africa has begun to be characterized by democratic principles, hence speaking about learner rights. This is emphasized by Section 28 of the South African Constitution:23 when it suggests that the State will have to pass additional legislation setting out clearly the rights of learners and the duties of parents and the state in relation to those rights (vide supra: 17). This may, however tend to ignore the question of indigenous language and culture if it deals with a number of people from diverse cultural background, more so because South Africa

is characterized by people from diverse and multicultural backgrounds. This relates to the question of direct translation of Western conceptions of rights by all stakeholders in the education fraternity.

Mr. J who is a departmental official contends that educators themselves have not received adequate involvement and training in so far as learner rights are concerned. This may serve as another probability as to why learners do not understand their rights and do not practice them fully. Even the non-involvement of educators in the primary formulation of learner rights could be a strategy to discriminate against them so that one particular group would dominate the scene and even the concerned parents would always live according to other people's standards, and outside of their standards. This suggests that these policies were formulated by the departmental officials without the involvement of educators and parents at a primary level. Obviously, if other stakeholders were not involved in the formulation of learner rights, this would eventually lead to a serious problem in terms of learner rights interpretation because learner rights would carry the sentiments of those who were involved in their formulation. This could also lead to a situation where there are parties, which will not accept these learner rights because they cannot own them since they were not involved in their (learner rights) formulation process.

It is also probable that most respondents suggest that learners do not understand, misinterpret, and implement their rights wrongly is because some stakeholders were not involved in the formulation of learner rights. It could thus be possible that those who were formulating learner rights did

so without alluding to the sentiments of those parties who have vested interest in the matter hence it is probable that learner rights have no bearing on the African culture. That could be a reason why educators, learners, and parents do not have full understanding of learner rights, hence there are so many conflicts when all these learners are struggling to interpret these rights in the school situation and leading to confrontations between educators and learners. At the end of the day, educators claim that these too many rights have caused learners to undermine them. Educators further claim that their duty to teach is affected by learner rights because learners are ill disciplined in schools as a result of these rights. It should also be noted that some educators have resorted to the use of corporal punishment in order that they try to address the problem of learner discipline in schools, thus contravening section 14 of the South African Schools Act (SASA), 84 of 1996 (vide supra: 28). It is, however imperative to understand that corporal punishment was banned in 1987 in the state schools, but it is a reality that despite that, some educators are still making use of corporal punishment, and they are trying to find reasons and justifications for using corporal punishment in their schools. Some Principals say when they call to report the misbehavior and talk about options for discipline, parents often request a paddling. There are even times, when the very first time you call a parent, they will just say, "...just give him a spanking", said Marylen, principal of homester elementary school in Arlington, (1997:50). This may tend to suggest a problem that parents are still holding on the culture that a learner is always a child and cannot question an adult, but he has got to adhere to what an adult say. This is supported by an African culture that though a learner or child has

and had the rights, but in no documentation would the rights of a child be officially expressed. Most people are not used to it since it is a new thing.

5.8 SUMMARY

The findings of this study, in particular clearly indicate that there is a serious problem regarding the implementation of learner rights in the previously so-called African Black schools. After learner rights were explicitly expressed and documented in the South African Schools Act, more confrontations between educators and learners began to be noticeable. This has raised a number of questions around learner rights. The interrogation of respondents that has taken place in the study also indicates serious unhappiness from most of the respondents regarding learner rights at a school level. All respondents have indicated that ever since learner rights were introduced at school, there has always been conflicts between educators and learners. Learners are not prepared to respect educators. Educators, on the other hand are not prepared to accept that learners have rights. On the one hand, the departmental officials are of the idea that all the stakeholders have not received adequate training on learner rights thus conflicts between educators and learners are manifesting. It is thus significant that learner rights issue be looked into from all angles in order that appropriate remedy be put in place so that learner rights are used in schools in order to benefit both learners and educators in a school situation.

CHAPTER 6

RECOMMENDATIONS AND CONCLUSIONS

6.1 INTRODUCTION

In our investigation of the perceptions of learner rights by the educators, we established that there is still a nostalgic yearning for the past organization in educational management where power relations between learners and educators were predicated on the hierarchical mode of social organization.

We also established that the new democratic dispensation has created an enabling environment for the development of a culture of resistance informed by the acquisition of a new critical consciousness on the part of the learners as they now see themselves as deserving a more affirming subject position within the structures of governance. This confirms the aim of this study which is as follows: to establish the root cause of the lack of discipline and the disrespectful behavior on the part of learners towards authority exercised by educators in the context of educational management.

Put differently, learners seized the opportunity that was afforded by the political climate to alter the power relations that for so long had remained intact and determined how issues of discipline and authority had to be dealt with. The ensuing of the culture of resistance as informed by the new

critical consciousness, severely curtailed the influence and the exercise of authority by the educators within the context of educational management.

The KZN provincial Department of Education has to understand that learner rights education significantly contributes to promoting equality and the rule of law. It enhances participation and democratic processes and prevents unnecessary conflicts and learner rights violations. Thus learner rights education is viewed as a fundamental contribution to the effective implementation of learner rights at all levels. The following questions may be explored in the drafting of learner rights school curriculum:

- What is the status of learner rights in schools?
- What learning portal on learner rights currently exists? Are there examples of best practices in using other new IT applications that can be used to train learner rights defenders; policy makers; law enforcement officials; learners or other stakeholders in the education fraternity?
- How is the scarcity or flood of information about learner rights managed? How best can information to advance learner rights goals be managed?
- How significant are learner rights in the emerging information society? How can learner rights issues be given priority in the school curriculum? What specific role all other stakeholders can play in order to develop the school curriculum on learner rights development?

It is significant to note that while there are so many things that could be done to enforce learner rights, one should be realistic about particular issues that should be looked into in order to remedy the situation on what and how that has to be done in order to avoid any conflicts that might take place between educators and learners.

6.2 RECOMMENDATIONS

6.2.1 INCORPORATION OF LEARNER RIGHTS IN THE SCHOOL CURRICULUM

It is important to note that there is no specific and clear way and platform where learners are taught about their (learner) rights. While there is no clarity in terms of where and how learner rights can be communicated to learners, it is also imperative to note that there is no particular documentation that suggests what exactly and explicitly the rights of learners are in schools. It is thus significant that after speaking about learner rights, everyone is able to explain without doubt what learner rights are. If these rights could be incorporated in the school curriculum, time would thus be allocated for learner rights in the school curriculum and syllabus, thus allowing learners an opportunity to learn about their rights.

6.2.2 FORMULATION AND DOCUMENTATION OF EXPLICIT AND SPECIFIC POLICIES BASED ON LEARNER RIGHTS

Zero tolerance is a strict approach to the enforcement of the rule of law. It can be used as the basis of formal law in a country or region, or even in a smaller environment such as a school. As the concept suggests, zero tolerance policies allow for absolutely no levels of tolerance or compromise for violations of the law in question. Punishment is thus under such policies unwaveringly severe in South Africa since the intention is to protect learner rights. Such a restriction to the use of corporal punishment plays a major role in influencing learners to be cautious of their rights for fear of the use of corporal punishment, more so because the law protects learners in that regard.

Again, if educators who, for instance are treated as having contravened particular sections according to the Educators Employment Act (EEA), and are liable for charges, if the same law may be applied to learners who breach the code of conduct in a school situation, unnecessary confrontations between the learners would probably be minimal because the learners would know that democracy means liberation and freedom for all, and not for a particular group and at the expense of other groups. Such would also help every learner to develop a sense of responsibility in respect of his or her rights. This would tend to minimize learner educator confrontation and further promote a healthy environment for healthy learning milieus.

Due process of law is a legal concept that ensures that the government respects all the person's legal rights, more especially when the government deprives a person of a right to live liberty and property. Due process has also been interpreted as placing limitations on laws and legal proceedings in order to guarantee fundamental fairness, justice and liberty. The legal systems of many nations embrace some variant of this, such as the concept of fundamental justice in Canada.

Having mentioned the above, it is imperative to consider justice as a cornerstone for survival, and the lasting existence of whatever legal prescript is in place. If for instance the principle of justice cannot be sacrificed when dealing with learner rights, the same approach would help if considered when dealing with the rights of other people. In this case particularly, it would probably help a lot if, in the formulation of the rights of learners, parents, community, and even other interested parties in learner rights formulation, were considered in the initial formulation of learner rights. This would ease the implementation and the interpretation of learner rights without wrong interpretations and discomfort. Thus there would be great support for learner rights. This would also assist in the preservation of educator trust by learner and there could be little room for unnecessary confrontation and bad relationships between learners and their educators because they would probably be holding the same understanding and the same sentiments about learner rights. It is imperative that learner rights be expressed explicitly and tacitly in particular documentation and legal prescripts for schools. The simplicity and interpretation of these rights by the Education Department will help facilitate the accurate and

appropriate interpretation of these learner rights by all the stakeholders concerned. The importance of documentation on learner rights is also attested to by all educator respondents who suggest that learner rights should be incorporated in a document that should be published by the Department of Education on how learner rights are to be implemented and administered.

6.2.3 PROVISIONS FOR DISTINCTIVE ALTERNATIVES TO CORPORAL PUNISHMENT FOR EFFECTIVE AND EFFICIENT IMPLEMENTATION OF LEARNER RIGHTS

For many years before and after 1994, many educators have resorted to corporal punishment as a form of correcting a learner from doing the wrong thing. Corporal punishment is a deliberate infliction of pain to someone as a corrective measure or punishment for doing the wrong thing. When used for the punishment of criminals or slaves, it is usually applied using an instrument such as a cane or a whip such as the “cat or nine tails” once used in America and by the British or the Russian knout, which consisted of leather thongs with pieces of metals inserted. Ancient Romans would use a similar device to punish those who broke the law.

It is indeed true that the South African constitution, section 28 banned the use of corporal punishment in schools. It is, however disappointing that when such a law regards corporal punishment as infringing on learner rights, it does not provide educators with alternatives on how educators will deal with, for instance, learner behavior in schools.

In some instances learners need to be warned strongly against the wrong things they have done. If corporal punishment is not to be officially instituted in schools, the Department Of Education is supposed to have put in place a substitute for corporal punishment in order to try and prevent the use of any form of punishment that could end up making one suspicious that there are particular individuals whose intention is to interfere with learner rights and abuse learners in a school situation which then results in educator-learner confrontations in schools.

6.2.4 INCORPORATION OF LEARNER-EDUCATOR CODE OF CONDUCT IN THE BILL OF RIGHTS AS PROSPECTS FOR THE FUTURE

The statement of learner's developmental rights, together with the policies concerning learner welfare rights constitute what is generally called a learner Bill of Rights or learner Code of Conduct. In most cases such a bill or code should be formulated co-operatively by educators, in consultation with learners and other interested parties like educator unions, departmental officials, and parents. Once approved at the school level, a bill of rights takes on at least a quasi-legal status. In other words, it becomes a binding law, which regulates the activities of an individual within a group-oriented system in a school. It becomes a binding document, which gives guidance to both educators, and school authorities. Models are already available, and should provide educators with some help should they decide to develop their own. It is thus imperative that all

parties are involved in the drafting of the bill in order to ensure the relevant basis of the setting of the bill. Such, involves, for instance, what all stakeholders believe in, in so far as their needs are concerned as well as their philosophical background.

It is, however interesting that no one may be certain if such documentation will be satisfactory to the court of law, thus having formulated such a bill will call for all parties to keep faith so that the courts will recognize and realize their honest attempt for learner entitlements without compromising the educational tasks to its maximum.

6.2.5 PARENT-EDUCATOR INVOLVEMENT AS A FUNDAMENTAL PREREQUISITE FOR LEARNER RIGHTS FORMULATION

Gabela (2003:62) points out “no educational system can function effectively unless it operates by the consent of the community whom it serves”. A functioning system derives its sustenance, among other things, from the contribution made by the parent and other community members. Concerning parental involvement in the discipline of children, Jones and Jones (1981:1.289) argue that in a limited number of instances both the rewards and punishment available in schools are simply powerful not enough to elicit desirable behavior from a child.

There is a feeling that further than what has been mentioned above, there is a lot to be done in order to preserve discipline in our schools.

Mncwabe (1985:156) points out the following:

“...Lack of parental support and understanding of what he, the child, is doing places the child in two segregated worlds between which he must choose at certain points”.

Mncwabe poses the significance of having parents involved in the education of their children. Parents should be involved in the education of their children at a very early and fundamental stage, and in all school activities.

In essence, the involvement of all stakeholders in the drafting of learner rights will not only address the question of perceptions of learner rights by stakeholders, but will also help learners to practice and implement their rights appropriately and within the jurisdiction and framework of their context, more especially the involvement of parents as the primary educators of their children.

Fear that learner rights have not come or regarded as a tool by which the Education Department wants to disempower educators, as perceived by some stakeholders also needs to be attend to. Notably there is no full support of these learner rights by most educators. In lack of support for learner rights, some will even go to an extent of using different things to justify the reasons why they do not favor learner rights, and this includes culture. If it is used in a more positive way, however, culture is a vital tool in effecting learner rights in schools.

Everyone knows that culture is socially constructed, learnt, shared and dynamic. It shapes people's behavior, and influences their identity and even their personality. To a large extent it thus makes people who they are. The entire process of education and all other part-perspectives of education are shaped and influenced by culture, but in turn culture is transmitted and preserved by education. There, is therefore, a mutual relationship between culture and education (Lemmer & Squelch, 1993:12). Learner rights, as a sub-component of education, needs to embrace culture in the process of interpretation as well as in its implementation.

Considering the influence of culture on all school activities, educators should take cognizance of two approaches in dealing with cultural diversity. The first is ethnocentrism, that is, the tendency to regard one's own culture as superior and thus make it the criterion for evaluating other cultural phenomena. The second, which stands in contrast to ethnocentrism, is cultural relativism. The underlying principle of cultural relativism is to refrain from judging the behavior of others according to one's own cultural standards and interprets phenomena of another culture in terms of that particular culture and its circumstances. Cultural relativism has been criticized for prescribing that all cultural phenomena are valid and should be respected, and hence for ruling out any value judgments, preferences, or distinctions between good and bad, acceptable and unacceptable.

6.2.6 AGE DEVELOPMENT IN RELATION TO LEARNER RIGHTS

Age, like race and sex, has a biological basis, but socio-cultural factors have an influence on how age is viewed and dealt with. In all societies people are differentiated on the basis of age, with each individual passing through various stages. Accordingly, positions, roles and types of behavior attached to the processes of growing up, maturing, and progressing to old age become part of “cultural baggage”.

Certain societies are characterized by clearly demarcated age categories. Some form of ceremony or rite of passage usually accompanies movement from one category to the next, either on an individual or group basis. Progression towards adulthood is, for example, heralded by initiation in many African societies. Other societies lack precisely defined categories, but particular criteria, including age, are taken into consideration in differentiating between stages of life (Miller, 1979: 165). Thus it is imperative that age be considered whenever learner rights are dealt with. That is important because the way learners perceive their rights will also be influenced by age.

Age is, however, relative. For instance, at the age of eighteen individuals may obtain a driver’s license, vote in an election, and be confirmed as full members of their church. But this does not necessarily mean that they are adults. In terms of the law, for instance, persons must be twenty-one years of age to be regarded as independent adults.

Generally, the ideal is to treat old people with due respect for the wisdom they have accumulated through life experience. In many societies, the elderly have the highest status. However, because of technology, the explosion of knowledge, and their often-advanced education, young people may know more than the elderly thus have equal or higher status. Also, young people may have gained premature life experience due to, probably hardship and socio-political circumstances, which have matured them beyond their biological age. In many cases, therefore, actual behavior and attitudes towards the elderly do not correspond with the ideal. It is significant therefore that when dealing with learner rights, age as determined by biological development has got to be looked into. Educational policy planners have got to scrutinize and adjust learner rights according to the age of the learners. Learners at a Primary school level cannot, for instance be afforded rights that are equivalent to the rights of a learner who is at a Secondary school level because their level of digestion is generally not the same. It may, however be denied that some learners gain premature life as a result of various reasons and hence the need that this be taken into cognizance in learner rights formulation.

Within a particular socio-cultural context, persons in certain stages of life are encouraged to behave in specific ways. People from other cultural backgrounds may be unaware of this, and consequently, misunderstanding in dealing with others may occur. For example, in one cultural group, learners who have not yet reached puberty are encouraged to follow set examples and, as it were, to be seen and not heard. In another group, learners are encouraged to show initiative and to express their own ideas.

In the school situation, this may be viewed by some scholars of the learners of the former group being wrongfully labeled as passive learners, and thus suggesting that it may impact on their academic performance. However, it is important to note that there is no perfect approach in dealing with learner rights although it is safe to say that every situation will depend on the context that one is faced with, and of course, consider the best option that could be utilized so that age in this instance does not end up serving as a barrier for learners to interpret and implement their rights accordingly and appropriately.

Historical developments and modern urban living, however, have largely contributed to the destruction of the spirit of “Ubuntu” in South Africa (De Villiers, 1994: 48). In fact there are people who say that they do not experience “Ubuntu” in their everyday lives. It appears as though “Ubuntu” is largely a theoretical concept referring to the ideal, and practical reality does not always coincide (Vilakazi quoted in Brookryk, 1996: 31). Be that as it may, in an attempt to recreate South African society, the concept of “Ubuntu” and its underlying philosophy are apparently being resurrected. The same should be the case with learner rights formulation, interpretation and implementation. It is also advisable that “Ubuntu” be incorporated in the learner rights policies in schools.

In South Africa, currently, there are increasing calls for the spirit of “Ubuntu” to be woven into people’s thoughts and all educational activities, including learner rights. The present awareness of “Ubuntu” cuts across various terrains ranging from business to education, as is evident from, for

example, conference contributions. In applying the “Ubuntu” concept to business management, Mbigi and Maree (1995: 9) state that “Ubuntu”, with its emphasis on working together and respecting human dignity, has the possibility of helping South Africans create a new identity that will transcend ethnic divisions. In this way, even with learner rights issues, unity can be affirmed while diversity is respected. If “Ubuntu can be accommodated in every sphere of learner rights, respect of learner rights by all stakeholders can be respected because learners themselves will be exercising their rights with respect, responsibility and commitment.

In summary, it is safe to propose that the knowledge and awareness of socio-cultural diversity and interdependence should be built into learner rights in order to reflect the South African and African reality, its people, phenomena and its solutions to its problems. Thus the concept “education” and its Part-perspectives, including learner rights should reflect on and serve the people of South Africa and Africa.

6.2.7 ELIMINATION OF ALL FORMS OF POSSIBLE BARRIERS IN ENSURING FUTURE QUALITY LEARNER RIGHTS

For learners to enjoy their rights in a free and democratic society in South Africa, the law and society will have to promote a human rights culture directed particularly to learners. Sacks (2003: 37) makes six general comments about learner rights:

- All laws, which discriminate against learners in general on the basis of race, color, or culture and ethnicity, must be abolished.

- The army, police, prisons, and the judiciary must be changed to make them the protectors of learner rights.
- Existing laws, which protect learners, should be strengthened and should protect all learners. Likewise, all learner rights should apply to all learners. Laws that are not equally enforced should be enforced.
- National programs with the person power and finance should be introduced in order to educate learners on their rights as learners.
- Learner organizations, which are dedicated to the implementation of learner rights, should have the support and protection of the law.
- New position of learner ombudsperson should be considered. This person would have the power to investigate cases involving learners' rights and make recommendations on this.

6.3 FURTHER RESEARCH

It should be noted that this study does not encompass every aspect of learner rights in a school situation. It has, however attempted to respond to some of the concerns that may be problematic in so far as learner rights are concerned. It is pivotal, however to note that there are a number of other areas of learner rights, which have been unraveled by this study and need further attention. Some of these problems have been isolated and are regarded as concerns for further research in the following areas:

- ❖ Formulation of learner rights
- ❖ The relationship between learner rights and learner obligation
- ❖ The extent to which learner rights should take place in a school situation
- ❖ Influence of learner rights in schools
- ❖ The extent to which learner rights have influenced educator-learner relationship
- ❖ Corporal punishment and learner rights
- ❖ Role of parents in learner rights

6.4 CONCLUSION

This study revealed that learner rights, be it by learners or educators could not be implemented fully unless educators and learners have the same understanding of the subject around learner rights. The previously so-called South African Black schools are a typical example of such a situation. This is confirmed by the objective of this study that: “ This study was to establish that the perception of learner rights by both educators and learners is informed by conflictual and contradictory modes of social organization, namely, the hierachical mode that is characteristically autocratic in its orientation and the democratic mode that is typically critical in its orientation.

If learners and educators do not understand learner rights alike and appropriately, confrontation is likely to take place between educators and learners. It is significant that learner rights be incorporated in the school curriculum that could be accommodated in the school so that there will be a universal understanding of learner rights by all the stakeholders in the education fraternity. This may also ease the problem of conceptual confusion of learner rights by both educators and learners hence working towards quality education of the learners in schools.

An important challenge in education nowadays is a move away from the notion of the education department as traditional beaurocratic department to the department, which is able to work with other stakeholders to enable schools to be centers of learning, growth and transformation (Mthabela,

1997:175). This statement suggests categorically the significance of all the stakeholders, and those are educators, learners, and parents to work together and co-operatively in order to combat all the hindrances in education and progress of learners. If all the stakeholders could be involved in the drafting of the policies on learner rights, everybody would be likely to perceive and implement learner rights accordingly and appropriately in schools.

The situation in schools today suggests the need to invite participation of all stakeholders in the progress and development of the learners. It is thus, imperative that all learners, educators, and parents work together in order to ensure that learner rights take their rightful place in accordance to the contextual cultural, religious, and cultural background of learners in schools in order that learner rights be used to benefit learners, and not to work against their progress and development.

This study also revealed that it is hard for learners to work harmoniously with their educators where learners do not perceive and implement their rights accordingly. This is attested to by Bissety (1997:1) when he contends that lack of respect between learners and educators could be so because educators and learners do not agree on a number of things, more so because they do not interpret and see things alike. Good and appropriate implementation of learner rights could therefore be used as a reinforcement to attain a pedagogical objective of leading the child to adulthood with the minimal generation of bitterness and friction (Ngcobo, 1986:238).

Finally, the researcher hopes that this study will offer suggestions to the National Department of Education ways and means to deal with the learner rights problems that they are faced with in order for learners to have an appropriate perception and relevant and appropriate implementation of their (learner) rights in schools.

6.5 EPILOGUE

Education in South Africa presents a simultaneously hearting and frustrating picture of almost unprecedented accomplishment with a myriad of disheartening, unresolved and unrelated problems (Mohanoe, 1983:342). From the beginning learner rights have been designed to serve a certain purpose. Many stakeholders were never part and parcel of the formulation of learner rights. Learner rights were designed for learners, but it is pivotal to note that educators have a duty to disseminate these learner rights to learners. It is, however, interesting that very little has been done to involve the educators at a primary stage with regard to how these learner rights work. This has resulted in the rejection of the learner rights by educators. Throughout the thesis reactions of educators have been discussed.

Different educators have advocated the nature and aim of learner rights. Some are advocating for learner rights that are characterized by inclusiveness. There is an outcry that education in South Africa is still mainly bureaucratic, and it tends to undermine the learners, who are supposed to be benefiting and enriched by the system of education in South Africa. This thinking is based on the fact that educators are regarded as bearers of a highly developed authority and learners are of the opinion that to be accepted by educators means to abide by their (educator) orders.

On the other hand, the African culture has to catch up with White culture, which means that the tempo of change that is expected from the African

culture must be such that it takes all that is offered by White culture thus neglecting their own culture. This approach has resulted in more chaos amongst previously so-called African schools. It is recommended that more serious research be undertaken with regard to the assimilation of White culture and the problems, which could emanate from such a process. The majority of educators and parents are arguing for learner rights, which will meet the needs and aspirations of all stakeholders in the education fraternity. The development of learner rights that are a result of all stakeholders' consultation is one way of developing education to meet the needs of the learners and the society in which they live. People's Education also serves the same purpose. This study sets out to show that learners have their own perception of South African learner rights while on the other hand educators are also stuck with their own diverse interpretation of learner rights. It also aims to show that these perceptions change according to the time in which they are conceived.

On the other hand the government is trying to improve the previously so-called black education. Much has been done on the supply of textbooks, stationery and even equipment, like desks and other necessities. The issue of paramount importance is the question of learner rights, which is irrelevant to the needs of the educators and parents in the society. Not much is done to correct the imbalances and the confrontations and chaos that are observable between educators and learners in schools. It is, however, observable that these confrontations between educators and learners have been a result of the Education department not adequately

communicating learner rights appropriately and meaningfully to all the education stakeholders.

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