

## Implementation of Legislations and Policies: Case Study of Vhembe and Mopani Districts' School Principals in Limpopo Province

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### Abstract

*Public education is generally regulated by legislations, regulations and policies. The main distinctive feature of provision of public education from one country to the other lies in the particular centralization of powers. South African legislations, regulations and policies are implemented from National education department of Basic Education. These are decentralized from National department of Basic Education to the Provincial Departments of Education, District offices and Circuit offices and lastly to schools. The structure is the same in all nine province including Limpopo Province. Policies are understood as vague, ambiguous, unclear, and long on ideas and vision, but short on implementation. The question which arises especially in schools is the ability of school principals or school managers to implement legislations, regulations and policies in their institutions. The central question we ask in this paper is "Do school principals know and understand the South African Constitution, especially Chapter 2 (Bill of Rights) and parliamentary education legislations, regulations and policies?" If they do not understand or know these legislations, regulations and policies, it would be a mammoth task for them to implement that which they do not know and understand.*

### Introduction

In the foregoing paragraphs we have provided a brief insight into the historical divisions and fragmentations in the provision of education in South Africa. In addition, prior 1994 two departments of education fell under the jurisdiction of the national parliament of the day; four fell under the governments of the so called self-governing territories; and four of which had four provincial components, fell under the jurisdiction of racially composed administrations answerable through a variety of structures of their own elected assemblies (Davies, 2005:123, Mashau & Phendla, 2011).

African education was further fragmented into seven departments of education in the self-governing territories or the so-called homelands, Kwa-Ndebele, Ka-Ngwane, Lebowa, Kangwane, Qwa-qwa, Kwa-Zulu, and Gazankulu, and four departments in the previously nominally states which were Transkei, Bophuthatswana, Venda and Ciskei. Subsequently, educational control and administration in the pre-democratic era was curious mixture of varying degrees of decentralization and centralization (Classen, 1995:470, Mashau & Phendla, 2011). In apartheid South Africa, the self-governing territories were located according to ethnicity.

The White race benefitted more than African (Black) race. Schools were also divided in terms of city, township and rural settlements.

For instance, children from city areas had very different experiences from children in the rural areas. Furthermore, there were also vast differences between rural and farm schools; and further immense disparities between township and squatter camps. At the time the duplicating education bureaucracy was mainly a result of the 1983 Tri-Cameral Constitution, which made provision for both 'general affairs', and 'own affairs' were defined as those matters which specifically or differentially affected a population group in relation to the maintenance of its identity and the upholding and furtherance of its way of life, culture, traditions and customs in state administration (Booyse, 2011:230).

While policies are useful at the political level, they create real problems for practitioners because they do not make provision for supporting practice. It is no surprise, then, that educators and school managers are faced with the challenges of a new order, the challenge to adopt new legislations, regulations and policies, strategies and implement them effectively. In this paper, we attempt to establish as to how far have school principals grappled with the implementation of parliamentary education legislations and policies related to education since the amalgamation of different education departments in the new dispensation in 1994 up to today. If they do not understand, which remedies can be implored? Sections 9, 10, 12, 14, 15, 16, 17, 18, 23, 28, 31, & 33 of the Constitution are central to the South African school education system.

For instance the application of South African Schools Act such as, Compulsory attendance (Section 3&4); Admission requirements (Section 5); Language policy (Section 6); Freedom of conscience (Section 7); Code of conduct (Section 8); Suspension and expulsion (Section 9); Prohibition of corporal punishment (Section 10); Prohibition of initiation practice (Section 10A); and Representative Council of Learner (Section 11) is vital for the effective management of schools, thus serve as a pivotal arm of the provision of quality education. To complement the above, the South Africa Schools Act; Employment of Educators Act; and South Africa Council of Education Act education and general parliamentary legislation provide the other pillars to support the South African education system.

We believe it is significant for school managers to have a basic and general understanding of all the South African parliamentary education legislations and policies with particular emphasis on South African School Act of 1996. This is what we regard as the cornerstone which provides bearing and life of the education system. We are convinced that if more school managers understand and implement the Constitution and SASA, the rights of all the learners in South Africa would be protected and equitable education achieved. The deep understanding of legislations and policies by the school managers and educators in South African schools will begin to pave a way to free education and ensure learners' rights such as religious beliefs without prejudice.

We might find that when these rights are well understood by the caregivers and custodians of education, the ordinary learner in the classroom will begin to enjoy the fruit good health, care, nutritional food delivered through effective and efficient feeding schemes. At the same times, deep understanding of these legislations and policies ensure social security and humanity dignity.

### ***Theorizing the Legislations, Regulations and Policies***

We begin by providing a summary of relevant legislations, regulations and policies. The main emphasis is placed on the Constitution of the Republic of South Africa since it is the supreme law of the Republic. The law or conduct inconsistent with it is invalid, and the obligations imposed must be fulfilled. It is therefore important for school principals and their educators to know and understand RSA Constitution and parliamentary education legislations.

#### ***Constitution of the Republic Of South Africa***

In terms of Section 9 (3) of the Constitution on equality, it states that the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. We in comparison to other sections, we find Section 9 (3) more interesting and we perceive it as one of the cornerstones of South African education. Notwithstanding the regrettable South African history which we just left behind, schools continue to discriminate children due to some of the differentiating factors such as their race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

We argue that Schools in South Africa are supposed to admit all learners from different backgrounds irrespective of the above distinctions. Section 29 is education. (1) (a-b)-(2) (a-c) states that everyone has the right to a basic education, including adult basic education; and to further education, which the state, through reasonable measures, must make progressively available and accessible.

Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account equity; practicability; and the need to redress the results of past racially discriminatory laws and practices.

#### ***Parliamentary Education Legislation National Education Policy Act 27 of 1996***

Education is one of the functional areas of concurrent national and provincial legislative competence listed in Schedule 4 of the Constitution. This means that both parliament and the provincial legislatures may enact legislation dealing with education matters. Roos, Oosthuizen and Smit (2009:58) state that parliamentary education legislation refers to parliamentary laws that are promulgated by parliament. We undertake to discuss Education legislations in particular the National Education Policy Act 27 of 1996. Section 2 of the National Education Policy Act is significant for the following reasons:

- To empower the national Minister of Education to determine national education policy in terms of certain principles.
- To provide an infrastructure which requires consultation with a wide variety of bodies.

Section 5 of the Act has got examples of these bodies. Bodies such as representative of the organized teaching profession, a national council of college rectors, a national council representative of students and a national council representative of parents.

- To ensure the publication and implementation of the national education policy.
- To ensure the evaluation and monitoring of education in South Africa.

### **The South African Schools Act 84 of 1996 (SASA)**

Besides the Schools Act preamble which says that it wants to devise uniform norms and standards for the education of learners in South Africa and to build education system that does not discriminate anyone. It also contains the most important provisions for the restructuring, governance and management of public schools; the establishment, registration and subsidizing of independent schools as well as conditions for home schooling.

Other essential principles of SASA are:

- Eliminating poverty through proper education;
- Establishing a human rights culture to advance the democratic transformation of society;
- Ensuring respect for and protection and advancement of various cultures and languages; and
- Establishing a partnership between all stakeholders who have an interest in education, i.e. the state, parents, learners, educators and other members of the community in the vicinity of a school (Joubert & Prinsloo, 2008:25).

Following are some of the Sections which are found in the South African Schools Act:

- Section 5 states admission to public schools.
- Section 6 deals with language policy at public schools.
- Section 6 A deals with curriculum assessment.
- Whereas Section 7 is the freedom of conscience and religion at public schools.

- Section 8 states code of conduct.
- Sections 10 and 10A deal with prohibition of corporal punishment and initiation practices.
- Section 11 is stating representative councils for learners.
- Sections 34-44 is for funding of public schools, as well as financial provisions regarding assets, budgets, school fees, statements and audit.

### **Employment of Educators Act 76 of 1998**

In this Act special attention is given to following aspects regarding the service dispensation of educators:

- Regulations regarding educators service conditions.
- Regulations regarding their appointment, promotion and transfer.
- Regulations regarding the termination of their services.
- Descriptions of the terms misconduct and incapacity; and also an exposition of educators accused of these transgressions.

### **South African Council of Educators Act 31 of 2000**

South African Council of Educators Act contains provisions on the composition of the Council, disciplinary procedures that may be taken by the Council, the Code of Professional Ethics, as well as fees payable to the Council.

### **Policies**

#### **Admission Policy for Ordinary Public Schools**

The purpose for this policy is to provide a framework to all provincial departments of education and governing bodies of public schools for developing the admission policy of the school. The admission policy of a public school and the administration of admissions by an education department must not unfairly discriminate in any way against an applicant for admission.

**Documents required for admission of a learner**

A parent must complete an application form for admission, which should be available to him or her by the principal of the school together with the admission policy and the code of conduct for learners of the school. When a parent applies for admission of a learner to ordinary public school, the parent must present an official birth certificate of the learner to the principal of the public school. If the parent is unable to present the birth certificate, the learner may be admitted conditionally until a copy of birth certificate is obtained from the Regional Office of the Department of Home Office.

On application for admission, a parent must show proof that the learner has been immunized against the following communicable diseases: polio, measles, tuberculosis, diphtheria, tetanus and hepatitis B. If a parent is unable to show proof of immunization, the principal must advise the parent on having the learner immunized as part of the free primary health care programme.

**Register of admission**

The principal of a public school must keep a register of admission to the school. All admissions of learners to the school must be recorded in the register of admission. The register must contain the name, date of birth, age, identity number, if applicable, address of the learner's parents and their addresses and telephone numbers, where applicable. Entries in the register of admission must be verified against the birth certificate or identity documents of the learner concerned. Officials of the provincial education department must have access to the register of admission.

**National Policy on HIV & AIDS, for Learners and Educators in Public Schools and students and educators in further education and training institutions**

Acquired Immune Deficiency Syndrome (AIDS) is a communicable disease that is caused by the Human Immunodeficiency Virus (HIV). In South Africa, it is spread mainly through sexual contact between men and women. Learners with HIV & AIDS should lead as a full life as possible and should be not denied the opportunity to receive an education to the maximum of their ability. Likewise educators who are HIV & AIDS should lead as a professional life as possible, with the same rights and opportunities as other educators and with no unfair discrimination being practiced against them. The constitutional rights of all learners and educators must be protected on equal basis.

Learners with HIV & AIDS have the right to attend any school or institution. The needs of learners with HIV & AIDS with regard to their right to basic education should as far as is reasonably practicable be accommodated in the school or institution. Learners with HIV & AIDS are expected to attend classes in accordance with statutory requirements for as long as they are able to do so effectively. No learner or educator is compelled to disclose his/her HIV & AIDS status to the school or an employer.

A continuing life-skills and HIV & AIDS education programme must be implemented at all schools for all learners, educators and other staff members. Education and information regarding HIV & AIDS must be given in an accurate and scientific manner and in language and in terms that are understandable. Refusal to study with a learner, or to work with or be taught by an educator or other staff member with, or perceived to have HIV & AIDS, should be pre-empted by providing accurate and understandable information on HIV & AIDS to all educators, staff members, learners, students and their parents.

Learners and students who refuse to study with a fellow learner or student or be taught by an educator or educators and staff who refuse to work with a fellow educator or staff member or to teach or interact with a learner perceived to have HIV & AIDS and are concerned that they themselves will be infected, should be counseled. The principal or the head of hostel is responsible for the practical implementation of the policy at school or hostel level, and for maintaining an adequate standard of safety according to the policy. It is recommended that a school governing body should take all reasonable measures within its means to supplement the resources supplied by the state in order to ensure the availability at the school to prevent contact with blood or body fluids.

### **National Policy Regarding Instructional Time for School Subjects**

All educators should be at school during the formal school day, which should be less than 7 hours per day, except for special reasons and with prior permission of the principal. The principal will exercise his or her discretion in this regard based on provincial policy. The 7 hour per day includes breaks and the periods on which the learners are not at school.

### **Norms and Standards for Educators**

The policy describes the roles, their associated set of applied competencies (norms) and qualifications (standards) for the development of educators. It also establishes key strategic objectives for the development of learning programmes, qualifications and standards for educators. These norms and standards provide a basis for providers to develop programmes and qualifications that will be recognized by the Department of Education for purposes of employment. The policy statement derives from the final report by the Technical Committee on the Revision of Norms and Standards for Educators. The Technical Committee consulted intensively with a range of stakeholders and drew heavily on the work of others:

- The regulations and discussion documents of the South African Qualifications Authority (SAQA);
- The reports of the Education, Training and Development Practices Project;
- The report of the President's Education Initiative (Getting Learning Right, 1999);
- The Centre for Educational Technology and Distance Education (Criteria for Quality Distance Education);
- Adult Basic Education and Training standards generating task team;
- The Green Paper on "Quality Education for All Learners: The Challenge of Addressing Barriers to Learning and Development.

This policy should be read together with the Final Report of the Technical Committee on the Revision of the Norms and Standards for Educators and with collective agreements of the Education Labour Relations Council, including those on Development Appraisal, the Duties and Responsibilities of Educators and Educator Workloads, as well as the South African Council for Educators' Code of Conduct.

### **There are seven roles and associated competences for educators:**

#### **Learning mediator**

The educator will mediate learning in a manner which is sensitive to the diverse needs of learners, including those with barriers to learning; construct learning environments effectively showing recognition of and respect for the differences of others. In addition an educator will demonstrate sound knowledge of subject content and various principles, strategies and resources appropriate to teaching in a South African context.

### **Interpreter and designer of learning programmes and materials**

The educator will understand and interpret provided learning programmes, design original learning programmes, identify the requirements for a specific context of learning and select and prepare suitable textual and visual resources for learning.

### **Leader, administrator and manager**

The educator will make decisions appropriate to the level, manage learning in the classroom, carry out classroom administrative duties effectively and participate in school decision making structures.

### **Scholar, researcher and lifelong learner**

The educator will achieve ongoing personal, academic, occupational and professional growth through pursuing reflective study and research in their learning area, in broader professional and educational matters, and in other related fields.

### **Community, citizenship and pastoral role**

The educator will practice and promote a critical, committee and ethical attitude towards developing a sense of respect and responsibility towards developing a sense of respect and responsibility towards others. The educator will uphold the constitution and promote democratic values and practices in schools and society. Within the school, the educator will demonstrate an ability to develop a supportive and empowering environment for the learner and respond to the educational and other needs of learners and fellow educators.

Furthermore, the educator will develop supportive relations with parents and other key persons and organizations based on a critical understanding of community and environmental development issues.

### **Assessor**

The educator will understand that assessment is an essential feature of the teaching and learning process and know how to integrate it into this process. The educator will have an understanding of the purposes, methods and effects of assessment and be able to provide helpful feedback to learners.

The educator will design and manage both formative and summative assessment in ways that are appropriate to the level and purpose of the learning and meet the requirements of accrediting bodies. The educator will keep detailed and diagnostic records assessment. The educator will understand how to interpret and use assessment results to feed into processes for the improvement of learning programmes.

### **Learning programmes/ subject/ discipline/ phase specialist**

The educator will be well grounded in the knowledge, skills, values, principles, methods, and procedures relevant to the discipline, subject, learning area, phase of study, or professional or occupational practice. The educator will know about different approaches to teaching and learning, and how these may be used in ways which are appropriate to the learners and the context. The educator will have a well-developed understanding of the knowledge appropriate to the specialism. The Norms and Standards for Educators Policy outlines qualification framework and credits from Certificate in Education to Doctor of Education of all educators.

### **Norms and Standards for language policy in public schools**

The main aims of policy for language in education are:

- To promote full participation in society and the economy through equitable and meaningful access to education;

- To pursue the language policy most supportive of general conceptual growth amongst learners, and hence to establish additive multilingualism as an approach to language education;
- To promote and develop all official languages;
- To support the teaching and learning of all other languages required by learners or used by communities in South Africa, including languages used for religious purposes, languages which are important for international trade and communication, and South African Sign Language, as well as Alternative and Augmentative Communication;
- To counter disadvantages resulting from different kinds of mismatches between home languages and languages of learning and teaching; and
- To develop programmes for the redress of previously disadvantaged languages.

### **Languages as subjects**

All learners shall offer at least one approved languages as a subject in Grade 1 and Grade 2. From Grade 1 onwards, all learners shall offer their language of learning and teaching and at least one additional approved language as subjects. All language subjects shall receive equitable time and resource allocation. The language(s) of learning and teaching in a public school must be official language(s).

### **Guidelines for the consideration of governing bodies in adopting a code of conduct for learners**

The document sets out guidelines for consideration by governing bodies of public schools in adopting a Code of Conduct for learners to ensure that there is order and discipline in schools. The Code of Conduct must be subject to the Constitution of the Republic of South Africa and South African Schools Act and provincial legislation.

It must reflect the constitutional democracy, human rights and transparent communication which underpin South African society. The Code of Conduct must inform the learners of the way in which they should conduct themselves at school in preparation for their conduct and safety in civil society. It must promote the civic responsibilities of the school and it must develop leadership. Each school must develop its own Code of Conduct. In formulating a Code of Conduct as a consensus document and before adopting it, the governing body must involve the parents, learners, educators and non-educators at that school. After the adoption of the Code of Conduct, each stakeholder must receive a copy thereof. The purpose of Code of Conduct is to promote positive discipline, self discipline and exemplary conduct, as learners learn by observation and experience.

The Code of Conduct must contain a set of moral values, norms and principles which the school community should uphold, however it is only enforceable to learners, not any other person. The Code of Conduct should clarify and promote the roles and responsibilities of various stakeholders in the creation of a proper learning environment in schools. We believe the foregoing are essential for a healthy education system, hence the significance of this research cannot be ignored. While school leadership and management are fundamental pillars of any education system as they provide the managers with central skills to manager the institutions, deep knowledge and understanding of legislations and policies which translate to effective implementation provides the central vein and lifeline of an education system.

### ***The Study***

This is a case study of Vhembe and Mopani school principals who are studying towards the Advance Certificate in Education-School Management and Leadership (ACE-SML) at the University of Venda.



The Limpopo Department of Education has selected 120 principals from well performing and the so called dysfunctional schools as they failed to produce reasonable Matric or Grade 12 results in the past few years. In each district 60 school principals were selected in an effort to provide essential management and leadership skills which could be attained from the ACE-SML advanced training.

Amongst the ten modules the principals study in the ACE-SML qualification, they take a module called Manage Law, Policy, Planning, School Development and Governance. This module covers pieces of legislations such as National Education Policy Act, of 1996, South African Education Act, of 1996 (SASA), Educators Employment Act of 1998 and South African Council of Educators Act, of 2000. Learning SASA only does not assist principals in school management. It is necessary for them to learn all legislations, such as parliamentary education legislations, general parliamentary legislations and education policies. We attest that learning all legislations and policies will broaden required knowledge and provide deep insight and understanding of schools practice in general and implementation in particular.

### ***Research Design and Methodology***

Research design is the overall plan for connecting the conceptual research problems to the pertinent (and achievable) empirical research. In other words, the research design articulates what data is required, what methods are going to be used to collect and analyse this data, and how all of this is going to answer your research question. In other words research design is the specific procedure involved in research process (data collection, data analysis).

Both data and methods, and the way in which these will be configured in the research project, need to be the most effective in producing the

answers to the research question (taking into account practical and other constraints of the study) (Van Wyk, 2010:3).

### **Research methodology**

The term methodology literally refers to the science of methods and it contains the standards and principles employed to guide the choice, structure, process and use of method as directed by the underlying paradigm. It is the way in which people proceed to solve problems (De Vos, 2000). This study utilized quantitative method approach.

### **Population**

According to Schumacher and MacMillan (1993:159) population can be viewed as a group from which a sample is drawn. In this study, school principals who are doing ACE-SLM from 120 schools from Vhembe and Mopani Districts were our population.

Due to the fact that some principals registered late for the programme only 100 principals responded to the questionnaires. Demography and their experiences were not considered due to time constraints. The questions which were asked are based on two columns.

### **Sample**

In this research article, 100 school principals who participated in the study were from two districts (Vhembe and Mopani) of Limpopo Province. Majority of principals were from secondary schools.

### **Data collection strategies**

Data was collected through questionnaire on the day of contact session.

### **Data Analysis and Findings**

The following table analyses data and presents the findings of the study:

**Table 1: Legislations and Policies**

	Do you have copies of legislations, and policies?		Do you know/understand/legislations, and policies?		Do you need/use legislations, and policies?	
	% YES	% NO	% YES	% NO	% YES	% NO
<b>CONSTITUTION</b>						
	8	92	17	83	92	8
<b>PARLIAMENTARY EDUCATION LEGISLATION</b>						
The National Education Policy Act 27 of 1996	3	97	26	74	100	0
The South African Schools Act 84 of 1996 (SASA)	85	15	83	17	15	85
Employment of Educators Act 76 of 1998	63	47	73	27	76	34
South African Council of Educators Act 31 of 2000	12	78	0	100	100	0
<b>POLICIES</b>						
Admission Policy for Ordinary Public Schools	100	0	100	0	2	80
National Policy on HIV & AIDS, for Learners and Educators in Public Schools and students and educators in further education and training institutions	19	81	19	81	100	0
National Policy Regarding Instructional Time for School Subjects	13	87	100	0	100	0
Norms and Standards for Educators	10	90	32	68	89	11
Norms and standards for language policy in public schools	8	92	46	54	90	10
Guidelines for the consideration of governing bodies in adopting a code of conduct for learners	33	67	100	0	80	20
National norms and standards for school funding	23	77	100	0	76	4
<b>THE CONSTITUTION OF THE EDUCATION LABOUR RELATIONS COUNCIL</b>						
	0	100	21	79	100	0

### **Concluding Remarks**

It is often taken for granted that managers (school principals) know more about legislations, regulations and policies than they actually do. They are often given more credit than they deserve. It came as a surprise when we discovered that managers (school principals) knew way less about legislations and policies than expected. In this study we observed that there is a lot to be done for these managers to understand and implement legislations and educational policies that are central to the provision of quality education in South Africa.

The one main question the school principals were asked to answer is “How do principals run their schools without the essential knowledge of parliamentary education legislation and policies?” What surprised us was the school principals’ level of understanding of legislations, regulations and policies or rather the lack thereof. A simple question like “Do you know how laws or Acts are promulgated in parliament?” was received with narrow responses.

Many of the school principals did not have a clue on how Acts/legislations were promulgated. As well, the few who responded with affirmation did so with less conviction.

While we may not reduce the responses to no knowledge at all, the shallowness the majority of school principals' insight into South African legislations, regulations and policies tends to be disturbing. A large percentage revealed a clear challenge in the distinction between legislations, regulations and policies. We had taken it for granted that school principals would be in a better position to at least know and understand SASA as a central cornerstone of the South African education system. Contrary to our belief, South African Schools Act and many other such legislation ended up collecting dust in cupboards somewhere.

Some of the principals maintained that they had last seen the Constitution of the Republic of South Africa in 1998. It was quite surprising to hear that as it is a legal requirement for all leaders of institutions to have a copy of the Constitution.

Moreover the Constitution is the supreme law of the country and any policy which might be drafted in the school should be within the confines of the existing law (Constitution). Seemingly, parliamentary legislations which many school principals are familiar with are the South African Schools Act of 1996 and Employment of Educators Act of 1998. With disbelief, we learn that other legislations such as the National Education Policy Act of 1996 and South African Council of Educators Act of 2000 were unknown and were heard for the first time.

The study painted quite disturbing picture. While politician and policy makers expect implementation of legislations and policies as a requirement, the practice poses a different reality. Challenges posed by the past inequalities will see the day of light when addressed through the general parliamentary legislations and relevant to educational policies, and when they are practiced and put in the centre of schools' daily performance. Especially noteworthy, deep knowledge and understanding of legislations and policies which translate into practice is of fundamental importance and central to the quality education system.

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