

**Exploring education-related sexual  
equality experiences of LGBTQ+ students:  
an education law perspective**

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## DECLARATION

I, the undersigned, hereby declare that the work contained in this dissertation is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

A handwritten signature in black ink, enclosed within an oval shape. The signature is stylized and appears to be 'S. J. J. J.'.

**Signature / Handtekening**

November 2018

**Date**

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“Authentic equality does not prioritize sexual orientation; it does not put any one gender or race at the centre ... What it does do is centralize love, and when love is centralized, every door opens for everyone.” - *Anne Hathaway*

## ABSTRACT

The Constitution of the Republic of South Africa (1996) encompasses democratic values which guide and strengthen the claim to an “open and democratic society” (1996:Preamble). One of the democratic values is *equality* which also forms part of one of the human rights within the Bill of Rights (1996:sec.9). The right to equality contains prohibited grounds concerning unfair discrimination, one of which is sexual orientation (1996:sec.9(3)). This study thus focuses on sexual equality (sexual minorities’ right to equality) and more specifically how LGBTQ+ learners experience sexual equality within the education system. Justice Sachs indicated in the Constitutional Court case *National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs and Others* (2000:par.109) that...

*[w]hen everything associated with homosexuality is treated as bent, queer, repugnant or comical; the equality interest is directly engaged. People are subject to extensive prejudice because of what they are or what they are perceived to be, not because of what they do. The result is that a significant group of the population, because of its sexual non-conformity, is persecuted, marginalised and turned in on itself.*

The Constitutional Court stipulated in the *Coalition* case (2000) that the marginalisation of LGBTQ+ people within society, laws and policies prevents these sexual minorities from fully enjoying their right to equality and a just society. This study explores the lived experiences of LGBTQ+ students when they were at school and how their experiences could inform determinants for sexual equality within the education system of South Africa. It also explores possible guidelines derived from LGBTQ+ students’ lived experiences which could inform teacher education programmes.

A literature review was undertaken in two ways: (1) theoretical perspectives were presented and (2) a basic legal framework was indicated. The theoretical perspectives dealt with critical theories which could assist in developing determinants for sexual equality in teacher programmes, whereas the purpose of the basic legal framework was firstly to look at how rights within the Bill of Rights should be applied and interpreted and, secondly, at what the right to equality, and specifically sexual equality, entails for and within the South African education system.

An empirical study explored the lived experiences of LGBTQ+ students when they were at school and the (non)realisation of their rights to sexual equality at that time. This study also asked LGBTQ+ participants to provide possible guidelines for teacher education programmes which could inform the promotion of sexual equality within education. The empirical study

was done via online questionnaires on SurveyMonkey at two universities. Peer review, rich descriptions and reflexivity were used to ensure the trustworthiness of the empirical data.

The study showed that the South African school system still struggles to provide sexual equality for all learners and that the heteronormative assumptions within society are clearly internalised by role-players within the school system. This, however, was not the experience of all the participants. Some participants reported that their peers, teachers and parents were supportive of their sexual orientation identities and that this enabled them to have positive experiences of sexual equality which increased their willingness to participate in school and to reach their full potential. The LGBTQ+ participants within this study emphasised that the sexual equality within a school system could have an immense influence on learners' participation and learning experiences within schools.

The guidelines, derived from the lived experiences of the LGBTQ+ participants, mostly consisted of the notion that student teachers and teachers lack knowledge regarding psychology and that it is important to them that sexuality is not dismissed within schools as a 'taboo' topic, but that teachers should rather educate learners regarding different types of sexual orientation (gender types were also mentioned). The overall guidelines suggested that creating an environment which provides for critical dialogue regarding topics of sexual orientation could create an environment of awareness and acceptance. The participants of this study emphasised that merely dismissing sexual equality strengthens sexual inequality because it does not address the heteronormative assumptions of society, nor does it acknowledge the violence that accompanies heteronormativity.

**Key concepts:**

Heteronormativity; human rights literacies; oppression; othering; privilege; right to equality; sexual equality; sexual orientation; teacher education

## OPSOMMING

Die Grondwet van die Republiek van Suid-Afrika (1996) bevat demokratiese waardes wat die aanspraak tot 'n "oop en demokratiese samelewing" versterk (1996:Aanhel). Een van die demokratiese waardes in die Grondwet is *gelykheid* wat ook deel vorm van een van die menseregte binne die Handves van Regte (1996:art.9). Die reg op gelykheid bevat verbode gronde ten opsigte van onbillike diskriminasie, waarvan seksuele oriëntasie een is (1996:art.9 (3)). Hierdie studie fokus dus op seksuele gelykheid (seksuele minderhede se reg op gelykheid) en meer spesifiek op hoe LGBTQ+ leerders seksuele gelykheid ervaar in die onderwys. Regter Sachs het in die hofsaak *National Coalition for Gay and Lesbian Equality and Others v Minister of Home Affairs and Others* (2000: par.109) aangedui dat

*[w]anneer alles wat met homoseksualiteit geassosieer word as gebuig, queer, afstootlike of komies beskou word, word gelykheidsbelang onmiddellik betrek. Mense is onderworpe aan uitgebreide vooroordeel as gevolg van wat hulle is of hoe ander hulle waarneem, nie as gevolg van wat hulle doen nie. Die gevolg is dat 'n beduidende groep van die bevolking, as gevolg van hulle seksuele nie-ooreenstemming, vervolgd en gemarginaliseer word, en op hulleself aangewese is.*

Die Konstitusionele Hof het in die *Coalition*-hofsaak (2000) bepaal dat die marginalisering van LGBTQ+ mense in die samelewing, wette en beleide hierdie seksuele minderhede verhoed om hul reg op gelykheid en 'n regverdigde samelewing ten volle te geniet. Hierdie studie ondersoek die ervarings van LGBTQ+ studente toe hulle in skool was en kyk na hoe hulle ervarings van destyds kan bydra tot determinante vir seksuele gelykheid binne die onderwysstelsel van Suid-Afrika. Dit verken ook moontlike riglyne wat onderwysersopleiding programme kan inlig.

'n Literatuuroorsig is onderneem in twee maniere: (1) teoretiese perspektiewe is aangebied en (2) 'n basiese regsraamwerk is aangedui. Die teoretiese perspektiewe hanteer kritiese teorieë wat kan help met die ontwikkeling van determinante vir seksuele gelykheid in onderwyser programme, terwyl 'n basiese regsraamwerk eerstens gedoen is om te kyk na hoe menseregte binne die Handves van Regte toegepas en geïnterpreteer moet word en in die tweede plek, wat die reg op gelykheid, en dan spesifiek seksuele gelykheid, vir en binne die Suid-Afrikaanse onderwysstelsel behels.

'n Empiriese studie is ook gedoen; dit verken die ervarings van LGBTQ+ studente toe hulle op skool was en die (nie)verwesenliking van hulle seksuele gelykheid tydens daardie tydperk. Hierdie studie het ook LGBTQ+ deelnemersgevra om moontlike riglyne vir onderwysersopleiding programme wat die bevordering van seksuele gelykheid in die

onderwys kan inlig te voorsien. Die empiriese studie is gedoen deur middel van aanlyn vraelyste by twee universiteite, volgens die SurveyMonkey-metode. Evaluering, ryk beskrywings en refleksiwiteit is gebruik om die betroubaarheid van die empiriese data te verseker.

Die studie het getoon dat die Suid-Afrikaanse skoolstelsel steeds sukkel om seksuele gelykheid vir alle leerders te voorsien en dat die heteronormatiewe aannames binne die samelewing duidelik geïnternaliseer word deur rolspelers binne die skoolstelsel. Dit was egter nie die ervaring van al die deelnemers nie; daar was deelnemers wat ervaar het dat hul mede-leerders, onderwysers en ouers ondersteunend was teenoor hul seksuele oriëntasie identiteite en dat dit hulle in staat gestel het om positiewe seksuele gelykheid ervarings te hê wat dan ook hul bereidwilligheid om deel te neem op skool en om hul volle potensiaal te bereik laat toeneem het. Die LGBTQ+ deelnemers binne hierdie studie beklemtoon dat die seksuele gelykheid binne 'n skoolstelsel 'n geweldige invloed op leerders se deelname en leerervarings binne skole kan hê.

Die riglyne wat afgelei is van die ervarings wat LGBTQ+ deelnemers beleef het, bestaan meestal uit die idee dat onderwysstudente en onderwysers 'n gebrek aan kennis ten opsigte van die sielkunde het en dat dit vir hulle belangrik is dat seksualiteit nie verwerp word binne skole as 'n 'taboe' onderwerp nie, maar dat onderwysers eerder leerders moet inlig oor die verskillende tipes seksuele oriëntasies (geslag tipes was ook genoem). Oor die algemeen, het die riglyne voorgestel dat die skep van 'n omgewing wat voorsiening maak vir kritiese dialoog wat betref seksuele oriëntasie, 'n omgewing van bewustheid en aanvaarding kan skep. Die deelnemers aan hierdie studie het beklemtoon dat seksuele ongelykheid versterk word wanneer seksuele gelykheid bloot net verwerp word, omdat dit nie die heteronormatiewe aannames en geweld wat daarmee gepaard gaan aanspreek nie, en dit ook nie erken nie.

Sleuteltermes:

Heteronormatiwiteit; human rights literacies; onderdrukking; onderwyser-onderwys; reg op gelykheid; seksuele gelykheid; seksuele oriëntasie; vervreemding; voorreg

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# CHAPTER ONE: ORIENTATION OF THE STUDY

## 1.1 Introduction

*Education institutions bring people together to share spaces and interact with one another in the quest for learning and development (De Wet et al., 2016:86).*

The togetherness of role-players in the education system – such as teachers, learners and parents – emphasises the importance of well-structured laws and policies which can assist teaching and learning within education by enabling an environment where interaction takes place in the diverse South African school system. The Constitution of the Republic of South Africa (1996) prescribes in section 28(2) that the best interests of every child in South Africa should be protected, and in section 29(1)(a), each child is given the right to a basic education. The South African Schools Act (SA, 1996a; Schools Act) furthermore describes the basics of the national education system in its Preamble as follows:

*WHEREAS the **achievement of democracy** in South Africa has consigned to history the **past system of education** which was based on racial **inequality and segregation**; and WHEREAS this country requires a new national system for schools which will redress past injustices in educational provision, provide an education of progressively high quality for all learners and in so doing lay a strong foundation for the development of all our people's talents and capabilities, **advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance**, contribute to the eradication of poverty and the economic wellbeing of society, protect and advance our diverse cultures and languages, **uphold the rights of all learners, parents and educators**, and **promote their acceptance of responsibility** for the organisation, governance and funding of schools in partnership with the State;*

The Schools Act (SA, 1996a) clearly describes in its Preamble that it is focused on bettering the patterns of past inequalities, while providing a South African school system which promotes democratic values and all human rights. There is no doubt that South Africa has clearly stated laws and policies to move away from its past inequalities, but for these laws and policies to make a difference in South African schools, teachers need to be educated in human rights and responsibilities and about what is meant by creating a safe and (sexual) equality-based education system. De Wet *et al.* (2016:87) clearly state that the lived experiences of minority groups, such as LGBTQ+ learners, do not always mirror protection against unfair discrimination and the promotion of a (sexual) equality-based environment. DePalma and Francis (2014b:1688) describe schools as one of the places where the commitment to sexual equality still remains problematic. Francis (2017:21) furthermore describes how schools could be harmful to LGBTQ+ learners when they do not acknowledge

and promote sexual equality. Teachers have one of the most important roles in providing and creating a human rights culture within their classrooms and within schools (De Wet *et al.*, 2016:87).

An environment based on human rights is one where all types of learners, regardless of their sexualities, cultures, ethnicities or any other prohibited characteristics, can feel free to be themselves in an educational environment which promotes democratic values. This study focuses on sexual equality within classrooms and explores the education-related experiences of LGBTQ+ students when they were at school. It follows an education law perspective (*cf.* 1.6.2). The next section will discuss the research problem and the study's focus.

Chapter one consists of a basic overview of the study. It describes the problem statement and the gaps which were identified through previous research on LGBTQ+ learners' experiences. It then contains a rationale which leads the reader to the research question, aims and objectives. Thereafter, a conceptual framework is presented with thorough explanation of all the key concepts within the study. The chapter concludes with the research strategies used in this study and an outline of the structure of the rest of the chapters.

## **1.2 Discussion of the research problem**

This section explores the research problem regarding sexual equality in education within a South African context. The gaps within previous research regarding this topic are identified; this leads to the rationale which assisted in identifying the research questions.

### **1.2.1 Status and validation of the research problem**

Section 1(a) of the Constitution (1996) makes clear that the constitutional values of "human dignity, the achievement of equality and the advancement of human rights and freedoms" (1996:sec.1(a)) became central values after 1994 when South Africa became a democratic country. Although these values should be promoted by the law and its implementation, there are still minority groups, such as LGBTQ+, who are disadvantaged by prejudice and discrimination (Bhana, 2012:308; Butler *et al.*, 2003:21; De Wet & Van Vollenhoven, 2015:2; Msibi, 2012:2). In the sphere of education, prejudice and discrimination often interrupt applications and practices that would enhance sexual equality and protect the freedom and dignity of LGBTQ+ learners and students (Bhana, 2012:308; Johnson, 2014:1250; Msibi, 2012:515). According to Brikkels (2015:1), it seems as if the victimization of and unfair discrimination against LGBTQ+ learners in the form of "isolation, humiliation, rejection or violence" still occur at South African schools. The following examples of the experiences of

LGBQ+ school learners, identified by previous research, suggest that unfair discrimination based on sexuality is still a problem at South African schools:

- Teachers and peers ignore lesbian and gay learners during teaching-learning actions by, for example, rejecting and ridiculing these learners' attempts to participate in group discussions; this causes LGBQ+ learners to withdraw from school and teaching-learning activities (Brikkels, 2015:1).
- When gay and lesbian learners 'come out' during their school years, they often experience "prejudice, unfair discrimination and isolation" in their school settings (Butler *et al.*, 2003:21; Potgieter & Reygan, 2012:41; Reygan & Francis, 2015:101).
- The sexual orientation of LGBQ+ learners is used as an excuse by perpetrators to abuse them physically and verbally and/or rape them; this causes increased absenteeism and increased dropout rates at schools (Francis & Msibi, 2011:160).
- Lesbian and gay learners experience physical and verbal abuse from peers and often from teachers, causing them to withdraw from school activities (Bhana, 2012:308; Msibi, 2012:515).
- LGBQ+ learners are often exposed to hostile "homophobic learning environments" causing demotivation towards any learning or other school activities (De Wet *et al.*, 2016:87; Johnson, 2014:1251).
- Excluding LGBQ+ learners from learning, sport and other school-related activities causes learners to feel as if they do not belong anywhere, which also decreases their motivation to participate in and learn during school-related activities (Bhana, 2012:308).

These examples illustrate that some teachers lack knowledge of the constitutional values and human rights and do not have the strategies to implement them, both of which would promote sexual equality in education. Teachers have a duty to promote constitutional values, human rights and a respectful diverse society (De Wet *et al.*, 2016:86; Nieuwenhuis, 2007:6) by treating learners equally and by creating a safe teaching-learning environment for all learners, including those who belong to sexual minority groups. Using and implementing a human rights-based approach during teaching-learning activities and creating a human rights culture in the classroom and at schools may improve (sexual) equality (Department of Basic Education, 2008:7; Keet, 2009:216; Simmonds, 2014:133). The key role that teachers could play in promoting sexual equality in education requires them to be well equipped in terms of (1) knowledge and skills concerning human rights; (2) values, attitudes and behaviour that

promote human rights; and (3) actions that indicate that they uphold and defend everyone's human rights equally (Becker & De Preez, 2016:6; Simmonds, 2014:143; UN, 2010:13).

Although teachers have access to numerous human rights resources – such as the Bill of Rights, Human Rights Education (HRE) and other related educational documents such as CAPS that are supposed to guide education activities and provide equal education – there is still uneasiness among teachers concerning the topic of sexual orientation. This uneasiness is likely to be accompanied by nervousness, anguish, rage and bewilderment (Bowins, 2016:251). Becker *et al.* (2014:4), Keet (2012:7), Keet *et al.* (2017), and Roux and Becker (2015) emphasise the lack of both intrinsic knowledge and the internalisation of human rights values in teacher education. Numerous sources have identified that teachers promote heterosexism through their lack of support for LGBTQ+ learners, by their unwillingness to react to homophobic abuse and bullying, and by verbally or emotionally bullying LGBTQ+ learners (Bhana, 2012:309; Brikkels, 2015:27-28; Johnson, 2014:1249). The following factors may also contribute to homophobic learning environments at schools (Brikkels, 2014:24; Butler *et al.*, 2003):

- Insufficient teacher education concerning difference and diversity in classrooms, which includes race, gender, sexual orientation, and culture – for example, teachers do not know how to acknowledge and treat LGBTQ+ learners equally to other learners.
- Inadequate knowledge among teachers concerning equity-based policies and legislation such as the Promotion of Equality and Prevention of Unfair Discrimination Act (4 of 2000) that protect minority groups as well as all learners' rights to equality.
- Lack of accountability where schools fail to hold teachers and learners accountable for homophobic transgressions, such as verbal, physical and emotional abuse.
- Refusal to endorse sexual equality where schools discourage 'homosexuality' or refuse to acknowledge the presence of LGBTQ+ learners.
- Compulsory heteronormativity where teachers establish fear concerning 'homosexuality' in learners – by advocating heterosexist norms.

It seems that teachers, who are ideally positioned to support LGBTQ+ learners and to promote transformation for a more equal school environment, lack the knowledge to support and provide equal education opportunities to LGBTQ+ learners. As indicated previously, teachers have a significant role to play in how learners understand sexual diversity in education systems, in order to prevent homophobic bullying (Johnson, 2014:1250). It is not possible for

teachers to promote equality and equity if they are not equipped fully with knowledge concerning sexuality, human rights (including sexual equality), techniques for implementing a human rights approach to teaching-learning activities, and values that promote an equal and just environment in and outside the classroom (De Wet *et al.*, 2016:86; Francis, 2012:1; Roux & Becker, 2015). Contrary to this, it seems as if teachers are ignorant concerning human rights literacies which could actually enhance their contribution towards the promotion of sexual equality in schools. It is therefore necessary, specifically for this study, that teachers understand sexual equality against the background of human rights and that they are particularly knowledgeable and skilled concerning the application of human rights in the area of sexuality towards the realisation of sexual equality in and through education. Roux and Becker (2015), as well as Simmonds (2014:136), contend that “the assessment of skills, knowledge and actions with internalised human rights values can only be achieved” when human rights literacies exist and are understood clearly. Human rights literacies could open up spaces in which student teachers can engage with complex issues such as sexual equality (Roux & Becker, 2015; Simmonds, 2014:136).

### **1.2.2 Gaps in the literature**

Numerous studies have been conducted that concern LGBTQ+ rights, including research that reports on the experiences of LGBTQ+ learners (Brikkels, 2014; Gegenfurtner & Gebhardt, 2017; McGlashan & Fitzpatrick, 2017; Msibi, 2012); teachers’ positioning on teaching about sexuality (Bhana, 2012; DePalma & Francis, 2014a; DePalma & Francis, 2014b; Francis, 2012; Francis, 2017; Reygan & Francis, 2015); social and cultural influences that shape teachers’ behaviours towards sexual orientation in schools (Bhana, 2014; Francis, 2012; Francis, 2017; Msibi, 2012; Msibi, 2018); teachers’ need to address heteronormativity (DePalma & Atkinson, 2006; DePalma & Jennett, 2010; Francis, 2017; Msibi, 2018); and problems concerning sexism and heterosexism in schools (Bickmore, 2002; Francis, 2012; Francis, 2014b; Francis, 2017; Msibi, 2018). However, little research in this field has investigated sexual equality in education with the intention of identifying guidelines for teacher education towards promoting sexual equality in education. Francis (2012:13) concludes, in his study, that there is a definite need for teacher education programmes to “examine how teachers are being educated to meet the needs” of those learners who identify as LGBTQ+ oriented. The same author emphasises that this particular gap is still under-researched and that future studies need to involve LGBTQ+ perceptions, experiences and recommendations. Johnson’s study (2014) highlights the importance of preparing student teachers in teacher education programmes “to understand and combat homophobia” which then points to supporting the research gap that this study focused on filling. Thus, research has not yet been done to gain insights from the LGBTQ+ community with the specific aim of

informing teacher education towards advancing sexual equality at schools. This study therefore explores how teacher education could promote sexual equality by including sexuality and human rights literacies. I focused on unlocking LGBTQ+ students' education-related sexual equality experiences towards informing transformative teacher education.

### **1.2.3 Rationale**

The problem statement has clearly highlighted the need for teachers to be prepared better *vis a vis* their role in respecting, protecting and promoting the rights of LGBTQ+ learners. The explanation of the gap in the literature concerning this study's focus identified that completed research in the field has focused on the perceptions of parents, peers and teachers regarding LGBTQ+ people in education and mainly highlighted victimization of LGBTQ+ learners or teachers' negative attitudes towards inclusive sexual education. Little research has, up to now, focused specifically on gathering the perceptions, experiences and recommendations of only LGBTQ+ voices to identify specific guidelines that may potentially inform teacher education programmes for future improvement of sexual equality at schools. This study thus not only investigated LGBTQ+ rights in education, but it also attempted to address the gap in the literature by identifying how teacher education could contribute towards sexual equality at schools. Consequently, the research develops guidelines for teacher education by drawing from participants' lived experiences concerning sexual equality in education. Guidelines suggested in this study could contribute to the infusion of sexual equality and human rights literacies for sexual equality into teacher education. There is also a need for research in the field of education law concerning the creation of a human rights culture that respects, protects and promotes the rights of minority groups such as LGBTQ+ learners. This study therefore attempted to contribute to the field of LGBTQ+ research from an education law perspective by focusing on sexual equality.

### **1.3 Research questions**

The following primary research question was formulated to become the backbone of this study:

***How can education-related sexual equality experiences of LGBTQ+ students inform transformative teacher education?***

The following secondary questions supported the primary question:

- What are the theoretical and legal determinants for sexual equality at schools?

- How did LGBTQ+ university students experience the (non)realisation of sexual equality while they were at school?
- Which guidelines can be developed and suggested for teacher education towards the promotion of sexual equality?

#### 1.4 Aims and objectives of the study

The *primary aim* of this study was to unlock LGBTQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives included the following:

- To outline the theoretical and legal determinants for sexual equality at schools.
- To explore how LGBTQ+ university students experienced the (non)realisation of sexual equality while they were at school.
- To develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

#### 1.5 Conceptual framework

The following concepts were of central significance to the study and will therefore be explained in depth below to provide meaning for the relevant context: sexual orientation; self-disclosure; sexual equality; teacher education and student teacher; othering; heteronormativity; privilege; oppression.

##### 1.5.1 Sexual orientation

Francis and Msibi (2011:171) define *sexual orientation* as “the enduring attraction to members of one or both sexes”. Justice Ackerman defined sexual orientation in *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs*<sup>1</sup> (2000; hereafter, *National Coalition for Equality*) as

*... (the) erotic attraction: of heterosexuals, to members of the opposite sex; in the case of gays and lesbians, to members of the same sex. Potentially a homosexual or gay or lesbian person can therefore be anyone who is erotically attracted to members of his or her own sex ... It applies equally to the orientation of persons who are bisexual, or transsexual and it also applies to the orientation of persons who might on a single occasion only be erotically attracted to a member of their own sex.*

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<sup>1</sup> National Coalition for Gay and Lesbian Equality v Minister of Home Affairs 2000 1 BCLR 39 (CC)

The term *sexual orientation* is used in this study because it is mentioned specifically in the Constitution (1996:sec.9(4)) and the Promotion of Equality and Prevention of Unfair Discrimination Act (4 of 2000; hereafter, PEPUDA) as a ground for unfair discrimination. Mayer and McHugh (2016:13) and Ryle (2012:189) explain the concept sexual orientation as being characterised by two conflicting ideas regarding its origins, namely, whether sexuality is inborn or whether it is chosen. However, De Wet (2017) emphasises that these conflicting ideas about the origin of sexual orientation are irrelevant when the effects of heteronormativity and oppression of sexual minorities are taken into account.

Related to the concept of sexual orientation, to refer to lesbian, gay, bisexual and queer people, this study uses the acronym LGBQ+ which denotes not only those who identify as having a lesbian, gay, bisexual and queer/questioning sexual orientation but indicates by means of adding a “+” that the acronym should be understood to include all other self-identified (self-disclosed) minority sexualities such as pansexual, asexual and omnisexual. Although the concept of sexual orientation and the categorisation denoted by the acronym is criticised not only for suggesting that sexual identities are constructed concepts but also for using minoritizing standpoints which uphold rather than upset the homosexual/heterosexual binary (Lovaas *et al.*, 2006:6; Mayer & McHugh, 2016:13), the acronym serves as acknowledgement of the ways in which people identify themselves in terms of their sexuality (Renn, 2010:132). The concepts, as used in this study, should be understood as supportive of the fluidity of queer theory (Ryle, 2012:90), which emphasises that sexuality should not be categorised but embraced without the binaries of specific groups, such as heterosexual and non-heterosexual (Arendt, 1990:88; Renn, 2010:137).

#### **1.5.1.1 Self-disclosure**

Farber (2006:4) defines *self-disclosure* as the process of accepting and allowing “one’s true self to be known to others”. Self-disclosure can be said to be an infinite phenomenon, which will develop endlessly between the self and other people and which may involve sexual orientation, religion and culture, among other categories (Farber, 2006:4; Jiang *et al.*, 2017:426). Jiang *et al.* (2017:426) also explain that self-disclosure consists of four dimensions (valence, honesty, amount and control of depth) which should be managed tactically. The participants of this study were all self-disclosed LGBQ+ people, which means that they had accepted their sexual orientation.

#### **1.5.2 Sexual equality**

Although there is not a single definition for the concept of equality, it could be suggested that equality, in its broadest sense, emphasises equal opportunities for all individuals without

regarding the characteristics which define them or which they use to define themselves. Ward (1998:162) describes equality as “a political concept” and describes how dominant groups use and abuse laws to create inequality within society. Section 9 of the Constitution (1996) enshrines the right to equality and emphasises in subsection 9(2) that everybody is entitled to “the full and equal enjoyment of all rights”, a phrase also echoed by PEPUDA (2000). Although the right to *sexual equality* is not mentioned explicitly in the Constitution (1996) or PEPUDA, it could be seen as being implied directly by the use of sexual orientation as possible grounds for unfair discrimination. Discrimination is defined by Currie and De Waal (2013:222) as “differentiation on illegitimate grounds”. PEPUDA is a form of “anti-discrimination” legislation which supports section 9 of the Constitution by promoting and supporting (sexual) equality (De Wet *et al.*, 2016:89). Moreover, the inclusion of sexual orientation as an explicit ground for unfair discrimination in the Constitution (1996:sec.9(3)) is evidence of the progressive nature of South African law (Cameron, 2014; Francis & Msibi, 2011). Drawing from the conceptualisations of equality and sexual orientation, the concept of sexual equality could be understood as the equal opportunities and outcomes for all people, regardless of whether they are attracted erotically to members of the same gender or members of the opposite gender.

### **1.5.3 Teacher education and student teachers**

*Teacher education* is defined as the “course program of study which student teachers undertake before they begin teaching” (Richards & Schmidt, 1985), and these course programmes equip student teachers with basic teaching methods, subject knowledge, and general understanding concerning teaching-learning activities (Chegeni & Chegeni, 2013:2093; Mitchell & Reid, 2017:42). The concept *student teacher* refers to students who attend college or university to learn and develop skills in order to equip themselves for becoming teachers (Neal & Eckersley, 2014:32).

### **1.5.4 Othering**

Unsicker-Durham (2018:120) describes *othering* as a phenomenon, which is given life by power structures within society that involve multiple characteristics such as race, gender, sexual orientation, religion and religious beliefs. Othering is explained as a method that dehumanises people who do not fit into a society’s general or more common or dominant characteristics (Jensen, 2011:65). Jensen (2011:65) describes othering as follows:

*[d]iscursive processes by which powerful groups, who may or may not make up a numerical majority, define subordinate groups into existence in a reductionist way which ascribes problematic and/or inferior characteristics to these subordinate groups.*

To apply the definition of *othering* to schools, I used Unsicker-Durham (2018:121) who identifies herself as a teacher who has experienced classrooms packed with children from different backgrounds and circumstances. As a researcher, Unsicker-Durham (2018:121) explains that teachers should be made aware of what othering entails because a problem can only be solved when people are aware that it exists. Sexuality is one of the key elements of an individual's identity, and it is not only important externally as a 'social category' with its cultural expectations but also important internally "as a dimension of the self" (Sanjakdar *et al.*, 2015:57). Fahs and McClelland (2016:393) emphasise that a society should acknowledge minority groups and individuals who are outside the heterosexual boundary as they are, rather than categorise them as the "sexual other". One of the ways in which othering can be combated within schools is to create open communication regarding the different characteristics of people and to acknowledge their differences by celebrating the uniqueness of each individual and group (Unsicker-Durham, 2018:122). It is also imperative to recognise that a person or group can consist of multiple intersecting characteristics; for instance, there can be students who are black, Muslim and bisexual.

### **1.5.5 Heteronormativity**

*Heteronormativity* can, in its most simplistic sense, be defined as the categorisation of distinct gender roles – such as male and female – together with the belief that there is only one type of sexuality and that is heterosexuality. Heteronormativity thus categorises female and male roles and establishes that marriage only consists of one man and one woman. Clarke *et al.* (2010:120) explain that heteronormativity consists of multiple beliefs about sexuality within the social environment of people. Moreover, heteronormativity refers to the formation of apprehension and pragmatic attitudes that constitute heterosexuality to be the norm or normal (Berlant & Warner, 1998; Cameron & Kulick, 2003:44; Francis & Msibi, 2011:159; Larsson *et al.*, 2011:68). At the same time, heteronormativity constructs the relationships between heterosexuals and sexual minorities within the framework of oppression, which results in power differences at the expense of sexual minorities (Francis & Msibi, 2011:159; Lee, 2006; Sommer & Marchia, 2015:7). Thus, heteronormativity refers to the assumption that all people should be heterosexual because it is seen as normal or natural to be attracted to the opposite gender, therefore suggesting that same-gender attractions are unnatural. In this sense, the rights of LGBTQ+ learners, for instance, need to be upheld and promoted within an existing system of social inequality and oppression brought about by heteronormativity.

### 1.5.6 Privilege

Crisp (2014:107), Leavy (2017:2) and McIntosh (1989:10) describe *privilege* as benefits that a person or group did not earn and which are based on the characteristics they have and the societal status that they fall into. Privilege affords opportunities to those who have social power, whereas oppression devalues, prohibits, dehumanises, violates and withholds privilege and opportunity from those who are not in the position of social power (Crisp, 2014:109; Johnson, 2006:38; Leavy, 2014:3). David and Derthick (2014:3) explain that the powerful or privileged individuals or groups often force their dominant worldviews on oppressed groups. People who have unearned privilege are unaware of it because they fit into societal characteristics which afford them power within society and which ensure that they remain blinded by the oppressive nature that their privilege forces onto individuals who are different from their own norms (Crisp, 2014:107; Leavy, 2017:2). Power and privilege therefore label people into categories such as powerful versus powerless, oppressor versus oppressed and dominant versus dominated (David & Derthick, 2014:3). The power-related categories can be established by the differentiation of characteristics such as sexual orientation, gender, religion or religious views, and ethnicity, and it is the oppressive nature of these characteristics that forms group-based oppression types such as heteronormativity and sexism (David & Derthick, 2014:3; Leavy, 2017:4). *Masked privilege* refers to the normalisation of privileged structures within society; it is not visible to people because it is seen as normal (Kwate & Goodman, 2014:11).

### 1.5.7 Oppression

Hardiman *et al.* (2007:58) emphasise that *oppression* is rooted within privilege by declaring that oppression is “a system that maintains advantage based on social group memberships and operates, intentionally and unintentionally, on individual, institutional, and cultural levels”. What is more, Crisp (2014:108) identifies four key aspects which can be used to define oppression within society as follows:

- Oppression occurs for the reason that privileged groups get advantage out of it
- Oppression is created through social placement and characteristics
- Oppression does not need to be focused or created by intent, and the lack of intent from privileged groups does not weaken the oppression
- Oppression can be found at all levels of society, be it social, individual, religious or cultural.

## **1.6 Research strategy**

To reach the aims and objectives of the study, a literature review, basic legal research and an empirical study were done. Components of the chosen research strategy are depicted in Figure 1-1 below.

### **1.6.1 Literature review**

A literature review is described as the process of searching for information regarding a certain topic, whether it is in scholarly books and articles or other sources (Badenhorst, 2018:121; Hart, 2018:13). Researchers use the information to analyse critically what is meant and to sort through text and seek for information pertinent to the specific topic; thereafter, the researchers write down their understanding of the sources and make use of citations to give credit to the author of the text (Badenhorst, 2018:121). The purpose of a literature review is for the researcher to look for “contradictions, gaps, inconsistencies, and the relationships of the problem under examination” (Badenhorst, 2018:122; Hart, 2018:14; Vardi, 2012:922).

The literature review of this study consisted of two parts. The first was an exploration of the theories used in this study and how they could inform sexual equality within education. The second was an exploration of the basic laws, case law and policies regarding equality in general and then specifically within education. In the theoretical chapter, I searched firstly for sources that define the theories; secondly, I investigated what implications these theories could have in society (for example how they could assist or prohibit sexual equality), and thirdly, I explored specifically how the theories could inform teaching and learning practices by encouraging an environment of sexual equality. On the other hand, in the legal chapter, I searched for legal sources that illuminated how human rights should be interpreted and applied and whether limitations exist concerning the application and implementation of human rights in general.

Thereafter, I searched for sources which described equality, the study’s focus, and I explored equality as both a value and a right. This search led to finding sources that describe what values are and what rights are, which led me to investigate what the prohibited grounds are within the right to equality and how they are described, applied and enforced. Some of the sources guided me towards noticing ways in which equality could be applied, the counterpart for equality – which is unfair discrimination – and so on. I then specifically wanted to search for legislation and policies that could support teachers in creating sexual equality within schools. I therefore searched for general school legislation and then searched for instances where equality was and was not mentioned. Writing the literature review was a backwards

and forwards process, where I critically engaged with the concept of sexual equality within all the necessary contexts that were relevant to this study.

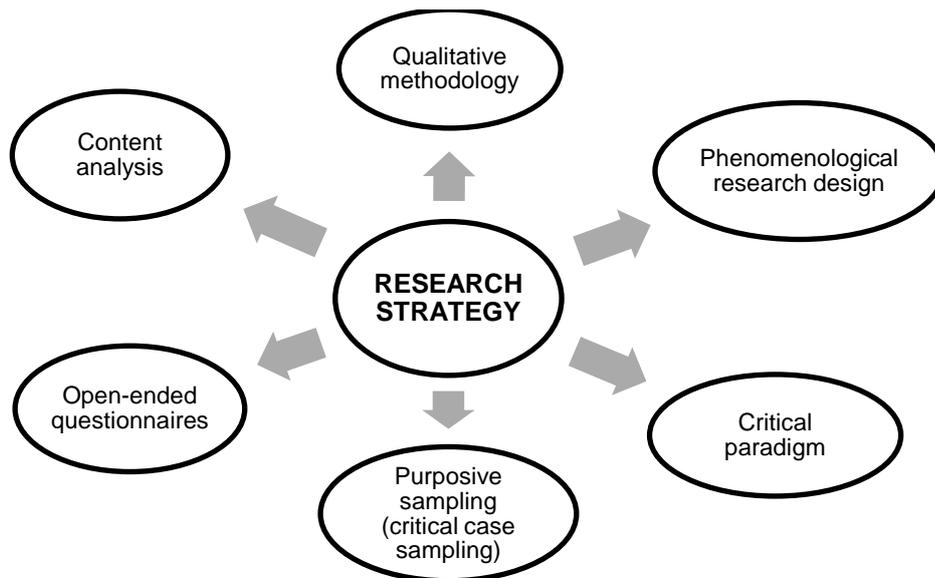
### **1.6.2 An education law perspective**

An education law perspective was chosen to support the identification of legal determinants of sexual equality in schools. Education law is defined by Beckmann and Prinsloo (2015:396) and Oosthuizen (2015:12) as a young interdisciplinary study field, which combines education and law. Rossouw (2013:7) emphasises that research in this field does not follow the traditional way in which legal scholars would approach such research. Education law research not only uses sources such as “the Constitution, legislation (statutes), regulations ..., common law ... and case law”, but also another source which is empirical data (Rossouw, 2013:8). In addition to this, Serfontein and De Waal (2014:1595) indicate that education law research should encompass a clearly defined theoretical framework together with a clear purpose. Oosthuizen (2015:7) defines the main function of education law as a field which focuses on all of the shareholders in education and which stipulates the rights and responsibilities of each participant. Thus, education law uses general and education laws, policies, regulations and codes of conduct to guide and protect all shareholders in education.

This study focused on the right to equality in schools based on sexual orientation; it incorporated law, policies and case law regarding equality within education in combination with a theoretical and literature framework to assist in answering the main research question (*cf.* 1.3) and reaching the research aims (*cf.* 1.4).

### **1.6.3 Empirical research**

An empirical study was conducted to determine how LGBQ+ students experienced the (non)realisation of sexual equality when they were at school. The empirical study also assisted in exploring possible guidelines that the participating LGBQ+ students suggested towards informing teacher education programmes. The following components formed part of the empirical study and will now be discussed.



**Figure 1-1 Components of the research design**

### 1.6.3.1 Research design

This study was conducted within a phenomenological research design (*cf.* 4.2), which enabled the researcher to discover or obtain knowledge of the lived experiences of participants regarding a certain phenomenon, in this case, sexual equality and teacher education (Creswell *et al.*, 2007:252; Nieuwenhuis, 2016a:77). Van Manen (2014) and Creswell *et al.* (2007:252) additionally emphasise the main purpose of phenomenology as the process that condenses peoples' experiences with a phenomenon to a narrative of a widespread principle (Kornbluh, 2015:397; Nieuwenhuis, 2016a:75). Phenomenology assisted me in generating and interpreting the lived experiences of LGBTQ+ students concerning their rights in terms of equality and sexual orientation in education. This study therefore worked interactively to generate data from participants' experiences to investigate the principle of sexual equality in and through education.

### 1.6.3.2 Research methodology

This study was qualitative in nature (Nieuwenhuis, 2016c:53) and was grounded in phenomenology (Merriam & Tisdell, 2016), within a critical research paradigm (Stoilescu, 2016:146; Willis, 2007:44). Because qualitative research is characterised as being descriptive, dialogic, interpretative and observant by nature (Kornbluh, 2015:397; Madill, 2015:215; Nieuwenhuis, 2016c:54), it enabled me to interact with a specific group of people and investigate their lived experiences by observing and collecting their understanding or interpretation of a phenomenon in their natural environment (Nieuwenhuis, 2016c:54). I wanted to uncover LGBTQ+ peoples' lived experiences concerning sexual equality in the

South African education system, to develop guidelines for the potential improvement and inclusion of LGBQ+ rights and human rights, as well as human rights literacies, in teacher education programmes.

#### **1.6.4 Philosophical orientation**

The philosophical orientation that was embodied in this study was that of a critical paradigm. A critical paradigm consists of the following five principles: (1) social reality is produced and reproduced by people and created historically; (2) the political field of knowledge forms consciousness and identity; (3) power positions in society enable people to have power over others; (4) those in power positions will stay unwilling to relinquish their authority over others; and (5) the foundation of a critical paradigm is focused on the evaluation and criticism of humanity, culture and society with the aim of disclosing, explaining and criticising inequality (Nieuwenhuis, 2016c:64-65; Stoilescu, 2016:146). Willis (2007:48) explains a critical paradigm as focusing on emancipation and attempting to challenge the status quo of societies (Mittwede, 2012:28; Nieuwenhuis, 2016c:63) and including a particular focus on oppression and marginalisation based on areas such as ethnic group, gender, nationality, culture, status, sexual orientation and work. Critical philosophy, for that reason, enabled me to evaluate sexual equality among LGBQ+ students and gauge how schools, and more importantly teachers, deal with this phenomenon in schools; the evaluation and gauging then supported the identification of guidelines for improving or including LGBQ+ rights towards advancing sexual equality in teacher education programmes.

#### **1.6.5 Methods and procedures of data generation**

The strategy for data generation in this study was open-ended questionnaires, which were administered electronically via SurveyMonkey (see Addendum A). Open-ended questionnaires generally enable the researcher to understand participants' views regarding a certain phenomenon by giving participants the chance to explain or describe the essence of what was or is experienced (Hagström, 2015; Patton, 2002:21). Online questionnaires are easy to distribute and allow for voluntary participation. The online questionnaire included two sections: (1) Biographical and demographical information that consisted of fifteen questions which supplied the researcher with a rich and in-depth understanding of each participant; and (2) three open-ended questions which probed the lived experiences and understandings of each participant's view in relation to sexual equality at school, as well as suggestions on how pre-service teacher education programmes should support teachers in advancing inclusivity at schools. Participants were able to complete the online open-ended questionnaires anonymously in the comfort of their preferred environment.

### **1.6.6 Methods and procedures of data analysis**

Data exploration started by reading the transcriptions to gain an overall sense of the data (Nieuwenhuis, 2016b:120), a process also referred to as *immersion* by Wellington (2000). The reading was followed by reflecting before continuing with analysing the data, and journaling was used as reflection strategy. Content analysis refers to the process of analysis where the researcher uses the coding of gathered data to identify content categories that provide specific messages (Nieuwenhuis, 2016b:111). Content analysis was thus used to identify prominent themes in the data. During the content analysis process, data sets were coded and codes were clustered together to form categories as patterns emerged. Content analysis enabled me to describe the participants' sexual equality experiences at school and their perceptions concerning human rights ontology, more specifically concerning sexual equality, which also revealed their suggestions of how sexual equality could be addressed in transformative teacher education.

Empirical research strategies and procedures are discussed in greater detail in Chapter Four (*cf.* 4.4).

### **1.7 Dissertation structure**

An outline of each chapter that formed part of this study follows:

- Chapter One

This chapter presents an overview of the study that was undertaken to explore education-related sexual equality experiences of LGBTQ+ students. Thus, the chapter serves as a roadmap of what was planned and what the study was intended to achieve. Within this chapter, the reader is given a basic outline of the problem and the gap within existing literature, the research questions, the aims of the study, as well as the chosen research design, methodology and methods for the study.

- Chapter Two

Chapter two contains the theoretical perspectives which guided the study. This chapter consists of an exploration of sexuality within society and childhood and was structured by content derived from the theoretical elements which this study was built on.

- Chapter Three

This chapter consists of the legal framework which supports the education law perspective of the study, as well as the equality principle which forms part of the main element of the study. Chapter three includes a discussion and an exploration of what a study with an education law perspective entails; the constitutionality of the concept '(sexual) equality'; a view of what formal and substantive equality consist of; a look at case law that supports substantive equality claims; and legislation, regulations and guidelines which support and require equality within schools.

- Chapter Four

Chapter four indicates and explains the empirical research design that backed the study. This chapter includes a discussion of the research methods, sampling strategies and ethical considerations that were embedded within this study.

- Chapter Five

This chapter includes discussions concerning the data analysis that was done as part of the study. An exploration of the data analysis process and an interpretation of the data are discussed.

- Chapter Six

The final chapter contains a summary, the study's findings and the recommendations that resulted from the empirical and theoretical data generated throughout the study.

## CHAPTER TWO: THEORETICAL PERSPECTIVES ON SEXUAL EQUALITY WITHIN EDUCATION

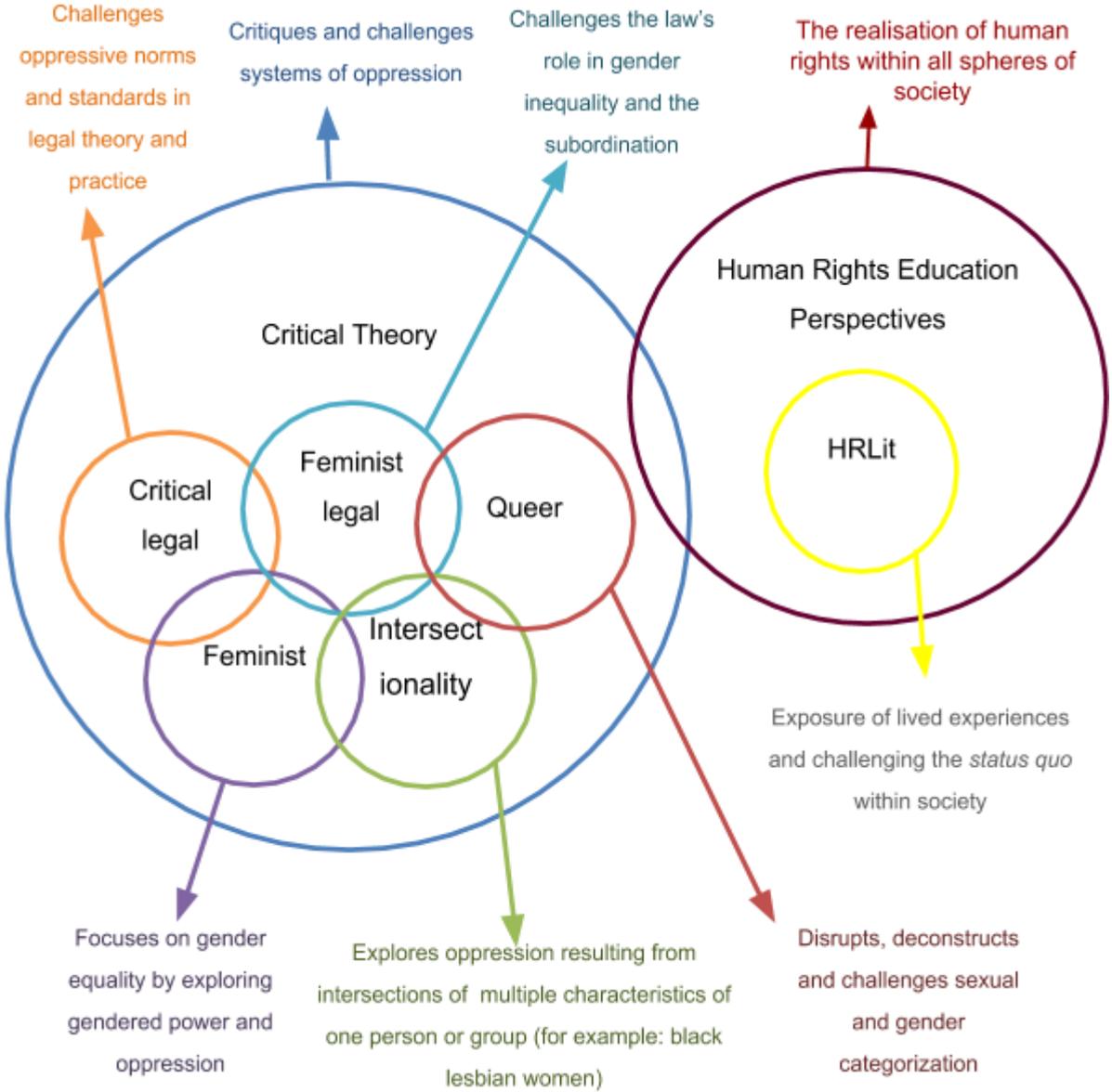
### 2.1 Introduction

The previous chapter provided an orientation to this study. This orientation consisted of (1) key concepts that underpin the study; (2) a problem statement and motivation for the study; (3) a brief discussion of the theoretical framework in which the study is embedded (this will be the focus of chapter two); (4) the research questions and aims; and (5) a brief description of the chosen research design, methodology and methods used for this study. Chapter two will look at sexuality and sexual equality through the feminist lenses of critical theory and intersectionality. The main focus of this chapter is to explore the theoretical determinants of sexual equality and to look at guidelines for teacher education that can be derived from the theoretical determinants of sexual equality.

The theoretical framework for this study drew from critical theory (Horkheimer, 2002:1); intersectionality perspectives in feminist theories (Allen & Jaramillo-Sierra, 2015; Dhawan & Castro Varela, 2016; Few-Demo, 2014; Few-Demo *et al.*, 2016; Marecek, 2016; Pitre & Kushner, 2015; Stoetzler, 2016) and queer theory (Marinucci, 2010; Nagoshi *et al.*, 2014). These theoretical perspectives were employed as lenses through which to explore the interplay of power and oppression within the context of heteronormativity and how this interplay would affect sexual equality in education.

A variety of authors explain power differences within communities and between social categories within the framework of inequality and vulnerability, heteronormativity and "forms of oppression in the daily lives" of people (Allen & Jaramillo-Sierra, 2015:94; Carastathis, 2014:304; Dhawan & Castro Varela, 2016:12; Few-Demo, 2014:170; Few-Demo *et al.*, 2016:90; Marecek, 2016:178; Pitre & Kushner, 2015:286; Stoetzler, 2016:218). It is important to emphasise that critical legal theories, feminist theories, feminist legal theories, intersectionality and queer theories all form part of the critical tradition as presented in Figure 2-1. Each theory has its own focus point, but they all have different forms of oppressive structures in common within society. Together, these theories assisted me in exploring the theoretical underpinnings of sexual equality. The purpose for this chapter is to explore theory that would indicate the determinants for sexual equality in schools. As such, I present a theoretical framework to empower, create awareness and enable role-players in education to challenge heteronormativity, as well as power and oppression, and focus on bringing about

an inclusive education system. These theoretical perspectives emerged as helpful during the literature review in the process of identifying determinants for sexual equality in schools.



**Figure 2-1 Theoretical perspectives of sexual equality**

The paragraphs that follow provide a discussion of each of the components of the theoretical framework depicted in Figure 2-1.

**2.2 Critical perspectives: The critique on systems of oppression**

Critical theory refers to a framework which cross-examines the connections between societal aspects such as “knowledge, power and social change” while critiquing the systems that create and sustain inequalities between privileged and non-privileged groups within society (How, 2003:3; Vavrus 2015:4). Best *et al.* (2018:2) define critical theory within its broadest

form as thinking which goes “against the flow of the world”. As such, critical theorists engage in reflexive critique of societal and cultural patterns by applying knowledge from the social sciences and the humanities (Best *et al.*, 2018:2).

Dill *et al.* (2006:633), Johnson *et al.* (2001:246), Krumer-Nevo and Komem (2015:1191) and Sanjakdar *et al.* (2015:65) create a synopsis of what critical theory entails, by emphasising that the latter highlights the disadvantages that minority groups endure within society by focusing on “interrogating power, privilege and oppression and working towards equitable forms of social justice” (Krumer-Nevo & Komem, 2015:1191). Ceplak (2013:167) elucidates how societies put emphasis on acceptance and equality while also basing their principles on various types of discrimination which create room for hatred and inequality by identifying groups of people that are different from the dominant groups. Most of the time, minority groups within society are the ones that are marginalised and oppressed; the marginalisation of these groups supports the structures of inclusion and exclusion within societies. Marinucci (2010:6) explains that each society has its own inclusion and exclusion criteria and that these criteria can only be created while the culture or social group has a definition of each category that it labels. For instance, Marinucci (2010:6) explains one concept as follows:

*The concept of heterosexuality, and hence heterosexual identity, could not exist without the concept of homosexuality, and hence homosexual identity.*

The stigmatisations of sexualities are one of the reasons that individuals feel ashamed of their sexuality and hide it not only from society but sometimes also even themselves (Marinucci, 2010:11). De Wet and Van Vollenhoven (2015:1-2) explain that a society/organisation/ individual that includes all individuals, no matter their diversified identity, can be regarded as post-modern, whereas the society/organisation/individual that focuses on sustaining exclusion within society can be seen as “unwilling to recognise and deal with the complexity and inherent pluralism” of today’s society (Kymlicka, 2007). De Wet and Van Vollenhoven (2015:2) identify a direct contrast between inclusion and exclusion, stating as follows:

*Whereas inclusivity respects the “equal difference” of each individual and affords each person equal rights, exclusion discriminates, violates people’s dignity and robs them of human freedoms and liberties.*

This quote illustrates how heterosexual individuals, as members of the privileged group, enjoy power and privilege within a society that excludes the sexual other (*cf.* 1.5.4 & 1.5.6) through marginalisation, demarcation, oppression and violation (De Wet & Van Vollenhoven, 2015:3; Francis, 2017:22). The exclusion of such individuals prevents equality, progress and improvement of societies, while the inclusion of all diverse individuals and groups creates a

sense of unity within society where difference is celebrated and allows discrimination to become absent (De Wet & Van Vollenhoven, 2015:3; Francis, 2017:71). Fahs and McClelland (2016:394), on the topic of critical perspectives on sexuality, indicate that such perspectives attempt not only “to describe and explain the social world” but also to improve the social world’s imperfections with an empowering influence in its scrutiny of the connection between *sexuality* and the social world.

Schools form part of this social world. Ceplak (2013:165), Francis (2017:5) and Toomey *et al.* (2012:188) state that schools are structures with immense power, where learners’ understanding of every social aspect, including sexual identity, is formed and regulated. LGBTQ+ learners become disadvantaged in these structures because they do not fit into the socially constructed standards of behaviour of their environments (Bhana, 2012:310; Francis, 2017:12). Juvonen and Graham (2014:164) and Toomey *et al.* (2012:188) refer to a “dominance hierarchy” within schools, which can be explained as the standards or norms created and sustained by the school environment that motivates learners, teachers and parents to identify themselves according to social criteria (such as sexual orientation, ethnicity, culture, beliefs and religion). Learners who fit into the desired or preferred social group become the privileged ones who are awarded benefits such as feeling as if they belong, who are more important than other learners who do not fit the ‘norms’ that are set for them and who have the power to dehumanise the “other” without negative consequences to themselves (Francis, 2017:21; Kumashiro, 2000:27).

On the other hand, the LGBTQ+ learners are left feeling as if they are less human, as if they do not belong and as if they are unsupported and unwanted within the school environment and larger community. The feeling of being unsupported in the school environment is evidence of the ripple effect which is created by heteronormativity, and societies need to differentiate the “other” instead of celebrating our diversified South Africa. Referring to schools, Francis (2017:77) and Smith (2014:609) additionally emphasise that teachers have a tendency to individualise learners and disregard minority groups (such as LGBTQ+ learners) within the education system. The individualisation of learners causes teachers sometimes not to acknowledge that learners are part of a minority group, which may make them even more susceptible to forms of oppression. Bhana (2012:315) emphasises that heteronormativity does not just start and end in schools but is created from outside the school within society and then implemented or re-enforced in schools. Goodhand (2014:4) agrees with this statement and describes an environment of detestation and coercion as being the result of a society and, more importantly, a school that gives priority to heterosexism.

Writing about democracy, Ceplak (2013:167) explains that the majority group (heterosexuals) infringes on the “democratic principle of equality” when heteronormativity is promoted by “discrimination and stigmatization based on sexual orientation”. Heteronormativity (*cf.* 1.5.5) is an all-encompassing standard which affects both homosexual and heterosexual people; however, it is most visible with LGBTQ+ minority groups (Larsson *et al.*, 2011:68) because sexual minority groups are more visibly *different* from the standards that are created by the heteronormative standard. These standards create an environment where LGBTQ+ learners are seen as dissimilar within the school environment, and because of society’s unwillingness to welcome difference, these minority learners become the oppressed, and the heterosexual teachers, learners and parents become the privileged. These powerful majority groups create space for heteronormativity by fighting against the idea of multiple sexualities (or other characteristics which distinguish difference from the heteronormative norms and standards) and by not accepting that there are learners, teachers and other members of different sexualities and genders (among others) who are different from them. This unwillingness to accept nonconformity creates space for hate speech, unfair discrimination and inequality.

Smith *et al.* (2017:106) explain that family structures that are different from the heterosexual norm can be seen as deviant by society when heteronormativity is evident within a community. The normalised family structure becomes the privileged one within society, and any other family structure is seen as different or dissimilar and does not enjoy equal privileges (Ceplak, 2013:167; Smith *et al.*, 2017:106). Ceplak (2013:167) and Smith *et al.* (2017:109) also emphasise that heteronormativity creates a split between different types of sexualities and family structures by suggesting that non-heterosexual relationships revolve around sex only, while heterosexual relationships apparently revolve around romantic love and supportive relationships. The heteronormative viewpoint places any non-heterosexual relationship in a negative light within society, by reducing the sexuality of the sexual other to merely sexual acts, excluding romantic love, friendships and devotion to one another. The Constitutional Court (in agreement with the Supreme Court of Appeal judgement of *Fourie v Minister of Home Affairs*, 2005) stated in *Minister of Home Affairs and Another v Fourie and Another* (2005:par.17) that

*[[legislative developments ... have ameliorated but not eliminated the disadvantages same-sex couples suffer. More deeply, the exclusionary definition of marriage injures gays and lesbians because it implies a judgment on them. It suggests not only that their relationships and commitments and loving bonds are inferior, but that they themselves can never be fully part of the community of moral equals that the Constitution promises to create for all. The applicants’ wish was not to deprive others of any rights. It was to gain access for themselves, without limiting that enjoyed by others.*

The Constitutional Court seems to have taken a critical perspective towards the issue of same-sex marriage. Critical theory challenges these presumptions and biases in societal systems, including the law, and aims to disrupt and challenge the injustices with a view to replacing them with equality and social justice. Toomey *et al.* (2012:188) explain that by merely accepting that there are people who are different from oneself and allowing them to be different, society will already be moving away from heteronormativity towards an inclusive society.

From a critical theory perspective, Toomey *et al.* (2012:189) suggest that schools start by creating spaces where difference is celebrated. This could be started in a small environment such as a classroom where a teacher creates room for talking about and informing learners about, for instance, different types of sexualities, cultures and religions. Before the celebration and acceptance of change and difference can begin, it is necessary for schools and other societal systems first to look at the dynamics of power and oppression within change and difference and understand where such dynamics stem from. By understanding and being aware of the oppressive systems within the school, role-players can start implementing strategies, methods and values which acknowledge the minority, and focus on improving (sexual) equality through establishing a democratic value-based school. Critical perspectives could assist role-players within the school system to challenge the *status quo* and expose oppressive structures through using critical analysis of the power relations and looking for ways in which these structures could change to allow LGBQ+ learners to enjoy sexual equality. Moreover, critical dialogues between teachers and learners could contribute to an environment of recognition of the other and the ways in which all learners could acknowledge their differences and accept that they not only have equal rights, but also equal responsibilities to respect the rights of others, including the sexually different. Teachers could create awareness of the rights and experiences of groups who do not fit the “norm” and challenge an oppressive environment to become an environment which could acknowledge and respect difference.

Whereas the lives of people and particularly relations among and between groups in society are often influenced or even shaped and regulated by the law, it is necessary also to consider societal inequalities from a critical legal perspective.

### **2.3 Critical legal perspectives: Challenging the role of law as and in systems of oppression**

Critical legal theories are grounded in two main aspects, namely, principles of law and how society should facilitate and support law to achieve justice and more importantly equality

(Ball, 2015:24). On the one hand, critical legal perspectives draw on critical theories to critique societal systems and the role that law plays towards and within such systems. On the other hand, critical legal perspectives are concerned with how an interaction between societal systems and the law either contributes to inequality and injustice or promotes social justice and, specifically, sexual equality.

Johnson *et al.* (2001:246) and Schiek (2016:25) explain that critical legal theories focus on the tensions between the *status quo* within society (*lex*) and the promise of justice (*ius*) for everyone that is offered in legislation and policies. Critical legal theorists, thus, identify oppressive structures which are characterised by inequalities, and they focus on the role of law and policies which either assist the *status quo* or fight against the *status quo* (Johnson *et al.*, 2001:246; Tushnet, 2005:80). As such, hierarchies and power relations within society are explored with the purpose of investigating how they prevent the application of equality as stated in laws and policies such as the Bill of Rights (Johnson *et al.*, 2001:247). Drawing on the critical tradition, unequal and hierarchical relations between social groups are identified as influencing the realisation of equality legislation and social justice. In this regard, Tushnet, (2005:82) states as follows:

*Within any given field of law one could observe concepts grouped in pairs with one concept dominant over the other.*

Tushnet's words describe critical legal theorists' acknowledgement of one concept dominating another and certain laws and policies assisting the *status quo* and preventing equality from prevailing. Such acknowledgement or awareness exposes and fights unfair discrimination, while promoting equality through just laws and policies, as well as improved implementation of socially just laws. A theoretical framework that includes critical legal studies aids the understanding of determinants of sexual equality in particular by highlighting realities of the interactions between law and oppressive societal systems. As such, teachers and learners benefit from integrating alternative dialogues, texts and classes concerning marginalised or minority groups and acknowledging the law's contribution to see equality prosper (Jones, 2011:152).

Critical legal perspectives could benefit teacher education programmes by allowing for the critical assessment of the societal *status quo* and the purpose and (non)realisation of specific laws and policies within education. Laws and policies related to sexual equality in education would be evaluated along with how these laws and policies and their implementation promote or prevent LGBTQ+ learners from fully enjoying a school environment that is safe and characterised by sexual equality. In addition, critical legal perspectives inform the determinants of sexual equality by creating a guideline which enables school systems to

explore critically whether the laws, policies and regulations within schools contribute to sexual equality or not. Critical legal perspectives indicate through laws and legal policies how sexual equality should be understood, conceptualised and explained within society and, more importantly, in school systems.

The combined use of critical perspectives and feminist perspectives supported this study by highlighting the need to investigate inequality and vulnerability within minority groups and their intersections with gender to curb or prevent the oppression of minority groups, such as LGBTQ+ people, in society. The next section will highlight the focus of feminist perspectives, within critical studies and how these perspectives could contribute to this study.

## **2.4 Feminist perspectives: Challenging oppression in terms of gender, sexual category and sexuality**

Feminism draws from critical theory and gauges and criticises culture and society “to reveal, describe and critique social inequalities” as they relate to gender in particular (Simmonds, 2013:7; Stoilescu, 2016:146). Fineman (2009:2) explains that although there are numerous types of feminist perspectives, they all have more or less the same key question as a focus point which explores “how to understand gender from a critical and equality-driven perspective”. Due to the close relationship between gender and sexuality, feminist theory is suitable as a lens in this study – feminist theories could provide suggestions for how school systems could implement or support sexual equality. The following subheadings will investigate feminist perspectives which assisted this study by highlighting why sexual minorities are suppressed within society by societal oppression techniques such as othering, inequality and unfair discrimination. This section will also highlight how intersectionality explains an individual’s social position and experiences of oppression or equality. Lastly, it will also present some ways in which issues such as othering could be curbed through applying feminist approaches within schools and society.

### **2.4.1 A brief history of feminist movements**

Feminist movements have a long and complex history consisting of three main waves (Campbell *et al.*, 2017; Lorber, 2010; Marinucci, 2010). The first wave, also named “the suffrage movement”, started in Western countries around 1850 and lasted to the 1920s, with its focus politically driven by feminists who fought for a wide variety of issues such as women’s right to vote, women’s rights to education, banning slavery and so on (Campbell *et al.*, 2017:182; Coady, 2017:11; Lorber, 2010:1; Marinucci, 2010:83; Wrye, 2009:185). Liberal feminism (*cf.* 2.4.2) is a movement that is aligned with the focus of the first wave movement.

“The woman’s liberation movement”, the second wave which started in the 1960s, focused on the societal and legal stance of women and dealt with a diverse spectrum of issues such as women’s pay in the workplace, “rigid gender roles” in society and the validation of women’s desire for sexual satisfaction, and in general it widened the scope to include important differences amongst women, including sexuality, race, class and ethnicity (Campbell *et al.*, 2017:183; Lorber, 2010:3; Marinucci, Somerville, 2000:95; 2010:83; Wrye, 2009:185). Radical feminism (*cf.* 2.4.2) follows the ideals of second wave movements.

Third wave feminism, from the 1990s, is in some ways an ongoing movement and is considered too complex to define by some researchers (Marinucci, 2010:97). However, Wrye (2009:185) describes the focus of third wave feminism as follows:

*the body as personal expression..., sex positivity, and subject positionality, incorporating theories of postcoloniality, queer sexuality, transgenderism and transsexuality, and disability activism.*

Wrye’s (2009) description of third wave feminism adds to Campbell *et al.*’s (2017:184) explanation of this type of feminism as the political complexities which emerge within the intersections of human characteristics such as “race, class, sexuality and ability” (Gamble, 2001:52-53; Lorber, 2010:4).

Liberal and radical feminism will now be explored, with the above-mentioned history of feminist perspectives in mind, in order to see how they each contributed to this study by helping to address possibilities of how sexual equality can be realised in schools and within society without unfair discrimination.

#### **2.4.2 Liberal feminism vs radical feminism**

Feminism has no definite and direct definition as it can focus on different areas of inequality related to gender – initially between women and men and later between other disadvantaged groups and dominant groups, for example, in the areas of race, sexuality, disability, and socio-economic context (Thompson, 2001:5). Feminist perspectives, however, can be said to entail social or political focuses based on inequality between groups. According to feminist scholars, power dynamics and differences exist between groups where some groups view others as weaker, lesser or unimportant in society and consequently marginalise or even oppress such minority groups (Lorber, 2010:1; Simmonds, 2013:55; Thompson, 2001:7). Furthermore, although there are numerous types of feminism, all of them more or less strive towards achieving equity within society by focusing on oppressive and unfair discriminatory practices within society (Brisolara *et al.*, 2014:4). The next section will briefly look at liberal and radical feminism and how they can each contribute to sexual equality within education.

*Liberal feminism* refers to the point of view that women and men have few differences and that their biological characteristics, more directly their procreative nature, is less important than the humanitarian characteristic which both genders have (Lorber, 2014:26). Beegan and Moran (2017:60) define the focus of liberal feminism as concerned with inequality that “stems from the lack of social freedom”. Additionally, Mackay (2015:57) confirms the notion that liberal feminism is concerned with inequality by referring to it as “equal-rights feminism”, with its focus thus on lessening the unequal grounds between the powerful and the oppressed by promoting equality and giving suppressed individuals or groups the opportunity to live out their free choice without the influence of coercion from society (Beegan & Moran, 2017:60; Lorber, 2010:121). At the same time, liberal feminism is less concerned with dismantling patriarchy and more concerned about bringing change by tackling particular gender issues, and it assisted this study by identifying the inequality that LGBTQ+ students often endure at schools and how these structures can be challenged and changed.

*Radical feminism* is concerned with dismantling the patriarchal structures within society (Beegan & Moran, 2017:60; Simmonds, 2013:56). Mackay (2015:5) describes patriarchy as systemic male supremacy or dominance which stemmed from the Greek language and originally meant “rule of the father”. Lorber (2010:122) defines patriarchy within radical feminism as a worldwide occurrence, which highlights the subordination of women and men within societal spheres such as, for instance, medicine, religion, science and law. Patriarchy then places women as an oppressed group and men as the powerful group (Beegan & Moran, 2017:60; Lorber, 2010:121; Simmonds, 2013:56). The following four distinct characteristics of radical feminism assist in identifying it from other feminist theories (Mackay, 2015:61):

1. It emphasises patriarchy and demolishes it.
2. It encourages women-only spaces.
3. It places emphasis on the aggressive nature of those who hold power (due to, for example, gender, sexuality, age, race) and the suppressive result which keeps those with less power in their place (women, nonconforming sexualities, black people, children).
4. It explores male violence to analyse the institutions of pornography and prostitution.

*Liberal feminism* focuses on the formal approach to equality (*cf.* 3.4.1) which has its place in fighting societal hierarchies, but it needs assistance from radical feminism which follows a more substantive approach to equality (*cf.* 3.4.2), by identifying that hierarchical structures in society are layered within other forms of oppression and that a person’s identity consists of

contextual characteristics which could be embedded in numerous forms of discrimination, oppression, 'otherness' and so on (Fineman, 2009:2; Johnson *et al.*, 2001:222-223). Thus, liberal feminism, within this study, highlighted the linear bases of oppression (for example lesbian learners directly discriminated against unfairly) which LGBTQ+ learners could endure at schools. Within this study, radical feminism emphasises the contextual bases of the oppression of LGBTQ+ learners (for example, a black lesbian Hindu learner indirectly discriminated against unfairly in complex and layered ways).

All feminist theories consist of certain elements and characteristics which can distinguish them from other theories. The next section will explore some of these elements and characteristics, while also looking at the social identity theories within feminist theories.

### **2.4.3 Elements and characteristics of feminist perspectives**

Kumar (2005:110) emphasises the three main elements of feminism: (1) the focus point of "experiences and viewpoints of women" and other oppressed groups/people; (2) the attempt to eradicate or cut any "power imbalance" between the participants and the researcher; and (3) the objective "to change social inequalities". Allen and Jaramillo-Sierra (2015:94) point out that feminist theories focus on the tensions between oppression and privilege to develop empowerment strategies, at both individual and collective levels, which will improve inequalities (Acker *et al.*, 1983; Allen, 2000; Lather, 1991). Powell (2014:1-2) suggests that feminist theories can be categorised into three viewpoints, namely, integrationist viewpoints, viewpoints based on society and viewpoints that highlight that women do not make up one category, but that they rather exist within a diverse set of "experiences, truths and identities". The latter viewpoints are constructed within feminist social theories which all focus on numerous types of patriarchal structures within society, identities and cultures (Powell, 2014). Social theories are concerned with the "socialised individual", which means they look at an individual's social identity and how she/he fits into society's patriarchal structures (Powell, 2014:4). Thus, feminist social theories focus on how patriarchal structures and groups within society oppress, dominate and exploit minority groups (Powell, 2014:5). Feminism is also concerned with social identities and how socialisation contributes to keeping hierarchical structures or systems in place.

Levit and Verchick (2016:16) describe how girls and boys are taught different values and characteristics, in order for them to conform to society's standards of what women and men should look like and how they should act and think. This type of teaching emphasises that society suggests a standard that prescribes men to be superior to women and another standard that considers heterosexuality as superior to homosexuality (Levit & Verchick,

2016:21). Society's need for compulsory heterosexuality can be seen in the interconnectedness between two concepts, namely, heterosexism, the "regulation and policing of sexualities" (Francis & Msibi, 2011:165) and sexism as patriarchy (Francis & Msibi, 2011:165). Francis and Msibi (2011:164) describe the strong relation between heterosexism and sexism by saying that homosexuality not only consists of sexual identities but also of gender identities. *Bisexuality* is not only one of the concepts that can be used as an example of the close relations between sexuality and gender, but it could also highlight how the latter two can be confused with one another. As an illustration, Francis and Msibi (2011:164) describe how their participants interpreted bisexuality in two different ways: (1) some participants understood bisexuality as a term which describes an individual who has both sex organs (the focus here is on gender identity); and (2) some participants understood bisexuality as individuals or groups who are attracted to and romantically interested in both genders; the focus here is on sexuality: for example, a bisexual male thus likes not only women but men as well (Francis & Msibi, 2011:164).

The way in which one characteristic of a person can be understood in so many different ways relates to the ways in which an individual or group's identity can be described. Marinucci (2010:6) points out that someone's identity can be determined in two ways, namely, the way in which a person can appreciate him/herself and the way in which other people describe and understand the person. How (2003:31) additionally explains that an individual's deeper identity is formed by three aspects such as "authority, the family and/or community" which influence what individuals fear, what they love and dislike, how they fit into a community and how they embrace their individuality. An individual's desire to fit into a community or to be comfortable in a community can be linked to social identity theories (SIT).

SIT focus on societal issues and perceptions, which distinguish between minority and majority groups and the characteristics or constructions that put them into, or by which they put themselves into, a certain category within society (Hogg, 2016:6). Hogg (2016:9) notes that SIT see or describe an individual not by who she/he is as an individualistic being, but rather by the characteristics of her/his group. The identification of a person within a group can also be done by an individual herself/himself and is referred to as 'self-stereotyping' (Hogg, 2016:9). SIT are relevant in everyday life, where learners, teachers and parents self-identify and are being identified by others as certain groups which have different characteristics, norms and principles from other groups. SIT create room for othering by creating in-group and out-group categories which individuals use to conform to their group and to distinguish between other groups. Othering (*cf.* 1.5.4) practices can include, among others, marginalisation, stereotyping and exclusion (McHugh, 2014:155). SIT can even be

used to differentiate between sexuality groups within society, highlight or distinguish how one group differs from another, and explain why one group is seen as superior to another.

The next section will look at feminist legal perspectives, with the contextual description of feminist theories in mind and its contributions to sexual equality within education.

## **2.5 Feminist legal perspectives: Challenging the role of the law in the subordination of gender-related political minorities**

A particular branch of feminist studies that is concerned with interactions between the law and societal inequalities and injustices in its relationship with gender issues is *the feminist legal perspective*. To build on the above-mentioned critical and feminist social theories, Levit and Verchick (2016:9) define feminist legal theories as those that emphasise the importance of law “in describing society and in prescribing change”. Feminist legal theories started out in the 1970s and focused on a legal argument centred around gender equality that was based on the idea that one’s biological gender does not and should not determine one’s role in society (Fineman, 2009:2; Johnson *et al.*, 2001:222). Moreover, feminist legal theorists seek to dismantle laws which are built on the notion that women are inferior to men within society, by exposing hierarchical structures within society and showing how these structures are supported by laws and policies which prevent women from being part of the political and market sections (Fineman, 2009:2).

With the history and focus of feminist legal theories in mind, feminist jurisprudence consists of three influential factors: (1) the ‘political struggles’ that women (and other minority groups) undergo to claim equal treatment from a Western society; (2) an incline in feminist thought and stance; and (3) the patriarchal structure within society and the legal domain (Johnson *et al.*, 2001:220). Levit and Verchick (2016:11-40) identify eight different types of feminist legal theories that developed from different viewpoints and different focuses while all have two things in common: they are created from observations, and they each, in their own way, aspire to an equal society. Fineman (2009:2) and Johnson *et al.* (2001:220) explore the application of feminist legal theories within law, by describing that the formal approach to equality has been applied within political and market-related domains in recent years and that this linear approach has, in certain areas, been successful, although progress is still lacking in other areas. Simultaneously, they also mention the substantive approach to equality, based on the historical disadvantages and contexts that different women have, and how this approach is still problematic within its execution stage in laws and policies (Fineman, 2009:2 & Johnson *et al.*, 2001:220). A Constitutional Court case which can be linked directly to the last-mentioned statement about the struggle of substantive equality

(specifically linked to gender equality) within society is *S v Jordan and Others* (cf. 3.4.1.1), which will be discussed in chapter three.

Feminist legal theories strengthen the need for both formal and substantive approaches to equality within the education system by assisting in exploring laws and policies related to education and how they contribute or not to sexual equality in education. Moreover, feminist legal theories could inform the determinants of sexual equality by assisting role-players in being able to recognise rules and practices at schools and in classrooms which support hierarchical structures; for example, teachers should be alert to observing when classroom rules are embedded in dividing the learners into majority and minority groups or affording unfair privilege to a dominant group, such as heterosexuals.

With critical (legal) and feminist (legal) perspectives in mind, the next section will look at the contextual characteristics (intersections) of individuals within society. This section will thus explore intersectionality as a perspective and the (non)realisation of LGBTQ+ learners' intersecting identities with regards to sexual equality.

## **2.6 Intersectionality as a theoretical perspective: Challenging oppression based on multiple characteristics of a person/group**

Theory on intersectionality was developed in the 1980s and problematised laws' general neutrality and unawareness of the oppressive nature of multiple parts of one person's identity (Nash, 2008:2). Intersectionality subjectively emphasises and focuses on the multiple categories of a person's identity, including ethnicity, class, gender, sexual orientation and abilities, and the accompanying structures of oppression and inequality that it entails (Adams, 2004:17; Cho *et al.*, 2013:797; Fahs & McClelland, 2016:406; Lutz, 2015:42; Nash, 2008:2). The intricate relationship between these identities and how they contribute to unfair discrimination and experiences or inequality in different contexts are examined and explained by intersectionality theories (McHugh, 2014:155).

Crenshaw (cited by Krumer-Nevo & Komem, 2015:1191) explains that intersectionality theorists use a critical theory focus "by analysing the ways identity categories, such as sexual orientation, gender, race or class, are mutually constituted, leading to surveillance, domination, oppression and discrimination in their various forms". Farr *et al.* (2016:468) and Nash (2008:2) describe intersectionality "as the study of overlapping or intersecting social identities and related systems of oppression, domination or discrimination". Thus, the core of intersectionality is to explore the mutual relationship between "structural analysis and the subjective experience and knowledge" of the minority group or individual that is involved (Krumer-Nevo & Komem, 2015:1191). Nagoshi *et al.* (2014:19) indicate how intersectional

identities shape such unequal power relations in society: individuals may find themselves within more than one oppressed group; for example, a lesbian woman may also be part of an oppressed racial or cultural group. Such a person or group of persons may experience unfair discrimination on multiple grounds that layer different inequalities in different spaces while creating multiple hierarchies between and within groups. Ceplak (2013:167) indicates that homosexual relationships and attractions challenge the “power relations based on gender and sexuality” that exist within society, which then also puts pressure on heteronormativity, which is the cause of stigmatisation and oppression of minority sexual groups.

Intersectionality emphasises the need for school structures, laws and policies to acknowledge and respect the intersectional (contextual) identities of learners and not only to follow a formal approach to sexual equality, but rather integrate a substantive approach as well by creating regulations, norms and standards which allow LGBQ+ learners to embrace both their linear and contextual characteristics and to do so in an environment that is safe and where there is sexual equality. Intersectionality could thus also highlight to role-players in education that similar treatment does not always constitute equal treatment and that it is necessary not to regard learners as a simplistic group, but rather as a unique group that comprises different individuals each of whom has his or her own need for an environment which supports the democratic values within the Constitution (*cf.* 3.3).

To build on the critical and feminist perspectives within this study, the queer theory seeks to critique and demolish categorisation and binaries within society and does that by promoting the idea that identities are processes and not final destinations.

## **2.7 Queer perspectives: Challenging and deconstructing categorisation**

No study with a focus on LGBQ+ persons would be complete without including queer perspectives. *Queer theory* is concerned with the fluidity of concepts such as gender, sexual orientation and sexual desire and holds that the binaries created through heterosexuality and the heterosexual norm constrain people within fixed labels (Allen & Mendez, 2018:79; Fineman, 2009:5; Mackay, 2015:103; Rumens *et al.*, 2018:5). Quinlivan and Town (1999:513) furthermore emphasise that society should try to discard the containment of identities and create approaches to deconstruct the systemic nature of binaries. Queer theories, therefore, regard categories such as sexual orientation and desire as constructed labels which society created (Allen & Mendez, 2018:79). Such theories also do not focus on any specific category of people (minority or majority groups) but rather focus on the societal practices which label individuals and groups with sexualising practices (Rumens *et al.*, 2018:5).

These sexualising practices refer to both heterosexual and homosexual categorisations, although heterosexuality is more dominant within society, as it is seen as the norm. Hall (cited by Msibi, 2018:18-19) explains that the concept 'queer' should be explored in the following four ways:

1. As an adjective, it refers to the complexity of identities, personalities and desires, which emphasise that there is no single classification or category into which all people fit.
2. As a noun, it refers to the way society normalises the hierarchical structures within a heteronormative society which creates the "us vs. them" binary.
3. As a verb, it refers to the heteronormative societal fear that "queer(ness)" can spread and challenge systems within society.
4. As a theory, it refers to theorisation which ends up challenging "the homogenising, normalising, categorising, hierarchising effects of theories within the social sciences and humanities."

Francis (2017:27), Hamilton and Pinnegar (2014:47), and Wilmot and Naidoo (2014:325) refer to queer theory as a space opener which challenges, disrupts and deconstructs sexual and gender categories which are created through heteronormativity and heterosexist norms. Queer theory, according to Few-Demo *et al.* (2016:75), emphasises that the "fluidity and diversity" of sexual and gender categories indicate that "human nature cannot be captured holistically by simple binaries". The focus of queer theory thus lies in challenging systems of oppression, be it sexual orientations, gender, race, class or other characteristics of identity (Msibi, 2018:19). Marinucci (2010:33) describes queer theory as a theoretical reasoning that does not define individual categories, but which rather explores the contextual associations of various categories. Queer theory seeks to emphasise that no one category is entrenched in a single definition or a single action (Allen & Mendez, 2018:79; Rumens *et al.*, 2018.5) which implies that, even though some people identify themselves as heterosexual individuals, they may have different ways of showing their love or feeling attracted to someone.

To summarise, queer theory highlights that the categories that society give to people are expressed by every individual differently, thus emphasising the uniqueness of each person's attractions concerning, for instance, sexuality. This way of thinking can be implemented in other social categories such as gender and social class as well. Queer theory thus suggests that role-players in education should be able to explore categorisation within education and the power structures which are created by it and be able to investigate ways in which

heteronormativity and binaries could be curbed, while embracing the many differenced and nuanced expressions of every individual without labelling anyone. Sexual equality determinants, which could be derived from queer perspectives, could include guidelines within the code of conduct of a school which does not dismiss non-conforming learners or guidelines which do not exclusively mention heterosexual learners, but which rather refer to learners within a broader perspective without labelling, for instance, that girls and boys should act in certain ways.

The critical, critical legal, feminist, feminist legal and queer perspectives as described above all work together to form part of informing the determinants of sexual equality within education. The next section will focus on the human rights education perspective within this study, which is explored to assist the guidelines derived from the empirical data as generated from LGBQ+ students' lived experiences of sexual equality in education.

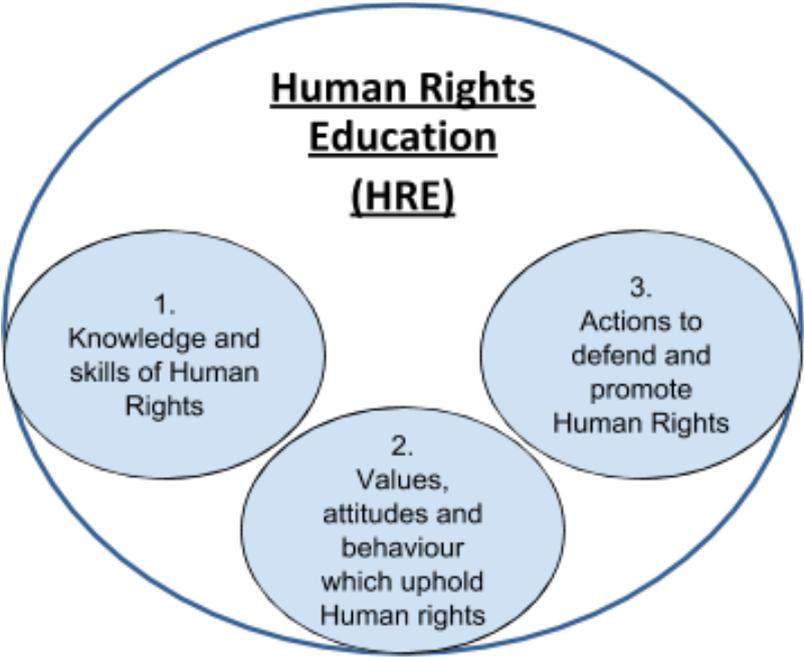
## **2.8 Human rights education perspectives: The realisation of human rights**

The Preamble of the Constitution (1996) provides that South Africa should, through implementation of all the rights within the Bill of Rights, aspire to become “a democratic and open society”. Aspiring to such a society in South Africa could be said to be supported by the ideals which are created within the democratic values (*cf.* 3.3) of the Constitution. These ideals, according to Becker *et al.* (2015:3), could be explained to encompass the promise of “a good life, or a society” which will ensure that every person within this country is seen as equal before the law and that each person could be free to decide what a good life means. On the basis of these ideals and aspirations for a sound society, the Constitution informs legislation and policies, based on human rights as stipulated within the Bill of Rights, which promise to protect all the citizens of South Africa.

Equality (*cf.* 3) is one of the human rights which are guaranteed with the purpose of creating a democratic South African society. With the goal of creating a democratic society and building on values such as equality, section 29(1) of the Constitution (1996) provides for *the right of each citizen to receive a basic education*. On the other hand, the United Nations Declaration of Human Rights (UN, 1948) supports *the right to basic education* in Article 26, by stating that the right to education for everyone should be based on encouraging a human rights culture by promoting human rights and fundamental freedoms (UN, 1948:art.26(2)).

To build on the stipulations of human rights education as discussed in Article 26 of the United Nations Declaration of Human Rights (UN, 1948) document; the United Nations Declaration on Human Rights Education and Training (UN, 2011) document provides in Article 2 that human rights education (HRE) entails education *about* (art. 2(a)), *through* (art. 2(b)) and *for*

(art. 2(c)) human rights. These three ways in which HRE could be conducted are stipulated in Figure 2-2. Education *about* human rights encompasses the knowledge and skills needed to understand human rights in the context of the principles and values which are embedded within it. Education *through* human rights describes that teaching and learning should be conducted in such a way that all parties’ rights and responsibilities are applied. Education *for* human rights explains that a community of respectful individuals should be created, which not only allows others to live out their human rights, but also creates people who adhere to the responsibilities they have towards others’ human rights.



**Figure 2-2 Three dimensions of HRE (Simmonds, 2014:143; UN, 2010:13)**

With the definition of HRE in mind, Roux and Becker (2015) describe the discourse of HRE, which does not replace HRE but could be seen as a “prerequisite for teaching” HRE. At its core, HRE is concerned with the processes and actions in the interplay between what human rights are (on paper) and what they could be (De Wet, 2017:115). Roux (2019) describes HRE as continuous processes which are “non-hierarchical, non-dualistic, multi-layered, complex and evolving”. HRE is focused on giving not only the elitist class a voice but giving the voiceless a chance to speak up and describe their lived experiences with reference to human rights. However, it goes beyond being merely able to have their voices heard – HRE extends to allowing personal persons to “act as equals and challenge the orthodoxies of human rights and HRE through becoming literate about the continual (non)realisation of human rights in everyday life, which is masked by the presentation of the ideals of human rights as if it is lived realities” (Becker & Roux, 2019).

Becker and Roux (2019) also indicate that the importance of material realities of all people could be powered by a never-ending disturbance of fixed ideas (*status quo*) within society. HRE therefore instigates that change could be made in the lived experiences of the so-called grey area within society where the minority, the voiceless, the marginalised and the excluded are situated (Roux & Becker, 2019). These practices embrace actions, reactions and interactions of persons when they, individually or collectively, use, (re)formulate, verify, claim, defend, amend, recognise, critique, reject, resist, deconstruct, engage with, fight for or apply (their own) human rights (Becker *et al.*, 2014; Becker & Du Preez, 2016; De Wet, 2017; De Wet & Van Vollenhoven, 2015; Du Preez & Becker, 2016; Roux & Becker, 2015; Roux & Du Preez, 2013).

Responses to written and lived human rights could also be based on moral or ethical responsibilities towards others, implying a moral construct of human rights (Roux & Becker, 2015; Roux & Du Preez, 2013). Nevertheless, others might respond from the basis of their internalisation of the values that underpin human rights documents and the law aimed at their fulfilment (Dembour, 2010). HRE could therefore hold possibilities for challenging and regenerating human rights in spaces where sexual equality does not exist. The lived experiences of the LGBTQ+ participants of this study thus informed the guidelines of this study by introducing new ways in which role-players could look at or enable an environment of sexual equality at schools.

## **2.9 Conclusion**

This chapter outlined the theoretical perspectives which could inform our understanding of and our actions towards the realisation of sexual equality within the South African school system. Drawing from the theoretical framework presented in this chapter, factors that would contribute to sexual equality include the following:

- Acknowledging non-conforming identities within education and strategies in which to educate respectfully and teach learners without oppressive sexual inequality structures.
- Being aware of oppressive structures and forms of inequality which are created by heteronormativity, heterosexism and sexism.
- Understanding the influence of othering and other segregated and marginalised structures on learners' physical, mental and educational experiences.
- Informing teaching and learning practices through the lived human rights experiences of minority groups.

- Analysing possible guidelines and classroom rules which may encourage a more open environment and sexual equality not only for conforming learners, but for non-conforming learners as well.
- Offering critique against the guidelines, policies, classroom rules and elements within the school environment which strengthen and support the continuation of a heteronormative environment.
- Promoting an environment that supports non-conforming learners by applying a human rights environment which embraces diversity and difference instead of ignoring it.

Whereas the theoretical framework of this chapter contributed to determinants of sexual equality from a theoretical stance, the next chapter will focus on legal determinants of sexual equality within the school setting.

## CHAPTER THREE: A BASIC LEGAL AND POLICY FRAMEWORK: THE RIGHT TO EQUALITY FOR LGBTQ+ LEARNERS

### 3.1 Introduction

The theoretical framework put forward in chapter two advanced an understanding of the elements, bases, factors and possible causes of sexual equality within society. The law is an important part of society, and it could and does play a significant role in either prohibiting or contributing towards sexual equality at schools. This chapter now turns to the law to explore in what ways South African education law contributes towards sexual equality. Therefore, this chapter will explore legal conceptualisations of (sexual) equality and unfair discrimination on the basis of sexual orientation, as well as legislation and policies which support the right to equality for LGBTQ+ learners.

South Africa has been applauded by many countries not only for its democratic potential that is supported by the Constitution, but also for its constitutional focus on correcting inequalities that existed prior to 1994. This corrective focus is embedded, *inter alia*, within the equality clause, which is not only a right that every South African citizen is entitled to, but which is also a mechanism that promises that previously disadvantaged groups would and should be able to live a democratic life without systemic discrimination and unequal opportunities (Smith, 2014:609). The equality principle is important as a determinant of sexual equality. Understanding the legal implications of equality would contribute to an understanding of how sexual equality could be realised. Furthermore, it is necessary to know how legislation, regulations and guidelines support, respect, protect, promote and fulfil equality for LGBTQ+ learners in the education system.

Not only has equality been denied to the majority of South Africans in the past decades, but it is also a struggle that South Africa is still facing today. Whereas theoretical perspectives such as those outlined in chapter two exposed inequalities which persist despite legal reform, the legal system also contributes to awareness and transformation (Beckmann & Prinsloo, 2015; Kok, 2010). Justice Ackermann stated in the National Coalition for Equality case (2000:par.60), that “equality delayed is equality denied”. Equality holds the promise of a democratic future where all groups and individuals within the South African context can celebrate and embrace their heritage, culture, religion, sexual orientation and so many other categories that society has created. The equality principle can, however, not stand on its own in ensuring change: it has to be supported by the Constitution, other legislation and guidelines, courts, court decisions, schools and more importantly, the South African people. I

will discuss the last-mentioned supportive material as determinants that are necessary to enable the equality principle (*cf.* 1.5.2) to be implemented in South Africa. However, before one can look at a right, it is necessary to look at the principles of application and interpretation when attempting to understand rights in general (Bhana, 2013; Currie & De Waal, 2013:31).

### **3.2 Application and limitation of the bill of rights**

Post-apartheid legal reform saw a new constitutional order for South Africa characterised by principles such as constitutionalism, the rule of law, democracy and accountability, as well as the separation of powers, co-operative government and the devolution of power (Currie & De Waal, 2013:7). As part of this new order, human rights are protected in the Constitution, Chapter 2 – the Bill of Rights. The rights in the Bill of Rights are therefore protected by the supreme law of South Africa (1996:sec.1(c)), with implications for the enforceability of these legal claims. These rights include, among others, the rights to equality (1996:sec.9), human dignity (1996:sec.10), bodily and psychological integrity (1996:sec.12(2)), privacy (1996:sec.9), freedom of belief and opinion (1996:sec.15), freedom of expression (1996:sec.16) and education (1996:sec.29).

#### **3.2.1 Application of the Bill of Rights**

Currie and De Waal (2013:31) describe “two forms of application of the Bill of Rights” which are (1) *direct application*: the Bill of Rights is seen as “directly applicable law” – which means it can override any subordinate law that is inconsistent with its stipulations and the Bill of Rights stipulates its own remedies when subordinate legislation fails to be in line with the fundamental rights and values set out in it; and (2) *indirect application*: the Bill of Rights is seen as creating an impartial value system which should be respected when legislation or common law is interpreted, developed or applied. There are also four determinative elements concerning the *direct application* of the Bill of Rights which should be considered: (1) beneficiaries; (2) duties imposed; (3) time; and (4) some degree of territorial influence (Currie & De Waal, 2013:34; Smit, 2013:67).

It is important to indicate that application with regard to the Bill of Rights does not only occur in direct or indirect application, but it also occurs within a vertical and a horizontal application. A *vertical application* highlights relationships between individuals and the State (public power relations), while a *horizontal application* goes beyond the public power and is embedded within private power relations, which implies that each individual (or organisation) respects the rights of all other individuals (or organisations) (Bhana, 2013:351; Becker *et al.*, 2015:4; Smit, 2013:64). Thus, the application of the Bill of Rights is a far more complex concept

which should not be mistaken as a one-dimensional approach, as it consists of different ways in which human rights should and could be applied, when and to whom rights would be relevant, the ways in which rights should be promoted and the responsibilities that rights entail.

### **3.2.1.1 Negative rights and positive rights**

To build on to the application of the Bill of Rights, human rights could also be interpreted as being *negative rights* or *positive rights*. The terms negative and positive rights suggest the way(s) in which the obligation(s) within the certain right should be understood and applied in society.

*Negative obligations pertain to the obligation to respect the right in question, such as authorities refraining from interference with the enjoyment of a fundamental right. Positive obligations consist of two layers, namely, the obligation to protect a right through regulatory (legislative) measures against interference by others, as well as the obligation to fulfil rights... (De Wet & Du Plessis, 2017:349)*

Put simply, negative rights suggest that all people should, for example, recognise a particular right (such as equality) and respect the fact that a person or group has that right (such as respecting the fact that everyone has the right to equality). However, it does not imply that some action should be taken to ensure that the right is applied (inaction of a right). A positive right suggests that action should be taken to ensure that the right is achieved: for example, section 9(3) provides the prohibited grounds for exhibiting unfair discrimination, which suggests that everyone has the right to equal protection, no matter their sexual orientation, gender and ethnicity. The right to equal protection of one's sexual orientation could be applied in an action (positive right) which puts a responsibility and obligation on all individuals to follow the laws, policies and guidelines which suggest ways in which sexual equality may be achieved. Bearing in mind the ways in which the Bill of Rights can be applied and the positive and negative rights, the next section considers specific characteristics of the Bill of Rights.

The Bill of Rights is characterised by two features which stipulate firstly that the State should not only respect fundamental rights, but should also promote and fulfil those rights (1996:sec.7(2)). Secondly, depending on the context, rights stipulated in the Bill of Rights can apply to all natural and juristic persons, as section 8(2) of the Constitution explains that "the nature of the right and the nature of any duty imposed by the right" should be taken into account in deciding if a particular right binds a natural or juristic person. Section 8 of the Constitution (1996) stipulates principles which should be kept in mind when interpreting all South African rights:

8. (1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.

(2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.

(3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court—

(a) in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and

(b) may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).

(4) A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.

Section 8(1) of the Constitution (1996) indicates that the legislature, the executive, the judiciary and organs of State must abide by the rights in the Bill of Rights. *St Helena Primary School and Another v MEC, Department of Education, Free State Province and Another*<sup>2</sup> (2005:par.2) described a public school as a juristic person (public schools are also organ of state), which implies that the principles listed in section 8 of the Constitution (1996), including all other right within the Bill of Rights, should also be applied by public schools (Smit, 2013:62).

The Constitution not only delegates responsibilities to the Department of Basic Education but also to schools to recognise, respect, protect and apply human rights such as equality and dignity in the school system, which would protect the rights of all learners, including those of LGBTQ+ learners. When any of the listed persons or bodies violate their responsibilities under the Bill of Rights, their conduct may be challenged by the influenced applicant(s).

Currie and De Waal (2013:48-50) describe five considerations which support the interpretation of section 8(2) of the Constitution:

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<sup>2</sup> *St Helena Primary School and Another v MEC: Department of Education, Free State Province and Another* (891/2004) [2005] ZAFSHC 10; [2005] JOL 15846 (O); 2007 (4) SA 16 (O) (15 September 2005)

- “A provision” refers to the fact that there may be rights which will not be fully applicable to the mentioned persons, but that there are provisions within the rights that might be applicable.
- A horizontal application of the Bill of Rights cannot be determined beforehand: the context within which it is situated needs to be considered.
- It is important to consider a provision’s purpose to determine whether or not it is applicable to private conduct.
- Always consider “[t]he nature and any duty imposed by the right”.
- The Bill of Rights contains indications within itself as to whether or not a specific right may be relevant to private conduct.

With the above-mentioned principles in mind, Currie and De Waal (2013:34-35 & 41) emphasise that section 8(2) lists the beneficiaries of the Bill of Rights. The two categories of beneficiaries are as follows:

- “Natural persons” – this emphasises that the Bill of Rights is, for the most part, beneficial for “everyone” which similarly in its negative phrasing means that “no one’s rights may be denied” (Currie & De Waal, 2013:34).
- “Juristic persons” (such as companies and corporations) – as stipulated in section 8(4) of the Constitution – this emphasises that the rights in the Bill of Rights apply to companies and corporations “to the extent that it would be required by both the nature of the right and the nature of the juristic person” (Currie & De Waal, 2013:35). Smit (2013:62) adds that a juristic person “is an artificial person created by law”. The court highlighted in *St Helena Primary School v MEC, Department of Education, Free State Province* (2005:par.1) that a public school and a governing body within a school can establish themselves as juristic persons.

### **3.2.2 Limitation of the Bill of Rights**

To add on to the basic application of the Bill of Rights and section 8(3)(b), section 36 of the Constitution (1996) describes possible limitations to fundamental rights in the following manner:

36. (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in

an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation;
- (c) the nature and extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right that is entrenched in the Bill of Rights.

The limitations of rights in the Bill of Rights in terms of section 36 of the Constitution are not absolute and should be applied in a fair and balanced manner so that one right is not used to suppress or conflict with another (Bhana, 2013:372; Christiansen, 2016:590; Oosthuizen *et al.*, 2009:28; Smit, 2013:67; Smith, 2014:616). Christiansen (2016:590) states that any unfair discrimination which cannot be justified with the limitation clause (sec.36) should be declared as unconstitutional and should be corrected. In order for unfair discrimination to be declared as unconstitutional, a person or institution should approach a court (Prinsloo, 2008:40) because courts are established to defend and enforce rights (Brand, 2005:23).

One of the mechanisms which were created to support the Bill of Rights and the implementation of human rights was the Constitutional Court (Brand, 2005:54). The Constitutional Court can be said to be the key guardian of the Constitution of the Republic of South Africa; it not only enforces constitutional provisions, but it also plays an immense role in translating the principles of human rights into “concrete legal claims” (Brand, 2005:18). This court follows a certain process in determining human rights issues, which is referred to as a *human rights litigation process*. The stages of the litigation process which are typically followed with Bill of Rights issues are explained by Currie and De Waal (2013:24-28) as containing the following three stages:

**Procedural stage** where court has to consider the preliminary issues concerning the human rights litigation beforehand. The procedural issues consist of three sub-considerations:

**Application** – This consideration investigates *if, how and to what extent* the Bill of Rights applies in the specific dispute. This stage is also concerned with the indirect and direct application of the Bill of Rights.

**Justifiability** – This consideration questions whether the relief sought for the Bill of Rights issue has a standing and whether or not the issues are justifiable.

**Jurisdiction** – This consideration explores whether or not the court has the power to grant the relief requested by the applicant.

\* Courts can only move to the substantive stage when all three of the procedural considerations' questions are affirmative (yes).

**Substantive stage** where the court explores the contextual considerations of the applicant's Bill of Rights issue and whether or not the right has been infringed or not. The substantive stage consists of two sub-considerations:

**Interpretation** – This consideration investigates whether or not a fundamental right has been infringed while also looking at if the justifiability of the infringement (if the answer of justifiability is negative (no), the application will be dismissed).

**Limitation** – This consideration explores the criteria for possible limitation as stipulated in section 36 of the Constitution and whether or not the respondent's conduct consists of those criteria (if affirmative (yes), the conduct of the respondent is not unconstitutional, and the application will be dismissed).

**Remedial stage** where the court looks at the remedies which could be suitable for the Bill of Rights issue.

The stages of Bill of Rights litigation highlight that people and institutions can approach courts to assist in the enforcement and application of human rights in all societal spheres. The next section will look at equality with the application and limitations of the Bill of Rights, as explored above, in mind.

### **3.3 Equality as a constitutional value in South Africa**

Section 1(a) of the Constitution (1996) includes achieving equality as one of the founding values of the Republic:

1. The Republic of South Africa is one, sovereign, democratic state founded on the following values-
  - (a) Human dignity, **the achievement of equality** and the advancement of human rights and freedoms.
  - (b) Non-racialism and non-sexism.
  - (c) Supremacy of the constitution and the rule of law.

- (d) Universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

The democratic values of dignity, freedom and equality are included in a number of sections within the Constitution and Bill of Rights, such as sections 1, 7, 36 and 39 (1996). De Wet and Van Vollenhoven (2015:6) indicate that values and rights are linked and have a reciprocal quality, which means that protecting a right/value constitutes realising a value/right. The idea of the reciprocal nature between values and rights could support sexual equality for LGBTQ+ learners by creating an environment of awareness and respect in role-players' perspectives, which would not only protect the right to equality for learners who identify as one of the sexual minorities, but which would also install an equality value which can support the application of sexual equality. The values and their relationships to one another were emphasised by the court in MEC for Education: Kwazulu-Natal and Others v Pillay<sup>3</sup> (2007:par.63):

*Freedom is one of the underlying values of our Bill of Rights and courts must interpret all rights to promote the underlying values of 'human dignity, **equality** and freedom'. These values are not mutually exclusive but enhance and reinforce each other.*

The Constitutional Court highlighted that the value of equality should be seen within the context of all of the other democratic values and that each of the values supports and strengthens the others. The Manifesto on Values, Education and Democracy (Department of Basic Education, 2001) describes equality as a value, which implies that South African citizens should not only understand their own rights, but they should also be aware that others also have these rights and that other people's rights should be respected in the same manner that they want their own rights to be respected. This argument suggests that, by being aware of the constitutional value of equality, a society could be created where individuals can respect each other (Department of Basic Education, 2001). Each fundamental right in South Africa must be interpreted and implemented against the background of the democratic values and must promote an open and democratic society. The right to equality will be discussed with the democratic value of equality in mind.

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<sup>3</sup> MEC for Education: Kwazulu-Natal and Others v Pillay (CCT 51/06) [2007] ZACC 21; 2008 (1) SA 474 (CC); 2008 (2) BCLR 99 (CC) (5 October 2007)

### 3.4 The right to equality in South Africa

The Constitutional Court in *Bel Porto School Governing Body and Others v Premier of the Western Cape Province and Another*<sup>4</sup> (2002:par.65) pointed out that “an equitable system” can be achieved even though “exact equality” may well be impossible to attain. In this regard, Garner (2009:616) defines *equality* as “the quality or state of being equal,” while emphasising that *equality before the law* refers to

*[t]he status or condition of being treated fairly according to regularly established norms of justice... (Garner, 2009:616)*

Equality, or equal treatment, is arguably one of the most complex concepts that is used and demanded daily within the South African context. Not only is it known to be one of the core values (*cf.* 3.3) within the Constitution (1996), but it is also a well-known fundamental right (1996:sec.9) that forms part of the quest for a “non-sexist and non-racial South Africa” (Smith, 2014:609).

s9 of the Constitution (1996) provides for the right to equality as follows:

9(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) 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.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair, unless it is established that the discrimination is fair.

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<sup>4</sup> *Bel Porto School Governing Body and Others v Premier of the Western Cape Province and Another* (CCT58/00) [2002] ZACC 2; 2002 (3) SA 265; 2002 (9) BCLR 891 (21 February 2002)

Currie and De Waal (2013:211) emphasise that the right to equality, like all other constitutional rights, should be understood contextually and within the framework of the society in which it operates and which it aspires to create. The contextual understanding is referred to as *the historical interpretation of the Bill of Rights* (Currie & De Waal, 2013:211). This means that the guarantee of equality within the Constitution should be thought of together with the history that is embedded within South Africa. By keeping the past inequalities in mind, the importance of the right to equality becomes much clearer. The interpretation of the right to equality for South African LGBTQ+ students should therefore take cognisance of the fact that non-heterosexual sexualities were treated with unfair discrimination historically in South Africa. The historic unfair discrimination included, *inter alia*, the criminalisation of intimate relationships between people of the same gender by the Sexual Offences Act 23 of 1957 (SA, 1957; Sexual Offences Act). Section 20A of that act was declared unconstitutional in the case of National Coalition for Equality (2000). Similarly, sections of the Child Care Act (74 of 1983) and the Guardianship Act (192 of 1993) prohibited same-gender couples from adopting children jointly. These sections were struck down in the case of *Du Toit and Another v The Minister for Welfare and Population Development and Others*<sup>5</sup> (2002; *Du Toit*).

Other examples of the past oppression of sexual minorities are found in sections of the Remuneration and Conditions of Employment Act (88 of 1989), which prevented same-gender life partners from receiving financial benefits after the death of their life partner. These sections were declared invalid in the case of *Satchwell v President of the Republic of South Africa and Another*<sup>6</sup> (2003). Historically, also the Marriage Act (25 of 1961) excluded same-gender couples from the definition of and privileges associated with marriage and prevented same-gender weddings. This exclusion was declared unconstitutional in the case of *Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs*<sup>7</sup> (2005).

The laws from the past mentioned above highlight some of the past patterns of unfair discrimination based on sexual orientation within South African society and the need for recognition of equality within a society that is now embedded within diversity and difference. Interpretation of equal rights should therefore take cognisance of the historical context of legalised and systemic unfair discrimination against sexual minorities. The next section will further probe the layered approaches within equality. Two different approaches are employed

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<sup>5</sup> *Du Toit and Another v Minister of Welfare and Population Development and Others* (CCT40/01) [2002] ZACC 20; 2002 (10) BCLR 1006; 2003 (2) SA 198 (CC) (10 September 2002)

<sup>6</sup> *Satchwell v President of the Republic of South Africa and Another* (CCT48/02) [2003] ZACC 2; 2003 (4) SA 266 (CC); 2004 (1) BCLR 1 (CC) (17 March 2003)

<sup>7</sup> *Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs* (CCT 10/05) [2005] ZACC 20; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005)

in the interpretation and application of the right to equality, namely, formal equality and substantive equality. The approaches are explored in the paragraphs that follow.

### **3.4.1 Formal equality**

Radley (2015:277-278) points out that a formal approach to equality may be envisioned by the Constitution's stipulations within section 9(1) (1996), which declares that "everyone is equal", suggesting that people who are imagined to be the same will be treated the same and people who are not the same will not be treated the same (Currie & De Waal, 2013:213; Smit, 2013:82; Smith, 2014:611). This approach may thus be said to be blind towards each person's "situational circumstances" and (subtle) group-based differentiations within society (Malherbe, 2004:442; Radley, 2015:278; Smith, 2014:612). The formal approach to equality seeks only equal application or treatment of persons without looking at the situations, cultures and environments of specific individuals that might affect the equality of outcomes or the effects of equal rules or treatment (Smith, 2014:612).

Formal equality does not always challenge or address the structures, cultures and environments which already exist while seeking to achieve equality by focusing on "consistency in treatment" (Smith, 2014:612). Instances where a formal approach to equality is implemented, mostly focus on direct discrimination (*cf.* 3.4.3.1) by solely noticing the "abstract person" (Fredman, 2005:163; Smith, 2014:612). As such, rules and practices do not discriminate between people on the basis of situational contextual factors that may prohibit them from enjoying equal effects of such rules or practices. Smit (2013:82) is of the opinion that the Constitution implies a need for South Africans to make the shift from formal equality to substantive equality. The court case of *S v Jordan and Others* (2002; *S v Jordan*) illustrates a formal approach to interpreting the right to equality. In *S v Jordan and Others*, the case involved a brothel owner and others who wanted the Sexual Offences Act to be declared unconstitutional. They first went to the Magistrates' Court, then the High Court and then appealed against the High Court's decision in the Constitutional Court. Smith (2014:626) is of the opinion that the Constitutional Court followed a formal approach to equality in this case. Sections of the Sexual Offences Act (particularly sec.20(1)(a)) which criminalised the 'sex worker' for prostitution but not the 'client' or brothel owner were challenged in this case (Currie & De Waal, 2013:239; Smith, 2014:626). The majority (divided six to five) of the justices found that the sections were indeed constitutional and followed a gender-neutral approach, whereas the minority found that the provisions on prostitution resulted in unfair discrimination as the prostitute is seen as the offender and the client is seen as merely an accomplice. The latter view suggested that the provisions provide for gendered double standards, which prevent the advancement of gender equality within

South Africa. In *S v Jordan and Others*, the court showed its consideration of prostitution by stating that

*... the above arguments do not give sufficient weight to the fact that the invalidity of the section stems not from unjustifiable limitations of a fundamental right to privacy, but from the discriminatory impact of a prohibition which the Legislature may validly impose. It would accordingly be premature for prostitutes to embark on a process of attempting to normalise their work in a decriminalised atmosphere. Although decriminalisation is a valid option for Parliament, it is not one which is constitutionally required. All that is required of Parliament is that if it chooses to criminalise prostitution it may not do so in an unfairly discriminatory fashion. At the same time, we cannot accept the state argument that invalidation of the section would lead to chaos. It would in fact simply restore the position as it had long existed in South Africa prior to 1988, and as still prevails in much of the Commonwealth today: prostitution as such would not be illegal, but life for the prostitute would be extremely difficult, as soliciting, pimping and brothel-keeping would continue to be prohibited. (2002:par.125)*

However, the ruling of the court stipulated as part of the remedies section of the case, that it was necessary for courts to forge new tools and shape innovative remedies (such as the inclusive remedies given in the National Coalition for Equality case) in “pursuit of achieving the goal of effectively vindicating entrenched rights” (2000:par.128). *S v Jordan and Others* acknowledged that the current state of affairs would continue as a short-term price for the applicants, but that it is necessary for the legislature to look comprehensively at the stipulated unfair discrimination in an integrated way. This court acknowledged the inconsistency of section 20(1)(aA) of the Sexual Offences Act and stated that it was necessary to suspend the section for 30 months so that Parliament could correct the defect by eliminating the forms of unfair discrimination as stipulated within it (2002:paras.128-129).

Smith (2014:626) contends that the majority of the justices did not err in following a technical approach and formal interpretation of equality, but that a contextual approach (as suggested by the minority) could have been more effective within the context of South Africa where gender inequality formed part of the apartheid government. The case illustrates, however, that formal equality will at least ensure that the same rules apply to every person, irrespective of their gender in this case, or of their sexual orientation when, for example, LGBTQ+ persons are concerned. Yet, the minority ruling of Justices Sachs and O’Reagan illustrates that formal equality may be insufficient in eradicating unequal effects of a rule that applies equally to all. Examples of the formal equality approach in everyday education law as it may affect LGBTQ+ individuals or groups are (1) dress codes which force learners to wear appropriate clothing as decided by the heteronorms and (2) gender assigned bathrooms which could create uncomfortable situations for trans-gender people (Fields & Payne, 2016;

Jones *et al.*, 2016; Scout, 2016). In *President of the Republic of South Africa and Another v Hugo*<sup>8</sup> (1997:par.112), Justice O'Reagan explains as follows:

*Although the long term goal of our constitution [the South African Constitution] is equal treatment, insisting upon equal treatment in established inequality may well result in the entrenchment of that inequality.*

The insistence on equal treatment in a society which is embedded in inequality supports the notion of formal equality and the need for courts to recognise and deal with indirect unfair discrimination and to acknowledge and look at the context of a person's inequality. Whereas formal equality is important in eradicating direct unfair discrimination (on for example the basis of sexual orientation), it is not sufficient in addressing subtle and covert forms of indirect unfair discrimination. To add to the formal approach to equality which focuses on equality of treatment, a substantive approach to equality is focused on equality of outcomes and addresses indirect discrimination.

### **3.4.2 Substantive equality**

Currie and De Waal (2013:2013) describe substantive equality as not just being focused on what a right stipulates, but an approach which also examines the effect that the right has on the individual or group. This effect is examined by looking at the contextual background(s), including the social and economic conditions of an individual or group, and exploring whether the commitment to equality, as embedded within the Constitution, is upheld (Currie & De Waal, 2013:213). Substantive equality is an approach that takes the equality principle from a negative right (non-discrimination) to a positively oriented right; this is done by asking the state to intervene (by putting steps into place) to celebrate diversity (Smith, 2014:613). It therefore follows that substantive equality as a positive right is partly achieved when courts and legislation support minority groups and individuals by recognising them as substantive equals and protecting their right to equality (Smith, 2014:613). Additionally, substantive equality is concerned with challenging barriers within legislation and practices which might prevent groups or individuals from embracing their contextual backgrounds within the different areas of society (Smith, 2014:613). Challenging barriers is done not through equality of treatment (rules and practices), but by achieving substantive equality between groups who are advantaged and disadvantaged and treating them differently so as to eradicate inequalities. Radley (2015:278) defines substantive equality as an approach which

*recognises that instead of treating all individuals as one and the same and applying laws consistently without distinction or discrimination, individuals*

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<sup>8</sup> *President of the Republic of South Africa and Another v Hugo* (CCT11/96) [1997] ZACC 4; 1997 (6) BCLR 708; 1997 (4) SA 1 (18 April 1997)

*must be accounted for in terms of their substantive worth and duly recognised on account of their differences which are required to be tolerated and accommodated in a pluralistic democratic order.*

In the context of this study, this means that due to inequalities, oppression, marginalisation and disadvantage for LGBTQ+ people brought about through heteronormativity and previous unequal legislation, heterosexual individuals and individuals belonging to sexual minorities should not be seen as the same and should not be treated alike. It is therefore important for society to be able to recognise that every individual differs from another, and that similar treatment does not always constitute equality. Due to contextual differences between heterosexuals and other sexualities, LGBTQ+ individuals are put at a disadvantage that may prohibit them from enjoying the benefit of rules and practices that fully treat everyone the same. Contextual treatment could constitute equality, because it recognises the difference between individuals or groups and provides for a different application rather than a similar application. Examples of contextual treatment which, according to some studies, could allow LGBTQ+ learners at schools to feel more welcome and included are toilet and ablution facilities, dress codes and curricula that do not assume a heterosexual male-female gender binary, but acknowledge and also cater for trans-gendered and LGBTQ+ learners (Fields & Payne, 2016; Jones *et al.*, 2016).

The Constitutional Court emphasised the need for a substantive approach to equality in the *President of South Africa v Hugo* (1997:par.60-61) in this statement:

*We need ... to develop a concept of unfair discrimination which recognises that although a society which affords each human being equal treatment on the basis of equal worth and freedom is our goal, we cannot achieve that goal by insisting upon identical treatment in all circumstances before that goal is achieved. Each case, therefore, will require a careful and thorough understanding of the impact of the discriminatory action upon the particular people concerned to determine whether its overall impact is one which furthers the constitutional goal of equality or not. A classification which is unfair in one context may not necessarily be unfair in a different context.*

This means that substantive equality goes beyond the same application (equal rules, equal treatment) for alike individuals; instead, it promotes diversity and difference by acknowledging and supporting the diversified characteristics of all South Africans. Equal application to everyone does not always lead to equal outcomes because of the differences between people. The *National Coalition for Equality* case (2000:par.22) adds to the *President of South Africa v Hugo* court case (1997):

*The desire for equality is not a hope for the elimination of all differences – the experience of subordination of personal subordination, above all – lies behind the vision of equality. To understand ‘the other’ one must try, as far as is humanly possible, to place oneself in the position of ‘the other’. It is*

*easy to say that everyone who is just like 'us' is entitled to equality. Everyone finds it more difficult to say that those who are 'different' from us in some way should have the same equality rights that we enjoy. Yet [as] soon as we say any ... group is less deserving and unworthy of equal protection and benefit of the law all minorities and all of ... society are demeaned. It is so deceptively simple and so devastatingly injurious to say that those who are handicapped or of a different race, or religion, or colour or sexual orientation are less worthy.*

This emphasises that all South African citizens should accept and recognise that we all differ from one another and that the difference within one person does not result in another having the right to discriminate unfairly. Substantive equality thus recognises the differences between people in characteristics, skills, and features and does not ask for similar application; rather, it looks at the context that the individual is in and the rights applicable and assesses the contextual application before determining whether or not discrimination was unfair. Furthermore, substantive equality seeks to demolish inequalities which individuals and groups endure within South African society (Smit, 2013:86). Albertyn (2007:255) and Smit (2013:86) also identify three types of inequalities within South Africa: (1) political inequality, (2) economic inequality issues (“unequal access to” resources, opportunities and needs) and (3) social inequalities (“patterns of inclusion and exclusion” within society). Economic issues usually focus on the need for and promotion of “economical inclusion”, whereas social issues focus on the need for recognition of a certain individual and groups within society (Albertyn, 2007:255; Smith, 2014:614).

It is important to mention the remedial or restitutionary qualities that may be and should be embedded within the substantive approach to equality (Albertyn, 2007:256; Albertyn *et al.*, 2007:210). According to Albertyn (2007:258), Fredman (2005:167) and Smith (2014:614), there are four key strategies which the Constitutional Court follows in cases where transformation or remedies are necessary to understand the inequality found within cases:

1. The need to understand inequality within its social and historical context.
2. The need to determine what the impact and primary concern surrounding the alleged inequality are.
3. The need to acknowledge and celebrate difference within society.
4. The need to pay attention to the purpose of the right and the need for remedying systemic disadvantages.

It is clear that this approach follows a critical perspective (*cf.* 2.2) and aims to address oppression and obtain social justice. Justice Ackermann supports the idea of remedial and

restitutionary equality by stating the following in the case of National Coalition for Equality (2000:par.60):

*Particularly in a country such as South Africa, persons belonging to certain categories have suffered considerable unfair discrimination in the past. It is insufficient for the Constitution merely to ensure, through its Bill of Rights, that statutory provisions which have caused such unfair discrimination in the past are eliminated. Past unfair discrimination frequently has ongoing negative consequences, the continuation of which is not halted immediately when the initial causes thereof are eliminated, and unless remedied, may continue for a substantial time and even indefinitely.*

MEC for Education: Kwazulu-Natal and Others v Pillay<sup>9</sup> (2007) provides an example of a case where the courts followed a substantive approach to equality. In this case, Sunali Pillay, a South Indian Hindu, was a learner at a school in KwaZulu-Natal. Her mother allowed her to get a gold nose stud as part of a voluntary religious and cultural practice. Sunali's mother approached the governing body of the school to allow her to wear the nose stud as part of her cultural or religious practices. The governing body denied the request and therefore created a prohibition that all Hindu/Indian learners may not wear nose studs to school (Smit, 2013:94). The Constitutional Court found that the school did discriminate unfairly against Sunali on prohibited grounds as stated in section 9(3) of the Constitution (1996), by not taking reasonable measures to accommodate Sunali's religion. In this way, the Constitutional Court addressed unfair indirect discrimination (Smith, 2014:620). Chief Justice Langa expressed the importance for schools to create codes of conduct that allow learners, where possible and considered, to have the freedom to express their personal religions and cultures (2007).

This argument by Chief Justice Langa could also be related to the topic of sexual orientation as a prohibited ground that is stipulated in section 9(3) of the Constitution (1996). Where possible, schools have to allow learners to express their sexual orientation without fearing unfair discrimination. The *Pillay* case highlighted the need to recognise the "other" and to remember that the Constitution supports a substantive approach to equality and the need for laws and policies to recognise and acknowledge the contextual background of each individual or group. The Constitutional Court followed a substantive approach to equality by acknowledging that there are learners with different religions within schools and by pointing out all the role-players within the education system have a duty to promote an education culture which allows learners, teachers and parents to express their religious practices in a controlled environment. This case emphasises the importance of school governing bodies

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<sup>9</sup> MEC for Education: Kwazulu-Natal and Others v Pillay (CCT 51/06) [2007] ZACC 21; 2008 (1) SA 474 (CC); 2008 (2) BCLR 99 (CC) (5 October 2007)

adopting a code of conduct that allows room for difference; this could be done by creating an amendment request document which could be given to the minority learner(s) (together with their parents or other relevant role-players) to make a request which should be explored by all the relevant shareholders. This case highlighted the need for codes of conduct not to be written rigidly but to allow for inclusiveness.

Another case, *Du Toit and Another v The Minister for Welfare and Population Development and Others*<sup>10</sup> (2002), illustrates the court's application of a substantive approach to equality. This case dealt with the Child Care Act (74 of 1983) and its provisions on adoption and highlighted the need of recognising the "other" (Smith, 2014:623). The case entailed two lesbians who wanted to adopt a child, but they were refused because they were only in a committed relationship and not married. This case challenged the court to adopt a more diversified meaning of "family life" and dealt with the right to equality on the basis of marital status and sexual orientation. Although it was direct discrimination, the Constitutional Court managed to follow a contextual approach towards investigating the unfair discrimination claims and succeeded in not only adopting a substantive equality approach, but also acknowledging the different types of family structures within South Africa. The substantive element within this case was highlighted in the court's decision to acknowledge, promote and allow different family structures to adopt babies if they are deemed suitable parents. The court explored the contextual background of different types of family structures based on sexual orientation and allowed room for not only heterosexual married couples to adopt, but also allowed people who are in different types of committed relationships to adopt babies jointly. This Constitutional Court decision allowed for "the advancement of equality" as it challenged the generalisation of concepts such as 'family'; 'spouse' and 'domestic relationships' (2002:par.19; Smith, 2014:623).

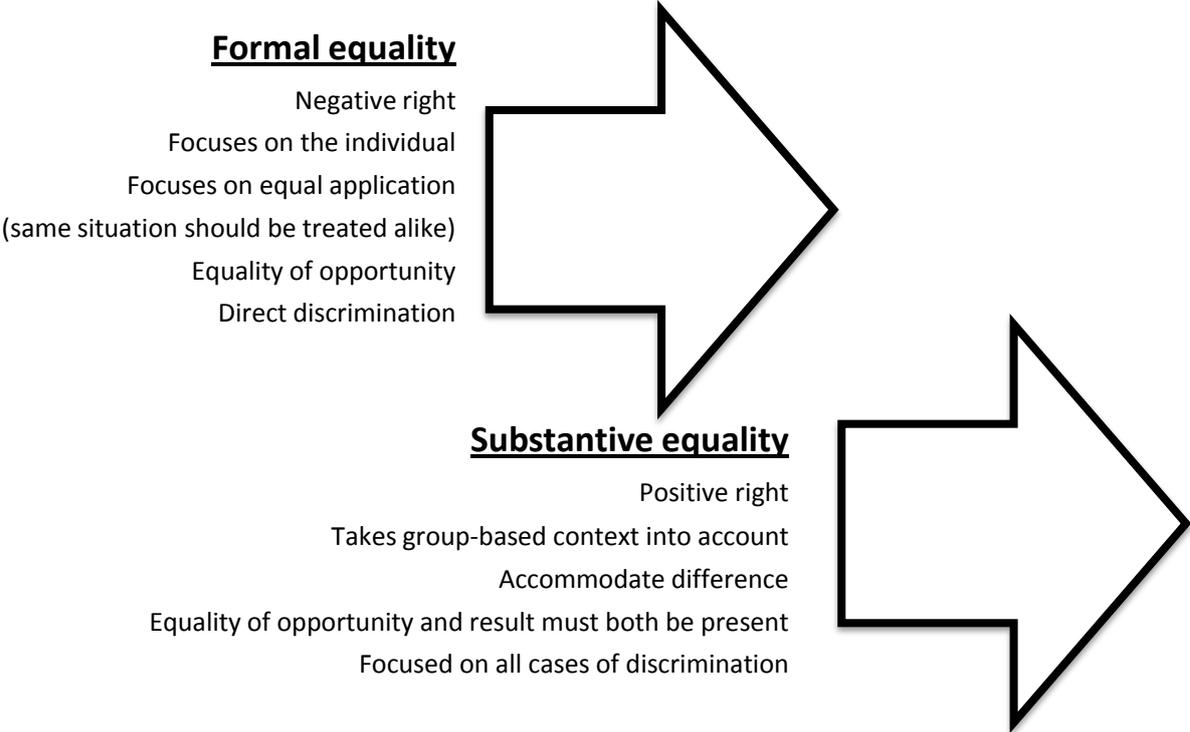
Another case, *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs* (2000), illustrates the application of substantive equality in relation to the rights of LGBTQ+ people. The court emphasised that inequality may be fostered when laws, policies and people treat all people identically. The Constitutional Court here used both a contextual and a historical analysis to determine the status of gay men in South Africa, and it assisted in highlighting the need and methods of how courts can assist in "building a democratic and tolerant society" (Smith, 2014:625). The key considerations of Justice Sachs's reasoning in this case revolved around two key concepts of substantive equality: disadvantage and difference (Smith, 2014:625). *Disadvantage* was investigated in paragraph 128: Justice

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<sup>10</sup> *Du Toit and Another v Minister of Welfare and Population Development and Others* (CCT40/01) [2002] ZACC 20; 2002 (10) BCLR 1006; 2003 (2) SA 198 (CC) (10 September 2002)

Sachs explored the status of LGBTQ+ people in society and stated that they were and are still a minority group that is treated with disrespect and disapproval. *Difference* was explored in paragraph 132, where Justice Sachs highlighted “that difference should not be the basis for exclusion, marginalisation, stigma and punishment”. Justice Sachs went to great lengths to explore the background of LGBTQ+ rights and the laws and policies which prohibited LGBTQ+ people from experiencing the quality of life that heterosexual people do and emphasised that not allowing LGBTQ+ people to have the freedom to experience sexual activity between consenting adults without it being held as a criminalised offence would be unconstitutional. At the same time, Justice Sachs highlighted the need for South African society, including its laws and policies, to recognise diversity within its contextual form and, in a sense, challenged sodomy laws to adopt a diverse view of sexual activity by breaking down the heteronormative standard of normalising only heterosexual sexual activity.

Figure 3-1 is a representation of the differences between formal and substantive equality after reading Albertyn *et al.* (2007); Currie and De Waal (2013) and Smith (2014).



**Figure 3-1 Formal and substantive equality**

A substantive approach to equality seems to be most appropriate when indirect discrimination (*cf.* 3.4.3.2) is the cause for inequality (Albertyn, 2007:258, Malherbe, 2004:429; Smith, 2014:613). The following paragraph explores discrimination and its relationship with equality.

### 3.4.3 Fair and unfair discrimination

Currie and de Waal (2013:222) and Smit (2013:86) explain that discrimination is rooted within the concept of differentiation, which means that legislation and guidelines are sometimes created for a certain group, making the particular law irrelevant to other groups. For instance, the Gauteng area has certain regulations and legislation in place to protect its population, where Mpumalanga may have different regulations to fit into its population's needs. Thus, for example, each province has its own education legislation that does not undermine the national legislation but which protects its learners' and workers' specific needs. It is impossible to protect people and groups without stipulating some or other differentiated guidance within legislation. Consequently, although rules might differentiate between people on the basis of the province they live in, everyone can still be treated fairly and equally. Another example of differentiation is maternity leave which is only granted to women and not to men, merely because women carry the baby. This differentiation does not necessarily constitute unfairness, but it does differentiate on the basis of sex and gender. Differentiation can, however, involve fair or unfair discrimination (Currie & De Waal, 2013:223; Smit, 2013:86). The Constitution prohibits unfair discrimination but not mere differentiation. Differentiation is tested against rationality or irrationality whereas discrimination is tested against fairness or unfairness. In *Harksen v Lane NO*<sup>11</sup> (1997:par.42) the court highlighted that the Constitution prohibits irrational differentiation. Mere differentiation that is rational is acceptable for the reason that it is not harmful to either party and it is mostly implemented because the situation requires it. An example of this would be that a teacher will not be able to teach a blind learner in the same manner that a seeing learner can be taught (Smit, 2013:86). The National Action Plan to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (2015:5; hereafter, National Action Plan), as well as PEPUDA (2000), furthermore define *discrimination* by stating as follows:

*[Differentiation] [m]eans any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly imposes burdens, obligations or disadvantage on; or withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds.*

The listed grounds for unfair discrimination are stipulated in section 9(3) of the Constitution (1996). PEPUDA (2000) expands the prohibited grounds listed within section 9(3) (1996) of the Constitution by defining prohibited grounds as

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<sup>11</sup> *Harksen v Lane NO and Others* (CCT9/97) [1997] ZACC 12; 1997 (11) BCLR 1489; 1998 (1) SA 300 (7 October 1997)

race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or

any other grounds where discrimination based on that other ground -

(i) causes or perpetuates systemic disadvantage;

(ii) undermines human dignity; or

(iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph (a.)

With section 9(3) and the PEPUDA definition of prohibited grounds in mind, section 9(5) stipulates that discrimination on any of the prohibited grounds is presumed to be unfair, until it is established that the discrimination is fair. Currie and De Waal (2013:224) explain that “an analogous ground is not presumed to be unfair discrimination”, so applicants in court cases have to prove firstly that the discrimination is based on one or more prohibited grounds (1996:sec.9(3)) and that the discrimination impairs their right to human dignity (1996:sec.10) and equality (1996:sec.9) (Currie & De Waal, 2013:224). The applicants' duty to prove that the discrimination they experienced impaired their human dignity is accompanied with the courts' approach to onus (where the burden of proof lies) when dealing with 'the substantive stage of human rights litigation' (Currie & De Waal, 2013:26; Kok, 2007:137). Justice Ackermann explains the approach of the Constitutional Court to onus in the *Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others* case<sup>12</sup> (1996:par.44) as follows:

*The task of determining whether the provisions of ... the Act are invalid because they are inconsistent with the guaranteed rights here under discussion involves two stages, first, an enquiry as to whether there has been an infringement of the ... guaranteed right; if so, a further enquiry as to whether such infringement is justified under ..., the limitation clause. The task of **interpreting** the ... fundamental rights rests, of course, with the Courts, but it is for the applicants to prove the facts upon which they rely for their claim of infringement of the particular right in question. Concerning the second stage, [it] is for the legislature, or the party relying on the legislation, to establish this justification [in terms of the **limitation** clause], and not for the party challenging it, to show that it was not justified.*

Justice Ackermann therefore stated that the approach to onus of proof consists of two stages within the substantive stage of human rights litigation: interpretation and limitation (*cf.* 3.2) (Currie & De Waal, 2013:27; Kok, 2007:137). This indication suggests that the applicant not

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<sup>12</sup> *Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others* (CCT5/95) [1995] ZACC 13; 1996 (1) SA 984 (CC); 1996 (1) BCLR 1 (6 December 1995)

only has to prove that the discrimination endured impaired his or her human dignity and equality, but the respondent also has a chance to prove that the infringement can be justified within the limitation clause (1996:sec.36) (Currie & De Waal, 2013:27; Kok, 2007:137). PEPUDA (2000) stipulates the burden of proof procedure in section 13:

13(1) If the complainant makes out a *prima facie* case of discrimination -

(a) the respondent must prove, on the facts before the court, that the discrimination did not take place as alleged; or

(b) the respondent must prove that the conduct is not based on one or more of the prohibited grounds.

(2) If the discrimination did take place -

(a) on a ground in paragraph (a) of the definition of 'prohibited grounds', then it is unfair, unless the respondent proves that the discrimination is fair;

(b) on a ground in paragraph (b) of the definition of 'prohibited grounds', then it is unfair -

(i) if one or more of the conditions set out in paragraph (b) of the definition of 'prohibited grounds' is established; and

(ii) unless the respondent proves that the discrimination is fair.

Unfair differentiation is harmful to people and prohibited within South Africa. A teacher would, for instance, discriminate unfairly if she were to place a lesbian girl at the back of her class and then ignore her during classes merely because the learner's sexual identity makes the teacher uncomfortable. This is a simple example, but an act like that creates an unsafe space where peers could start bullying the girl. It may affect the dignity and education of the learner negatively. Any act where people endure unequal treatment which affects their "human dignity, or affects somebody in a comparably serious manner" can be defined as unfair discrimination (Malherbe, 2004:442; Prinsloo v Van der Linde<sup>13</sup>, 1997:par.33). In 1997, the Constitutional Court identified three factors that determine when differentiation is unfair in Harksen v Lane NO<sup>14</sup> (1997:par.52):

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<sup>13</sup> Prinsloo v Van der Linde and Another (CCT4/96) [1997] ZACC 5; 1997 (6) BCLR 759; 1997 (3) SA 1012 (18 April 1997)

<sup>14</sup> Harksen v Lane NO and Others (CCT9/97) [1997] ZACC 12; 1997 (11) BCLR 1489; 1998 (1) SA 300 (7 October 1997)

[52] At the cost of repetition, it may be as well to tabulate the stages of enquiry which become necessary where an attack is made on a provision in reliance on section 8 of the interim Constitution.<sup>15</sup> They are:

(a) Does the provision differentiate between people or categories of people? If so, does the differentiation bear a rational connection to a legitimate government purpose? If it does not then there is a violation of section 8(1).<sup>16</sup> Even if it does bear a rational connection, it might nevertheless amount to discrimination.

(b) Does the differentiation amount to unfair discrimination? This requires a two stage analysis:

(b)(i) Firstly, does the differentiation amount to 'discrimination?' If it is on a specified ground, then discrimination will have been established. If it is not on a specified ground, then whether or not there is discrimination will depend upon whether, objectively, the ground is based on attributes and characteristics which have the potential to impair the fundamental human dignity of persons as human beings or to affect them adversely in a comparably serious manner.

(b)(ii) If the differentiation amounts to 'discrimination', does it amount to 'unfair discrimination'? If it has been found to have been on a specified ground, then unfairness will be presumed. If on an unspecified ground, unfairness will have to be established by the complainant. The test of unfairness focuses primarily on the impact of the discrimination on the complainant and others in his or her situation.

If, at the end of this stage of the enquiry, the differentiation is found not to be unfair, then there will be no violation of section 8(2).<sup>17</sup>

(c) If the discrimination is found to be unfair then a determination will have to be made as to whether the provision can be justified under the limitations clause (section 33 of the interim Constitution).

Smith (2013:87) explains that unfair discrimination is often focused on groups and individuals who have previously experienced disadvantages, stigmatisation and prejudice. In 2000,

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<sup>15</sup> This case was based on section 8 of the Interim Constitution, 2000 of 1993. Section 8 of the Interim Constitution resembles section 9 of the Constitution of the Republic of South Africa, 108 of 1996.

<sup>16</sup> Section 8(1) of the Interim Constitution states: 'Every person shall have the right to equality before the law and to equal protection of the law.'

<sup>17</sup> Section 8(2) of the Interim Constitution states: 'No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.'

PEPUDA was enacted to support the implementation of section 9 of the Constitution. section 14 of the act stipulates the following criteria, context and factors of fair and unfair discrimination:

14(1) It is not unfair discrimination to take measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination or the members of such groups or categories of persons.

(2) In determining whether the respondent has proved that the discrimination is fair, the following must be taken into account:

(a) the context;

(b) the factors referred to in subsection (3);

(c) whether the discrimination reasonably and justifiably differentiates between persons according to objectively determinable criteria, intrinsic to the activity concerned.

(3) The factors referred to in subsection (2)(b) include the following:

(a) Whether the discrimination impairs or is likely to impair human dignity;

(b) the impact or likely impact of the discrimination on the complainant;

(c) the position of the complainant in society and whether she/he suffers from patterns of disadvantage or belongs to a group that suffers from such patterns of disadvantage;

(d) the nature and extent of the discrimination;

(e) whether the discrimination is **systemic in nature**;

(f) whether the discrimination has a legitimate purpose;

(g) whether and to what extent the discrimination achieves its purpose;

(h) whether there are less restrictive and less disadvantageous means to achieve the purpose;

(i) whether and to what extent the respondent has taken such steps as being reasonable in the circumstances to -

\* address the disadvantage which arises from or is related to one or more of the prohibited grounds; or

\*\* accommodate diversity.

The South African school system is one of the systemic structures which could influence the sexual equality experiences of LGBTQ+ learners. Van Vollenhoven and Els (2013:268) emphasise that the school system is ostensibly embedded within the democratic values of the Constitution. However, Reyneke (2010) and Van Vollenhoven and Els (2013:268) note that South African society is facing a crisis regarding the implementation of democratic values. The national education system will not be underpinned by democratic values if South African society does not acknowledge values such as equality in their entirety and most complex form. Equality, in its most complex form, can relate to the social and cultural issues within society with its experiences of historical discrimination and patterns of unfair discrimination and inequality, such as sexual orientation and gender. Past inequalities will not be addressed if societal and systemic structures do not adopt a more inclusive approach to equality.

Van Vollenhoven and Els (2013:268) explain that law is informed by social systems and that the policies and regulations embedded within systemic structures enforce the law in practice. Implications of this explanation include that if the education system is embedded within a heteronormative society, it might have heteronormative rules and structures. It is necessary for role-players in the school system to be aware of possible forms of unfair discrimination and to adjust their rules and regulations to embrace diverse cohorts of learners. School governing bodies and teachers should, for example, be aware of the historic and systemic patterns of unfair discrimination and inequality which LGBTQ+ people have endured, so as to create a school or classroom environment which respects their rights to sexual equality and enables them to embrace their differences rather than feeling stigmatised, marginalised and oppressed because of their non-conforming sexual orientation.

The Constitution (1996) makes mention of two forms of unfair discrimination, namely, direct and indirect unfair discrimination in section 9(3) and 9(4), as will be pointed out below.

### **3.4.3.1 Direct discrimination**

The National Action Plan (2015:5) defines direct discrimination by emphasising that it

*[o]ccurs when an individual is treated less favourably than another person in a similar situation for a reason related to a prohibited ground. Direct discrimination also includes detrimental acts or omissions on the basis of prohibited grounds where there is no comparable similar situation.*

This means that if individuals in a particular environment are subjected to the same rules and practices, regardless of their gender, sexual orientation or race, no direct discrimination will

be present (Smith, 2014:612). However, if people are openly subjected to different rules and practices based on, for example, their sexual orientation, direct discrimination is present. Smith (2014:612) explains that direct discrimination needs a comparator in order for courts to determine whether there is discrimination or not, and this comparator implicitly turns into the 'dominant norm' which, in South Africa, is marked with the following characteristics: "white, male, able-bodied and heterosexual". The comparator in the process of determining direct discrimination does not need to be a real individual but merely describes the societal dominant norm which can be used to determine whether any possible person – no matter their characteristics – is treated in an inferior way from how the dominant norm within society will be treated.

Direct discrimination is usually straightforward to identify. On the other hand, indirect discrimination may be overt and hidden at times. The next section will explore the concept of indirect discrimination.

#### **3.4.3.2 Indirect discrimination**

Smith (2014:613) mentions that courts have an obligation to recognise and address indirect discrimination, due to the fact that South Africa consists of a diverse population of cultures, sexualities, religions and so much more and that people are not alike and should be seen and celebrated for their unique characteristics. The National Action Plan (2015:6) defines indirect discrimination as:

*[L]aws, policies or practices which appear neutral at face value, but which have a disproportionate impact on the exercise of rights as distinguished by prohibited ground of discrimination.*

This means that indirect discrimination is not always clearly visible and could therefore be hidden within the actions, deeds and even words of laws and policies or between two or more parties. Indirect discrimination may be illustrated in the words of the Supreme Court of Appeal stated in the case of Minister of Home Affairs and Another v Fourie and Another <sup>18</sup> (2005:par.15; hereafter, Fourie):

*... [G]ays and lesbians are a permanent minority in society who have suffered patterns of disadvantage and are consequently exclusively reliant on the Bill of Rights for their protection; the impact of discrimination on them has been severe, affecting their dignity, personhood and identity at many levels; family as contemplated by the Constitution can be constituted in different ways and legal conceptions of the family and what constitutes family life should change as social practices and traditions change;*

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<sup>18</sup> Minister of Home Affairs and Another v Fourie and Another (CCT 60/04) [2005] ZACC 19; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005)

*permanent same-sex partners are entitled to found their relationships in a manner that accords with their sexual orientation and such relationships should not be subject to unfair discrimination; and same-sex life partners are as 'capable as heterosexual spouses of expressing and sharing love in its manifold form'.*

The Fourie case fought for the common law definition of marriage (defined as a union between a man and a woman) not to exclude same-sex couples but to be defined in a broader sense which does not put them as the 'other'. In this sense, the discrimination was not direct in prohibiting same-gender couples from forming civil unions, but rather indirect in the different naming of such unions. Thus, at face value, same-gender couples now had the same rights as heterosexual couples to form a civil union. Yet, the effect of not defining a marriage as inclusive of same-gender unions has a disproportionate impact on the exercise of rights as distinguished by sexual orientation. Justice Cameron explained this seeming dichotomy in Fourie (2004:par.13)<sup>19</sup> as follows:

*The sting of the past and continuing discrimination against both gays and lesbians lies in the message it conveys, namely, that viewed as individuals or in their same-sex relationships, they 'do not have the inherent dignity and are not worthy of the human respect possessed by and accorded to heterosexuals and their relationships.' This 'denies to gays and lesbians that which is foundational to our Constitution and the concepts of equality and dignity' namely that 'all persons have the same inherent worth and dignity', whatever their other differences may be.*

In this manner, Justice Cameron emphasises the effect that continuing discrimination has on LGBTQ+ minority groups and that such continuance will give more power to the heteronormative structures within South African society when a so-called 'blind eye' is turned to the need for equal enjoyment of rights as stated in section 9 of the Constitution. These could be possible forms of direct discrimination based on sexual orientation: (1) matric farewell tickets which could be bought at a special rate when a boy and a girl go together, while when two girls or two boys go together, they have to buy the tickets separately without the discounted price and (2) a Life Orientation (LO) curriculum which contains thorough information about heterosexual relationships but which contains limited or no information on LGBTQ+ identities and relationships.

Equality can be understood as both the value and the right which not only form the basis of the Constitution but also form part of the intricate social constructions within South African society (Smith, 2014:632). Such an understanding involves multiple obligations and regulatory measures to promote the internalisation of equality as a value and to fulfil the right

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<sup>19</sup> Fourie and Another v Minister of Home Affairs and Another (232/2003) [2004] ZASCA 132; [2005] 1 All SA 273 (SCA) (30 November 2004)

to equality of every person. Equality (both a value and a right) contains the promise of a just and equal society which embraces difference and allows equality in diversity. Legal and societal instruments are created to protect minority groups from unfair discrimination and to promote (sexual) equality in South Africa. Sexual orientation as prohibited ground (*cf.* 3.4.3) concerning possible unfair discrimination protects the right to sexual equality to an extent, but there is a need for laws, policies and regulations to place more emphasis on equality for LGBQ+ persons. In particular, there is a need to address persisting forms of oppression and sexual inequality within society and schools. Sexual equality as a democratic ideal and the imagining of a just and fair South Africa would contain laws, policies and regulations which provide not only the core definition of sexual equality, but also ways in which sexual equality could be achieved in a formal as well as a substantive approach. In this way, sexual equality would include both historical and contextual considerations of individuals. Moreover, it would support the school system by providing clearly stated mechanisms which could be used to create an inclusive and diverse school environment where learners with non-conforming LGBQ+ identities are included in the curriculum and systemic practices.

In the next section I will look at all the provisions for sexual equality within South African legislation and policies and how they can in turn support teachers in creating (sexual) equality in classroom and school environments for learners.

### **3.5 Diversity in South African schools: Law and policies that support sexual equality in schools**

The right to experience sexual equality is derived from the discussion above. Whereas PEPUDA explicitly mentions gender equality and racial equality in dedicated sections (2000:sec.7 & 8), sexual orientation is included only as prohibited ground and has not received particular attention in a dedicated section. Whereas this omission can be regarded as a missed opportunity for LGBQ+ learners, sexual equality is protected without a doubt. This section will look at the laws and policies specifically relevant to education which can assist teachers in creating equal school environments for LGBQ+ learners.

The right to equality (1996:sec.9) is closely linked to the right to a basic education as enshrined in section 29(1)(a) of the Constitution and supported, *inter alia*, by the National Education Policy Act (27 of 1996) and the South African Schools Act (84 of 1996). Section 29(1)(a) provides that each citizen in South Africa should receive a basic education without being discriminated against unfairly. Unfair discrimination on any prohibited grounds, as listed in section 9(3) of the Constitution, within schools can influence a learner's right to a

basic education. It is therefore necessary for teachers and other education shareholders to be aware of discriminatory actions, such as sexism, racism and homophobia.

With the definitions of fair and unfair discrimination (*cf.* 3.4.3) in mind, PEPUDA (2000:sec.29) provides examples of possible unfair practices that must be avoided in the education system:

- i. **Unfairly excluding learners** from educational institutions, including learners with special needs.
- ii. Unfairly withholding scholarships, bursaries, or any other form of assistance from **learners of particular groups** identified by the prohibited grounds.
- iii. The failure to reasonably and practicably **accommodate diversity** in education.

Section 29 of PEPUDA (2000) provides that, for example, (1) schools may not prevent LGBTQ+ learners from applying at a particular school because of their sexual identity; (2) role-players may not keep learners from their academic work or disadvantage them in any way because of their LGBTQ+ identity; (3) role-players may not promote regulations or school rules which discriminate unfairly against LGBTQ+ learners; (4) role-players may not withhold any scholarly or educational opportunities from LGBTQ+ learners because of their sexual identity; and (5) the school system should promote inclusivity in its school code of conduct, regulations, school and classroom rules and school culture and should allow room for change when a form of unfair discrimination is discovered within its structure and policies. The education system and, more importantly, teachers have a duty to identify the diversity within their schools and classrooms and to adapt their teaching and learning in such a manner that is accommodating and equal to all learners, no matter their sexual orientation and gender (Department of Basic Education, 2001:5). Teachers have an important role to play in how learners understand and respond to sexual diversity in education systems, in order to prevent homophobic bullying (Johnson, 2014:1250). The following documents created by the Department of Education could assist teachers in creating classrooms and school environments which promote (sexual) equality. The *Manifesto on Values, Education and Democracy* explains that:

*[e]quality in education means that not only must all South Africans have access to schooling, but the access must be equal. None may be unfairly discriminated against. Beyond that, the value of equality and the practice of non-discrimination means not only understanding one's rights, as an educator or a learner, but that others have them as well. There is a difference between treating everyone as equals, and their being equals. (Department of Basic Education, 2001:3)*

The *Manifesto on Values, Education and Democracy* clearly emphasizes the importance of equality in education and notes that role-players should be aware not only of their rights but also the responsibilities that accompany their rights, which can then be said to envision the importance of a rights-based approach in education. The National Education Policy Act (27 of 1996:sec.4) provides the following principles which should be visible in the national education policies:

The policy contemplated in section 3 shall be directed toward –

(a) the **advancement and protection** of the **fundamental rights of every person** guaranteed in terms of Chapter 2 of the Constitution, and in terms of international conventions ratified by Parliament, and in particular the right –

(i) of every person to **be protected against unfair discrimination** within or by an education department or education institution on any ground whatsoever;

(b) enabling the education system to **contribute to the full personal development** of each student, and to the **moral, social, cultural, political and economic development** of the nation at large, including the **advancement of democracy**, human rights and the peaceful resolution of disputes;

(c) **achieving equitable educational opportunities** and the redress of past inequality in education provision, including the promotion of gender equality and the advancement of the status of women.

The National Education Policy Act (27 of 1996:sec.4(a)(i)) clearly states that the education system in South Africa should be directed towards advancing and protecting human rights and highlights in particular that all people should be protected against all forms of unfair discrimination. This Act also states in section 4(b) that all people should be able to reach their “full personal development”; this supports sexual equality because it states that all learners should be afforded equal opportunities (sec.4(c)) to reach their potential regardless of their sexual orientation. Section 4 supports the education system in the implementation of education policies and guidelines at schools, and it encourages schools to be aware of the forms of oppression and the prohibited grounds within the right to equality stated in the Constitution (1996:sec.9(3)). To build on the provisions which support human rights and more importantly sexual equality within education developed within the National Education Policy Act (27 of 1996), the *Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners* document (Department of Basic Education, 1998) provides that school governing bodies should adopt a code of conduct for learners which is based on the democratic values of South Africa.

According to the South African Schools Act (84 of 1996:sec.8(2)), it is therefore essential that a code of conduct for learners is “aimed at establishing a disciplined and purposeful school environment” which does not unfairly discriminate on any of the prohibited grounds stipulated in section 9(3) of the Constitution. The national education policies and guidelines are created for the school system in general, whereas the next policies and guidelines provide provisions for not only the general school system, but specifically for teachers as well. These guidelines could assist teachers in promoting sexual equality in schools and creating inclusive and democratic school environments which provide room for difference between all role-players within them.

The *Implementation Guidelines for Safe and Caring Child-Friendly Schools* in South Africa (Department of Basic Education, 2008; hereafter, SCCFS) was created to assist teachers and the school system in general with practical examples of how to generate safe classrooms for all learners by inspiring learners to become responsible and respectful citizens who protect and acknowledge each other’s rights and responsibilities. The *Guidelines for the consideration of governing bodies in adopting a code of conduct for learners* (Department of Basic Education, 1998) also mentions that codes of conduct in schools should according to item 1.4

*... [set] a standard of moral behaviour for learners and equip them with the expertise, knowledge and skills they would be expected to evince as worthy and responsible citizens ...*

The SCCFS examples (Department of Basic Education, 2008) of how schools can create safe classrooms are embedded in strategies that teachers can apply in classrooms to create an awareness of human rights among learners. Figure 3-2 depicts the elements that every school should focus on, in order to provide a safe and caring child-friendly environment for every learner (Department of Basic Education, 2008:3). One of the elements, rights-based (human rights included), emphasises that schools and especially teachers should focus on equality and equity in order to provide safe, protective and supportive teaching-learning environments.

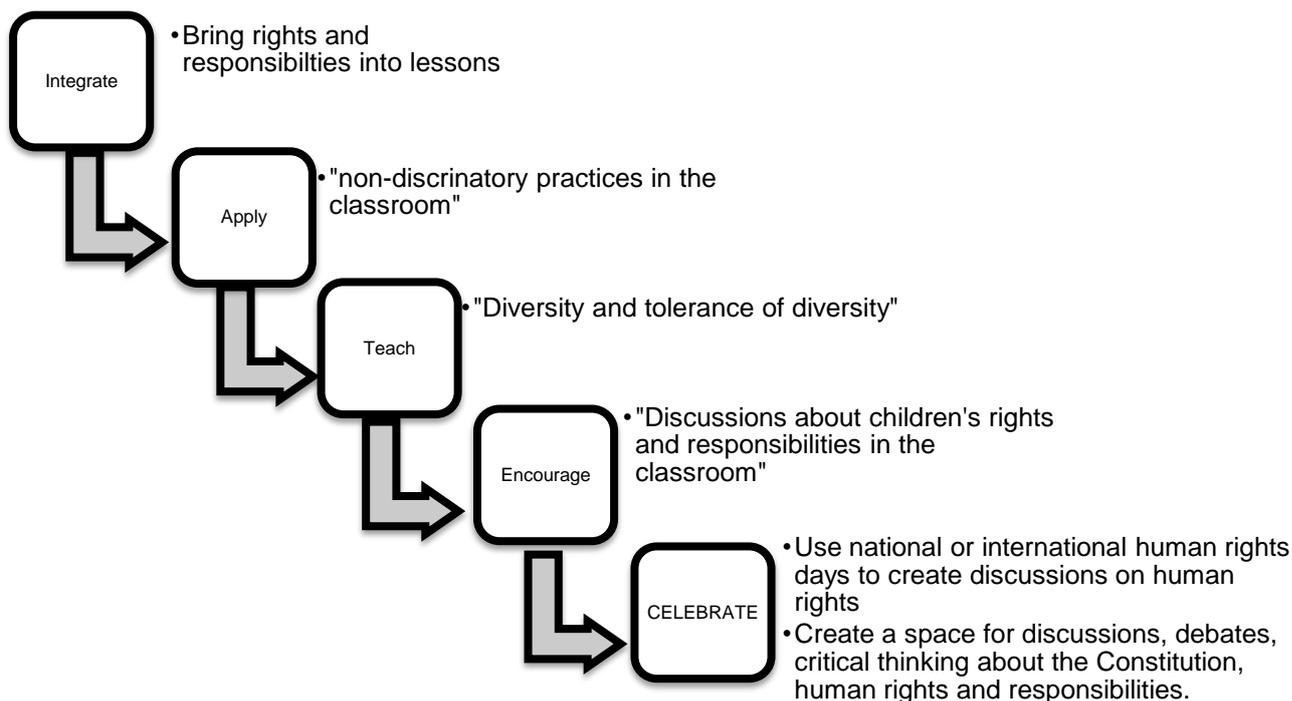


**Figure 3-2 Elements that outline a SCCFS (Department of Basic Education, 2008:3)**

The SCCFS guidelines describe a rights-based school as entailing the following five principal characteristics (Department of Basic Education, 2008:7):

1. It acknowledges diversity and equal opportunities for all – diversity is treated as an opportunity which allows for quality education.
2. It does not allow discrimination, on any of the prohibited grounds stated in section 9(3) of the Constitution, against any role-player at the school.
3. It will provide education for all possible children – assisting children who are not in school as far as it can.
4. It cares about the children in their contexts.
5. It focuses on the promotion of the rights and responsibilities of all learners.

Figure 3-3 below provides practical examples for teachers to promote human rights and, in particular, the right to equality for LGBTQ+ learners (sexual equality) (Department of Basic Education, 2008:8). The examples in Figure 3-3 were derived from the SCCFS document (Department of Basic Education, 2008:8), and these guidelines can be applied by teachers in their classrooms to implement a rights-based approach to teaching and learning. The SCCFS document could be one of the instruments which teachers could use to promote (sexual) equality in their classrooms.



**Figure 3-3 Practical examples for teachers to promote human rights (Department of Basic Education, 2008:8)**

The *United Nations Girls' Education Initiative* (2006; UNGEI), within the *Evaluation of the Safe and Caring Child-Friendly Schools Programme* (Department of Basic Education, 2011), supports the six elements of safe and caring child-friendly schools outlined in the SCCFS document (*cf.* Figure 3-2). UNGEI adds that child-friendly schools are "inclusive, effective, safe and protective" and promote "equity and equality". UNICEF (2011:11-12) emphasises rights-based schooling by stating that schools must, among other things, (1) not be discriminatory; (2) be respectful of diversity and promote equality; (3) establish an environment of mutual respect for all shareholders' dignity, rights and equality.

Upholding rights is required of teachers by the *South African Council for Educators (SACE) Code of Professional Ethics* (SACE, 2000), and it stipulates that educators should act in the following ways:

*Item 2.3. Acknowledge, uphold and promote basic human rights, as embodied in the Constitution of South Africa*

*Item 3.1. Respect the dignity, beliefs and constitutional rights of learners and in particular children*

*Item 3.3. Help learners to develop values that are supporting of the fundamental rights of the Constitution of South Africa.*

*Item 3.11. Make sure that learners are safe by taking reasonable precautions.*

The above-listed items all focus on the important duty that educators have towards educating and promoting human rights and more importantly (sexual) equality in education systems.

This section has explored the existing legislation, policy documents and guidelines which could already assist teachers in practice to follow a human rights-based approach which supports sexual equality in education. The National Education Policy Act (27 of 1996), the *Manifesto on Values, Education and Democracy*, SCCFS, and SACE Code of Professional Ethics were discussed and explored in order to highlight some of the existing suggestions and guidelines on how teachers can enable an environment of sexual equality within schools by implementing and following a human rights-based approach.

### **3.6 Conclusion**

In the past, inequalities (such as the apartheid policies) were deeply entrenched in South Africa. More recent South African legislation has framed equality as an ideal, moral value, human right and a principle to better the injustices of the past and present (Radley, 2015:275). This chapter has explored equality as a democratic value and a human right. It explored the various approaches to equality and how courts have used these approaches in the search for a free and democratic country. National Coalition for Equality (2000) identified the need for courts to follow both a historical and a contextual approach when analysing situations of unfair discrimination. Both approaches to equality were also used within *S v Jordan and Others* (2002), but the judiciary in this particular case were split between two approaches: the minority judges decided by using a substantive approach to equality, whereas the majority's judgement pledged allegiance to substantive equality but in effect took a formal approach to equality. The split in the judgment shows that courts still have struggles regarding the implementation of substantive equality. Taking this what does "this" refer to? to the study's focus, it is very important that the school system and the role-players in the system are able not only to see and act on direct discrimination but also have an awareness and plan for indirect discrimination regarding, for instance, sexual inequality, within the regulations, policies and classroom rules. The combined use of both a formal and substantive approach to equality could curb some of the instances of sexual inequality at schools and could create an environment which is aware of the layered characteristics of learners and acknowledges the diversity within schools by implementing guidelines and classroom rules which create an environment of respect and justice.

This chapter also explored some of the South African school policies which were created by government to assist the school system in reaching the goal of the Schools Act (84 of 1996: Preamble), namely, to fight the injustices of the past and to create a democratic society by *inter alia* protecting all rights of role-players (parents, teachers and learners) in the education system and prohibiting unfair discrimination practices by promoting the rights and responsibilities of all individuals. Thus, this section contained an exploration of different documents which could assist teachers in promoting sexual equality within their classrooms and schools. The findings within this chapter will be described in more detail in section 6.2.1.

The next chapter will look at the methods, methodology, strategies and procedures used during the data generation of the empirical study. It will contain thorough explanations of all the measures taken to ensure trustworthiness and to adhere to the ethical considerations which a medium-risk study might have.

# CHAPTER FOUR: EMPIRICAL RESEARCH DESIGN

## 4.1 Introduction

This chapter discusses the chosen empirical research strategies used in this study. It describes the methodology, research design, paradigm, sampling methods and methods of analysis. It also gives clear indications of how the study progressed and what was done during the whole process of completing this study. This study consisted not only of an empirical study but also a literature review which could assist the determinants of sexual equality within education. The literature was reviewed in chapter two (theoretical perspectives which informed the determinants of sexual equality) and chapter three (which contained a basic legal framework for sexual equality). The empirical study was conducted to determine how LGBQ+ students experienced the (non)realisation of sexual equality when they were at school. The empirical study also assisted in exploring possible guidelines which LGBQ+ students have for informing teacher education programmes. The following components (*cf.* Figure 4-1) form part of the empirical study and will now be discussed in detail.

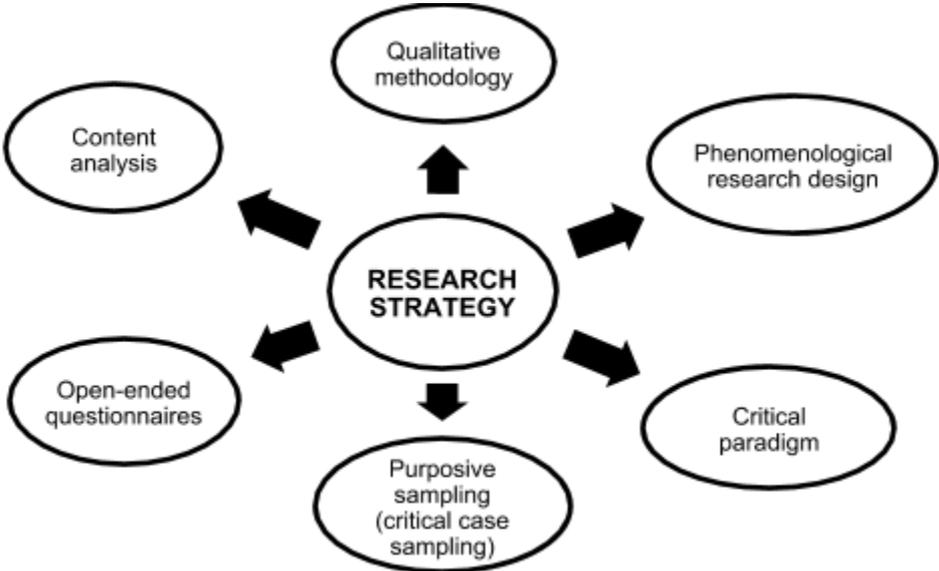


Figure 4-1 Components of research design (*cf.* Figure 1-1)

## 4.2 Research approach and design

Best and Kahn (2006:247) and Merriam and Tisdell (2016:6) explain qualitative research as exploratory and descriptive research which pursues a deeper understanding of the contextual settings of participants. Merriam and Tisdell (2016:14-19) furthermore highlight the following characteristics of qualitative research: (1) its focus is embedded in deriving

meaning and understanding; (2) the researcher is seen as the primary instrument; (3) it entails an inductive process; and (4) it contains rich descriptions.

This study follows a phenomenological research design (*cf.* 1.6.1) which is primarily focused on understanding the lived experiences of participants related to a certain phenomenon (Merriam & Tisdell, 2016:26; Van Manen, 2014:26). Merriam and Tisdell (2016:28) explain that this type of research searches for intense and sometimes emotional experiences of a certain population. Phenomenological research designs are, according to Patton (2015:116-117), embedded within a particular “assumption that there is an essence or essences to shared experiences”. What that means is that each participant within this study had his or her own experiences regarding the phenomenon, but that when all the experiences of all the participants are put together, by comparison, identification and exploration, an essence regarding the phenomenon arose – in this study it was the essence of being part of the LGBTQ+ community.

### **4.3 Research methodology**

The target population in the research was LGBTQ+ students at South African universities. The sampling was purposive (Maree & Pietersen, 2016a:198), which allowed me to use a population that would have the most experience with the specific issue that I wanted to investigate (Fraenkel *et al.*, 2015:101; Palinkas *et al.*, 2015:3; Valerio *et al.*, 2016:3). What is more, Valerio *et al.* (2016:11) emphasise that a purposive sampling method generally maintains rigour in research although the method may be time-consuming.

I used critical case sampling, which is a purposive sampling strategy. This strategy allowed me to select from the population participants with “specific experiences” or characteristics associated with one specific research issue (Flick, 2009:122; Patton, 2015:276). Critical case sampling focuses on participants who will “have the greatest impact on the development of knowledge” regarding a specific topic or issue (Guetterman, 2015; Nieuwenhuis, 2016a:86). I focused on unlocking LGBTQ+ students’ education-related sexual equality experiences towards informing transformative teacher education (*cf.* 1.3 and 1.4). Two South African universities were selected as research sites: one urban and one suburban. In order to better understand how persons belonging to a sexual minority experience education-related sexual equality, only students at these two universities who identify as belonging to the LGBTQ+ community were viewed as part of the sample (self-disclosed sexual minority students).

### 4.3.1 Selection criteria for participants

I used the following selection criteria, in support of purposive sampling, to identify this study's participants:

**Table 4-1 Selection criteria for participants**

Inclusion criteria	Justification
<ul style="list-style-type: none"> <li>• Participants must self-identify as LGBTQ+ (<i>cf.</i> 1.5.1.1 for a definition of self-disclose).</li> <li>• Participants must be English literate.</li> <li>• Participants must be registered as full-time students at NWU or Wits.</li> </ul>	<p>1. Although the study's focus was on sexual equality in teacher education, it was not envisaged that a sufficient sample (10-15 per campus) of sexual minority students would be obtained from education faculties only. Therefore, sexual minority students from all faculties were included in the target population.</p> <p>2. Why English?</p> <p>The open-ended questionnaire was only supplied to participants in English (<i>cf.</i> 4.4.1 for reasons for this).</p>
Exclusion criteria	Justification
<p>Students that did not identify (self-disclose) as LGBTQ+ were not used.</p>	<p>To reduce the risk of stigmatisation, only students who were self-disclosed sexual minority students were included in the sample.</p>
<p>Students who were heterosexual were not used as participants in this study.</p>	<p>The aim was to draw on the education-related sexual equality experiences of sexual minorities to inform transformative teacher education. For this reason, heterosexual students were excluded from the target population.</p>

### 4.3.2 Sampling procedure

Possible participants were identified and invited by mediators on each of the two campuses (*cf.* 4.4.2 contains a detailed description of sampling procedure during the research process). Invitations and documents that were distributed by each LGBTQ+ organisation's chairperson included the questionnaire's link. Possible participants were able to go through the informed consent and participant information form in the comfort of their homes. If participants decided to participate, they could follow the link that was provided on the study's pamphlet, which then enabled them to log onto the open-ended questionnaire on SurveyMonkey.

For practical reasons, data generation was planned to take place over a maximum of six months, after which the collector on SurveyMonkey would be closed. I planned to continue to include more participants until no more participants were available, data saturation had been reached, or six months had passed, whichever occurred first (*cf.* 4.3.2.1 & 5.2).

#### **4.3.2.1 Data saturation**

The concept data saturation refers to the stage when the researcher finds that the themes, topics and categories emerging from data on a particular phenomenon have been saturated, which means that no new data is being generated from the researcher's data generation process (Cleary *et al.*, 2014:474; Marshall *et al.*, 2013:11; Nieuwenhuis, 2016a:84). Data saturation is directly related to the process of estimating the adequate sample size within a study (Fusch & Ness, 2015:1413; Guest *et al.*, 2006:60; Marshall *et al.*, 2013:11; Nieuwenhuis, 2016a:84; O'Reilly & Parker, 2012:193). Fusch and Ness (2015:1408) and Morse (2015:1213) state that a study's quality will be negatively impacted (the validity of the study will be questionable) if data saturation has not been reached.

Few guidelines regarding sample size have been provided for qualitative studies (Guest *et al.*, 2006:61; Marshall *et al.*, 2013:12; Nieuwenhuis, 2016a:84). Relevant guidelines are as follows for phenomenological studies:

*Morse (1994:225) stated that researchers should involve at least six participants.*

*Creswell (1998), as cited by Guest *et al.* (2006:61), suggested that a researcher should involve between five and twenty-five participants.*

Guest *et al.* (2006:78) conducted a study and found that they had reached data saturation after twelve interviews. They warn, however, that twelve interviews will likely not be enough if a selected group is relatively heterogeneous, the data quality is poor, and the domain of inquiry is diffuse or vague. Drawing on these guidelines, I attempted to gather data from between ten and twenty participants (via online questionnaires) per institution (thus between 20 and 40 in total) within a six-month period.

#### **4.4 Methods and procedures of data generation**

Participants were active collaborators in the data generation process since they were invited to make recommendations and provide guidelines for teacher education that would enable teachers to understand sexual differences better and to contribute effectively to sexual equality in and through education. The two study supervisors had access to the data for the purpose of this study. Although the data generation process allowed for anonymous

participation, participants could, of their own choice, disclose information that might be used to identify them. Therefore, all data generated in this study that could have pointed to the participant, remained confidential and will be revealed only on approval of the participants or as required by law. References to names and places were anonymised by replacing names in the transcripts with [name of place] or [name of person]. All methods and procedures followed within this study's data generation period will be discussed in the next subsections (*cf.* 4.4.1 - 4.4.2).

#### **4.4.1 Language and open-ended questionnaires**

The two research sites had five different languages. It was decided not to translate the questionnaire for the following reasons:

- Both universities used English as language of instruction and had English learning material;
- The researcher understood only two of the five languages;
- Although the five languages were the official languages used by the two universities, students come from many more linguistic backgrounds. It was possible that if the questionnaire was translated into four of the eleven official languages, students from other language groups might have responded in their own first or home language, increasing the number of languages used in responses;
- Possible inaccurate translation of African languages into English could have negatively influenced trustworthiness.

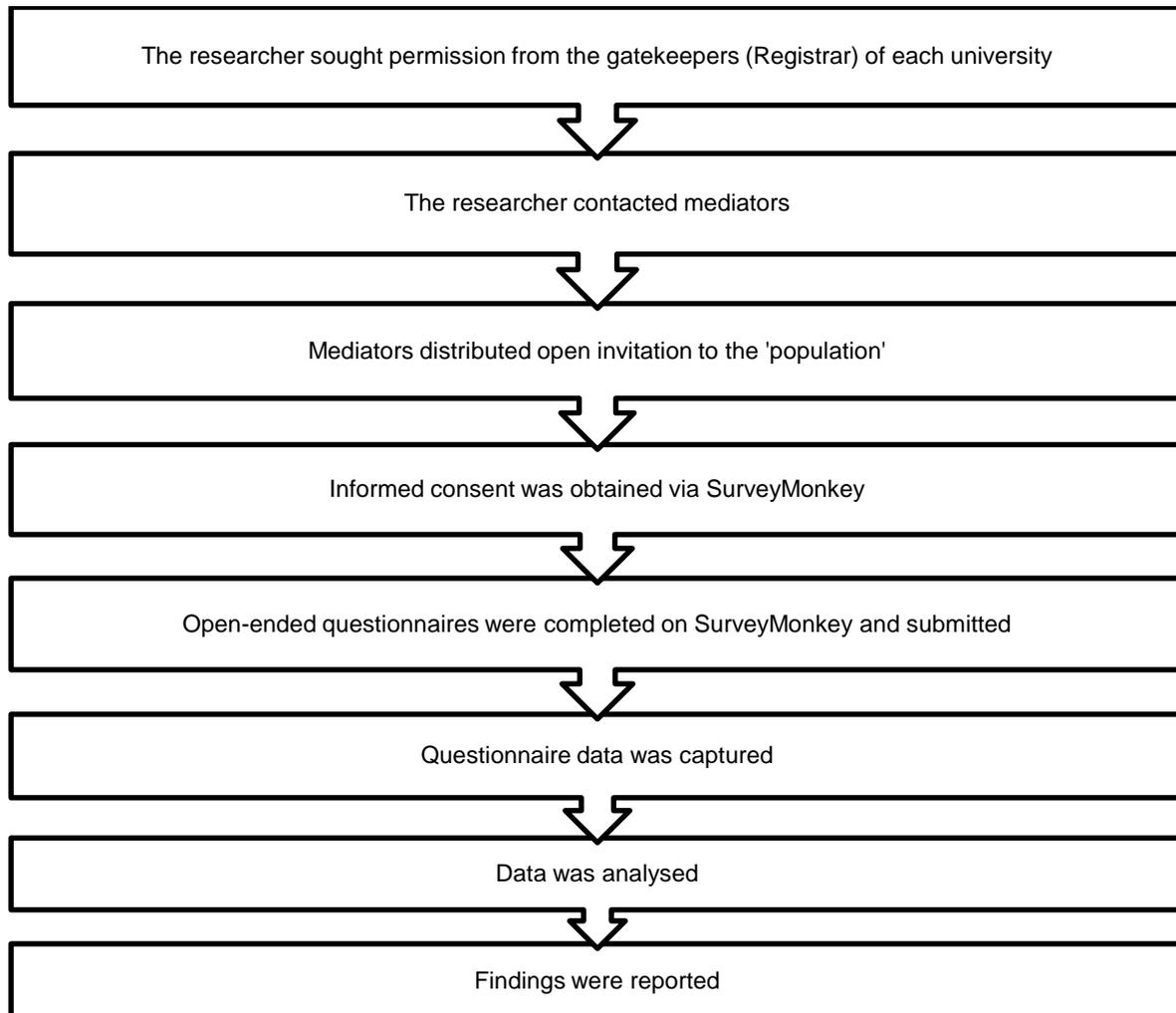
For the reasons stated above, it was impractical and expensive to translate questions and responses into and from five or more different languages. The questionnaire was in English, which was the language of instruction used by both universities and by most students.

#### **4.4.2 Research procedures**

The following research procedures were planned for this study and will be discussed below:

- This study's proposal was submitted to three critical readers before the final proposal was submitted to the scientific committee of the Faculty of Education Sciences (M.Ed. & PHD Committee) (see Addendum B).
- Once approval was gained from that committee, ethical approval was sought from the Education, Management, Humanities and Social Sciences Research Ethics Committee

(EMHS-REC) (see Addendum C and Addendum D). Empirical research only commenced after ethical approval was obtained.



**Figure 4-2 Components of the research strategy**

#### **4.4.2.1 Contacting gatekeepers**

Permission from the relevant authorities of each university was sought before I contacted any of the mediator organisations. I complied with the following procedures, once ethical consent was provided:

I distributed permission letters to the registrar of each institution in which I introduced my study and asked the relevant authorities of each university for permission to conduct research by means of an online open-ended questionnaire with the LGBTQ+ (education) students of the respective institutions. If the registrar of a particular institution redirected me to a different authority, permission was sought from such authority (see Addendum E).

#### **4.4.2.2 Contacting mediators**

As part of the research team of the larger project entitled *The possibilities of Human Rights Literacies for transformative teacher education*, I attended the project workshop from 3-4 May 2017 (see Addendum H). During this workshop, I met the rest of the project team and received an opportunity to approach collaborators to ask their help in putting me in contact with LGBTQ+ organisations.

The next step was to make contact with a mediator from the LGBTQ+ organisations at the two universities to introduce myself and inform them of my study. I based my communication with mediators on the principle of transparency and aimed at establishing a relationship of trust (see Addendum I).

The following information was shared with the mediators:

- An overview of my study, which consisted of a short description of the larger project, my own study's title and the purpose of my study.
- A description of what was expected from the participants (including the nature, place and duration of open-ended questionnaires, processes that would have to be followed and protection of participants' identities).
- A risk-benefit ratio of this study, indicating possible risks to the participants and the benefit that this study might provide participants.
- Steps that were to be followed when mediators found new participants.
- Participants' rights, including their right to privacy, human dignity, equality and safety.

#### **4.4.2.3 Inviting participants and obtaining informed consent**

I relied on the LGBTQ+ organisations on each campus to advertise the study and mediate all recruitment in a manner that allowed participants to be anonymous to me (see Addendum J and K). I started my sampling at the suburban university, by approaching the LGBTQ+ group on the campus, where I informed the organisation's chairperson of my study and asked him to help me to organise a once-off information session regarding my study. The organisation's chairperson, however, informed me that their members are from a broad spectrum of studies and that it would not be possible for us to have such a meeting. The organisation chairperson sent out invitations via email, WhatsApp groups and in person. I had a meeting with the organisation's chairperson and gave him pamphlets and the participant information forms so

that he could give them to members of the organisation. Thereafter, those who decided to participate could do so online in their own time and where they chose. The inclusion of the link to the survey on advertisements allowed participants to remain anonymous, or rather for their participation to remain secret from their LGBTQ+ organisation or members of their community as well as the researcher. An open invitation was made to LGBTQ+ students at each university and was repeated over the data generation period. Invitations and reminders were communicated, via the mediators, to possible participants who met the selection criteria, as set out in 4.3.1. I relied on the mediators to distribute the invitation to possible participants by means of posters, pamphlets and, where relevant, social media platforms, websites or other virtual spaces the organisation usually utilised. I supplied mediators with the following documents to assist their recruitment of possible participants:

- An e-mail invitation to forward to their members whose e-mail addresses they had;
- A short text message the mediators could distribute to members' cell phone numbers;
- A recruitment poster they could put up if they had a physical space where LGBTQ+ students regularly go or publish on their website or social media platforms.

Mediators were asked to distribute the invitation by means of the following ways:

- If the mediators' organisation had a physical space (e.g., an office or room) which they used, I asked them to place recruitment pamphlets/posters (see below) where students would be able to see them.
- If the mediators' organisation had a virtual space (e.g., social media site, chat group, website) which they used, I asked them to publish the recruitment pamphlets/posters on such platforms.
- If the mediators' organisation made use of lists of members' cell phone numbers to send text messages, I asked them to send the short text message to their members' cell phones.
- If the mediators' organisation made use of e-mail to contact their members, I asked them to send the e-mail invitation and/or recruitment pamphlet/poster.

I did not obtain any personal or contact information of any member or participant during this process. Invitations included a link to the questionnaire which allowed participants to complete it in privacy. Before the participants decided whether to take part in this study, they were supplied and briefed with participant information and informed consent forms.

#### **4.4.2.4 Generating data**

Participants took part in the open-ended questionnaire completely anonymously. The link to the questionnaire was on all of the pamphlets as well as on the informed consent and participant information forms, which were supplied to all possible participants (see Addendum K). The invitations to participate in the online questionnaire went out to LGBTQ+ organisations in September 2017 and should have been closed at March 2018 (the planned six-month period). It was however not the case as the online questionnaire had a low completion rate and I did not have the minimum of ten participants at each research site (a minimum of twenty participants). The data generation process continued for another three months (end of June 2018) whereafter the online questionnaire was closed and the data transported to pdf format and saved under a password-protected file. The online questionnaire was open for nine months; although forty-six potential participants accessed the online open-ended questionnaire, only nineteen participants completed it. However, of these nineteen participants, one identified as a heterosexual participant, and the responses from this participant were excluded from the data. Thus, data was generated with a total of eighteen participants because the study explicitly excluded heterosexual individuals (because its focus was to draw from the lived experiences of LGBTQ+ individuals). Participants had nine months to partake in the questionnaire, after which it was closed and data exports were electronically done.

#### **4.4.2.5 Capturing the data**

I captured data from the questionnaire on SurveyMonkey. All information that could point to the identity of participants was stored electronically and was *password protected*. Questionnaires were exported from the SurveyMonkey database into pdf documents that were stored in a password-protected file on the researcher and supervisor's computers. These records will be stored for seven years and then be destroyed.

Data was analysed by using content analysis as described in 4.5. Trustworthiness criteria, as stated in 4.6, were followed during the research process.

### **4.5 Methods of data analysis**

This study made use of content analysis to answer the research question: How can education-related sexual equality experiences of LGBTQ+ students inform transformative teacher education? Content analysis is defined as a qualitative approach which explores the subject and different contexts while searching for differences and similarities within texts and experiences (Flick, 2014:430; Graneheim *et al.*, 2017:29). Berg and Lune (2014:335)

furthermore describe content analysis as a systematic interpretation of data which searches for “patterns, themes, biases and meaning”. Content analysis thus searches for the meaning of and within the data with the purpose of exploring the answers to research questions (Berg & Lune, 2014:336; Elo *et al.*, 2014:1; Flick, 2014:430).

The following process, concerning data generation and usage, was followed throughout this study:

- All names, universities and other possible identifiers were removed from the transcriptions, and they were given nom de plumes; thus it ensured privacy protection to participants.
- Data exports were then stored under alphabetic letters (for example, participant A), in order to make the data anonymous to other researchers or people.
- Peer review was used to assure the rigour of the research. The following steps were followed during the peer-checking process in order to keep the data confidential and secure (See Addendum L):
  - a. Dr Anthony Brown was part of this study’s peer-review process; he thus needed access to the data in order to partake in this process. I asked him to sign a confidentiality agreement, which would inform him that the data is confidential, and that the privacy of participants should be protected, which meant that he may not disclose any of the information within this study. Thus, Dr Anthony Brown was asked to review the researcher’s analysis process by examining the data exports and looking at the codes that the researcher found within the data exports. He then made sure that the researcher interpreted the data exports correctly and with accuracy without implementing biased views as well as any incorrect codes or categories. Thus, he assisted by checking that the codes and categories created were in agreement with the data within the data exports.
  - b. The questionnaires were exported to pdf documents, which were stored within password-protected files. These files were given to him for the duration of the peer-review process whereafter he was asked to delete the files.

#### **4.6 Trustworthiness**

Connelly (2016:435) defines trustworthiness or rigour as “the methods, interpretation and degree of confidence” that are used to safeguard the study’s quality. The five most common criteria (developed by Lincoln & Guba, 1985) that are generally used to evaluate

trustworthiness within qualitative research are outlined below (Amankwaa, 2016:121-122; Connelly, 2016:345-346; Cope, 2014:89):

(1) *Credibility* refers to the sureness of the 'truth' within the findings; this can be accomplished when, for example, participants are asked to verify the study's findings. The peer-review process as well as frequent peer debriefing that was followed in this study ensured that accurate findings were reported within this study.

(2) *Dependability* highlights the consistency throughout a study, which then shows that the information in the study could be used or repeated in other studies. I maintained consistency within this study by implementing reflexivity and thick descriptions throughout the research process.

(3) *Confirmability* can be achieved when the researcher is able to show that the findings are representative of the participants' experiences and free of the researcher's bias or views (the researcher should thus remain neutral during the findings). The data generation process (the participants shared their lived experiences without any bias) as well as the peer-review process during data analysis ensured confirmability.

(4) *Transferability* points to findings being relevant to other settings or groups. This element was achieved by using trustworthy sources within the study.

(5) *Authenticity* is the extent to which the researcher states the feelings and emotions of the participants (the researcher has to reveal the different perspectives and realities of participants). The different realities of participants were revealed with the biographical questions within the online questionnaire, which gathered a rich and in-depth understanding of where participants came from and how they constructed their lived experiences within their contexts.

According to Connelly (2016:435), it is, however, not necessary or relevant for qualitative studies to use all five of the trustworthiness criteria. Amankwaa (2016:121) and Yin (2016:86) emphasise that the importance and influence of a research study is supported by its trustworthiness. The criteria discussed above were followed throughout this study as guidelines to assure its trustworthiness. In addition, Cope (2014:90), Darawsheh (2014:561) and Morse (2015:1214-1216) provide strategies which will preclude bias and improve the credibility and trustworthiness of a research study. The following strategies were employed to increase the trustworthiness of this study:

1. Peer debriefing: This provides researchers the opportunity to share their findings with peers and other researchers who will then assist the researcher with conceptualisation of data. The

researcher has the opportunity to listen to other viewpoints and to then articulate, his or her own final findings in the end. I made use of peer debriefing on a frequent basis, through meetings with and feedback from my supervisors and another other critical readers in the field of sexuality and education (Morse, 2015:1215).

2. **Thick description:** The researcher provides in-depth explanations of the strategies and designs that are followed in the research and describes the whole research process through rich explanation. I adhered to rich and in-depth descriptions of all my processes, progress and findings within the research, as well as contextualisation of data (Cope, 2014:90; Morse, 2015:1214).
3. **Reflexivity:** This is the continuous process whereby a researcher self-reflects on his or her study. This strategy also involves subjectivity, which means that the researcher should through reflection actively become aware of his or her thoughts and emotions, and how they may affect the data collection, analysis and interpretation (Darawsheh, 2014:561). With the aid of a journaling, I critically reflected regularly and was focused on becoming aware of and controlling biases that could have occur within my research (Darawsheh, 2014:561). In keeping with the critical and feminist tradition, I also included disclosure of my own positionality and possible biases when writing up the research.

#### **4.7 Ethical procedures of the study**

I firstly sought approval from the EMHS-REC who sent me an approval certificate before I could start with the data generation process of this study (see Addendum C). Secondly, I sought approval from the Registrar's Office or Dean of Student Affairs of each university by means of a permission letter in which I requested theoretic permission to include students from each university in this research study.

Cohen (2011:166) explains that individuals do at times decide voluntarily to provide researchers with personal information; thus it was of the utmost importance that I managed the data and the participants honestly and respectfully. Transcriptions of the recorded interviews were indicated by nom de plumes and information that could identify participants was stored in password protected electronic formats. Only voluntary participants were involved in the study, and before making their decision whether to participate, the potential participants received the relevant information concerning this study. I did not mislead participants by giving them false information, and I treated all the participants equally and fairly. I respected and promoted the following bioethical and human rights principles (defined in the Constitution) throughout this study (Flick, 2009:37; Murphy & Dingwall, 2001:339):

- *Autonomy.* This principle emphasises that the research and the researcher will respect participants' "right to bodily and psychological integrity" (1996:sec.12(2)).

- *Beneficence*: This term refers to each participant's right to access healthcare services (1996:sec.27(1)(a)), which means that the researcher will also have counsellors available to support participants if and when they need these services during the study.
- *Non-maleficence*: The researcher will create an environment that is not harmful to participants (1996:sec.24(a)).
- *Justice*: Each participant will be treated equally and with no form of unfair discrimination (1996:sec.9).

I kept the following ethical considerations in mind: privacy, consent and avoidance of harm. These aspects are discussed in greater detail in the paragraphs below.

#### **4.7.1 Privacy**

Participants' privacy was respected during the entire process. Measures were taken to protect their identity and privacy as follows:

- The research methodology did not require the researcher to have any direct contact with any participants. This provides participants with complete privacy and anonymity.
- *Anonymity*: Participants remained anonymous to the researcher throughout the study. The researcher added nom de plumes to the data from the questionnaires. No names or identifiers were used in publications or presentations.
- *Confidentiality*: The following steps were followed to safeguard participants' personal information (Boeije, 2010:46):
  - o Participants had to agree to the informed consent form that protected them and the researcher.
  - o The data was used only with the permission of the participants.
  - o Peer review was used to assure the rigour of the research.
  - o All information was kept in electronic format and stored as password protected files. Anonymous questionnaires were the only information that was printed and kept.
  - o All information and transcriptions of a participant were destroyed if the participant no longer wanted to participate in this study.
  - o All open-ended questionnaires will be destroyed after seven years.
- The open-ended questionnaires on SurveyMonkey allowed participants to avoid possible stigmatisation which may have resulted from participation in the study. Online participation at a time and venue that the participant chose and felt comfortable with allowed participation to remain private. Unless they talked about their participation with others, no-body would know that they had participated.

- To allow increased anonymity, privacy and confidentiality, informed consent was gained anonymously from participants as part of the questionnaire.
  - o At Question 1 of the survey, participants had to declare that they had read and understood what was expected of them during their participation and that they chose to participate in the study voluntarily.
  - o They could only start the open-ended questionnaire after they had declared their understanding of the informed consent and participant information letter.
  - o If a participant did not agree at Question 1 and 2, the questionnaire directed them to the “finished” page.

#### **4.7.2 Informed consent**

The participants were able to give consent to participation without coercion, undue influence, and inappropriate incentives. The informed consent was in a written agreement between the participant and the researcher (Creswell, 2009:89). The following aspects were born in mind when informed consent was sought (see Addendum L):

- o Legal competence: The participants were older than 18 years and were able to agree to the informed consent themselves.
- o Mental capacity: The participants should have the intellectual capacity to understand the consent form.
- o Proper disclosure of information: The participant information and consent form supplied sufficient information about what was expected from participants and what the study entailed.
- o Informed consent must be given on a voluntary basis: The researcher had no direct contact with any participants which ensured that participants were not coerced into completing the open-ended questionnaires.
- o The informed consent form was not written in a highly intellectual style but was direct and specific.
- o All the participants were notified that they could withdraw from this study at any time without negative consequences to them and that their participation needed to take place of their own free will.
- o Participants received the link to the open-ended questionnaire from either their organisation’s chairperson or the various recruitment sources. The following steps were followed by these participants (as discussed on the questionnaire on SurveyMonkey):

- The welcoming page of the questionnaire informed participants that they could not complete the questionnaire without reading and understanding the participant information form, which was available via a link to Google drive.
- Participants had to declare that they had read and understood the participant information letter at Question 1. This question consisted of a page logic function, which jumped to the end of the questionnaire if participants did not state that they had read and understood the participant information form.
- Participants then had to declare that they agreed to voluntary participation and that they adhered to and agreed with what was discussed in the participant information form. Question 2 also consisted of the page logic function.
- Questions 1 and 2 thus consisted of the informed consent declaration, and participants could only start the open-ended questionnaire thereafter.

#### **4.7.3 Vulnerability of this study's population and the risk-benefit analysis**

The National Bioethics Advisory Commission document (hereafter, NBAC; 2001:iv) emphasises that vulnerable people need more protection in research than less vulnerable groups. Researchers should, however, not *exclude* these groups of people from their research but rather evaluate and improve the research design in such a way that participants are not harmed unnecessarily but rather supported through the research (NBAC; 2001:iv). The NBAC document (2001:87-91) lists six general categories of vulnerability which researchers should consider when determining whether or not the research population will need special considerations: (1) cognitive and/or communicative vulnerability; (2) institutional vulnerability; (3) differential vulnerability; (4) medical vulnerability; (5) economical vulnerability; and (6) social vulnerability (Dugosh *et al.*, 2010:93). This research study's population consists of LGBTQ+ students who form part of the social vulnerability group that includes groups which are stereotyped or discriminated against unfairly by society's perceptions of them (NBAC, 2001:90). Possible risks to this population if they participated were identified and steps were taken to safeguard the participants from these risks. Participants may have been influenced by the following risks when participating in this study:

- Possible *psychological harm* may have been caused by the research topic, namely sexual equality, which could be considered as 'sensitive'. Because people who identify as a sexual minority face stigmatisation and discrimination in society, participating in this research which required them to reflect on their experiences related to sexual equality at school may have stirred up unpleasant memories and emotions. Other possible psychological harm may have involved emotional discomfort, boredom, inconvenience, embarrassment, or fear of the process.

- Possible *physical harm* such as fatigue, headaches or physical discomfort may have been endured when participants were completing the open-ended questionnaires.

Safeguarding could be achieved by investigating the risk-benefit ratio of participants ahead of time. A risk-benefit analysis revealed the risk-benefit ratio and alerted the researcher to possible harmful effects of the research. The researcher then identified strategies to increase the benefit and reduce the harm that participants might suffer. This study was of medium risk to participants, but the following steps were still taken to ensure that the risk level was reduced:

- No direct contact between the participants and researcher was necessary.
- The participants might refrain from answering questions that caused discomfort.
- Participants might complete the open-ended questionnaire anonymously at any time and place convenient to them.
- Participants were informed that they might withdraw from the study at any moment without any negative consequences.
- Participation was completely voluntary.

This study had the following potential benefits for the participants:

- *Direct benefits:* There are no direct benefits for participants.
- *Indirect benefits:* The community and scientific field could experience psychological benefits such as (a) enhanced self-understanding, (b) self-expression, (c) knowledge attainment, and (d) self-acceptance of one's identity.

Participants could benefit by the knowledgeable information that this study could supply to the community. Other ethical considerations that were deemed necessary to consider included the following (Creswell, 2009:90-91):

- The researcher as well as the participants should benefit from this study; this indicated that no participant was to be coerced into participating.
- The researcher should "protect the privacy of the participant" in all instances.

#### **4.8 Conclusion**

This chapter discussed the key components encompassed within this qualitative study. It contained a rich description of the sample population within this study and the reasons for

using the particular sample. It also consisted of the stipulations and formulations of the SurveyMonkey open-ended questionnaire which was designed in English because that was the general language used by participants within both universities. This chapter also clearly stipulated the research procedures of the duration of the study and the strategies used to contact gatekeepers, mediators and participants while not dismissing the ethical procedures which had to be followed.

Considerations applied to ensure the trustworthiness of this study were discussed. It looked at strategies used to ensure an increase of trustworthiness within this study and it described how the peer review with regards to the data analysis process was conducted. The ethical considerations within this study contained detailed descriptions of how the participants' privacy was ensured and methods of obtaining informed consent and ensuring that participants completed the online questionnaire of their own volition and completely voluntary. Thereafter, this chapter contained an analysis and description of the vulnerability of the participants and the risk-benefit analysis which declared the risk level which this study could have on all role-players involved.

Chapter five will focus on the data analysis process and the interpretation of the data. It will include a brief description of the characteristics of the online questionnaire and the questions which were asked within the questionnaire. This chapter will give a brief description of the overall study population which took part in the research, and it will discuss the participant profiles all the participants. Chapter six will then contain rich descriptions of the themes derived during the codification of the data and how these link to the previous literature review and theoretical chapters.

## **CHAPTER FIVE: PRESENTATION AND DISCUSSION OF FINDINGS**

### **5.1 Introduction**

Chapter four provided a description of the empirical research strategies used during this study as well as the ethical considerations which guided this study. This chapter presents findings and explores how LGBTQ+ participants experienced the (non)realisation of their rights to sexual equality when they were at school.

The online questionnaire was designed to fit into the characteristics of a phenomenological study and contained three open-ended main questions: (1) a question on the positive and negative experiences of LGBTQ+ students when they were at school, (2) a question on the context or situations that influenced LGBTQ+ students' experiences of sexual equality when they were at school, and (3) a question on recommendations that they had for pre-service teacher education. In addition to the open-ended questions, some biographical data was gathered by means of (1) a biographical question which consisted of fifteen short questions, (2) a question on the positive and negative experiences of LGBTQ+ students when they were at school, (3) a question on the context or situations that influenced LGBTQ+ students' experiences of sexual equality when they were at school, and (4) a question on recommendations that they have for pre-service teacher education.

This study's qualitative data included written text from an open-ended questionnaire, which generated data online via SurveyMonkey. Findings are substantiated by verbatim data excerpts from the online questionnaires which are referenced as  $SMPA_Q3$  where  $SMP$  refers to the SurveyMonkey participant and  $Q$  refers to the question number. Thus,  $SMPA_Q3$  refers to SurveyMonkey Participant A (participants were allocated alphabetical codes; thus, A refers to the first participant) and Question 3 of the questionnaire.

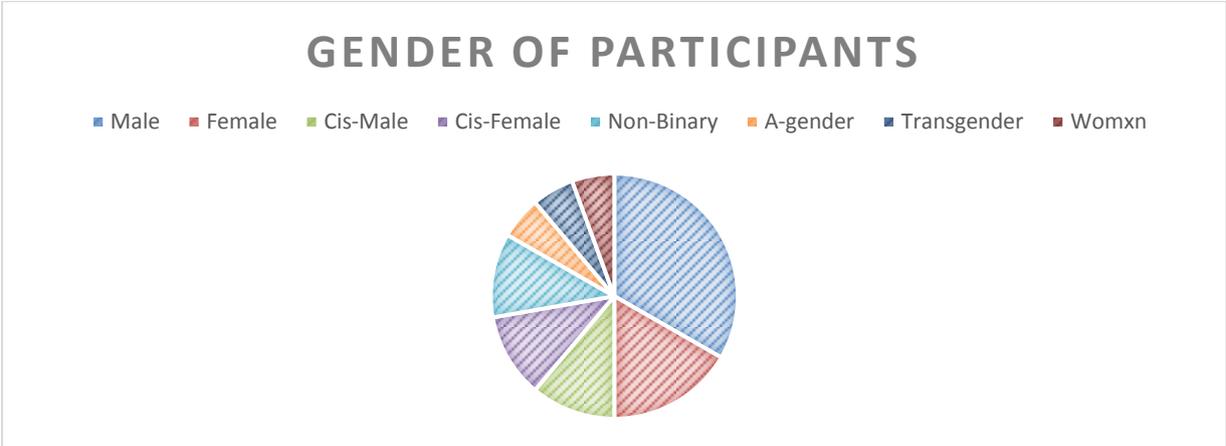
### **5.2 Context and participants**

Of the eighteen completed questionnaires, nine were from urban university and nine from suburban university participants. The urban university consists of two campuses and five faculties; its language of instruction is English. The suburban university consists of three campuses and eight faculties; its languages of instruction are Afrikaans, English and Setswana. Both universities have LGBTQ+ organisations which were contacted for the purpose of this study. Students from these two universities do not necessarily come from the same context as the university they attend. It is important to note that participants come from

different economical and biographical backgrounds and that the universities do not necessarily determine their language or the secondary education they received.

Participants ranged in age from 18 to 26. Three main age groups can be derived: 18 – 21-year-old (n=7/18), 22 – 25-year-old (n=10/18) and 26+ year-old (n=1/18). Thus, the majority of participants were between the ages of twenty-two and twenty-five years.

Participants represent a wide spectrum of gender identities, such as male (n=6/18), female (n=3/18), cis-male (n=2/18), cis-female (n=2/18), non-binary (n=2/18), a-gender (n=1/18), transgender (n=1/18) and womxn (n=1/18). The 'womxn' gender identity is one of the feminist intersectional identities, which rejects the suffix 'man' and which is in support of all female people including minorities such as trans-womxn and womxn of colour.

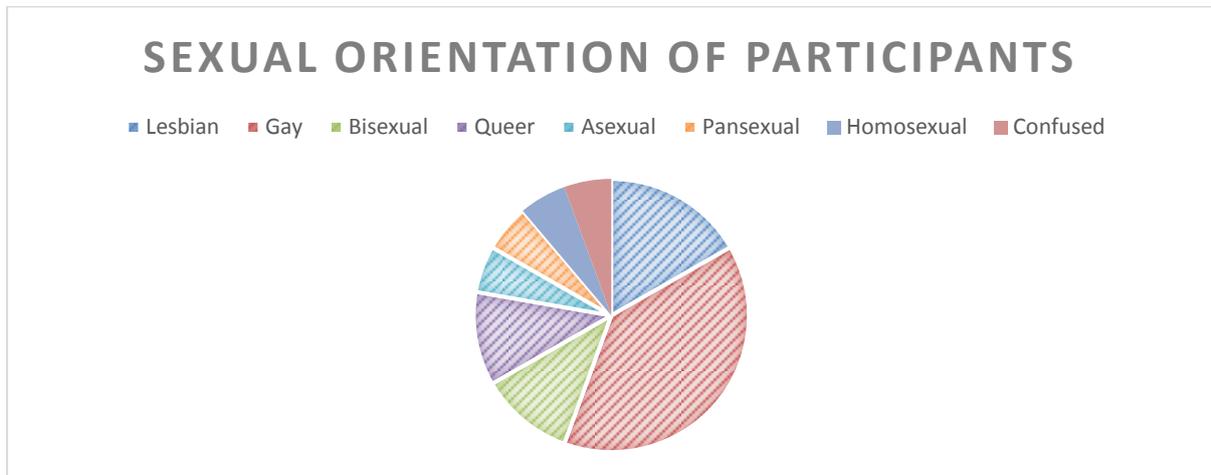


**Figure 5-1 Gender of participants**

Although this study focuses more on the sexual orientation (*cf.* 1.5.1) of participants, rather than their gender, it is important to highlight the interconnectedness of these two concepts. This interconnectedness could be explained by some sexuality identities like transgender where, for instance, a man could transition to become a woman and then date men (Ghajarieh & Mozaheb, 2012:179). There are also people who, for instance, are born as males, but who express themselves as women and who then date women. This example emphasises that gender and sexuality follow a narrow line and that, in some instances, it is not sufficient to make a distinction between the two.

Information about the sexual orientation of participants was gained by means of two questions, one which asked them to self-identify (*cf.* 1.5.1.1) their sexual orientation when they were at school and one which asked them to self-identify the current status of their sexual orientation (*cf.* Figure 5-2). Participants represent a wide spectrum of sexual

identities, such as lesbian (n=3/18), gay (n=7/18), bisexual (n=2/18), queer (n=2/18), asexual (n=1/18) pansexual (n=1/18), homosexual (n=1/18) and confused (n=1/18).



**Figure 5-2 Sexual orientation of participants**

Below follows a description of each of the participants, derived from the biographical data provided by question 4 (see Addendum A). In my description the verbatim data of participants are included.

- *SMPA* is a “gender non-binary gay man” who has been “proud of their identity” since they were at school. They explained that they grew up in a “strongly religious home” and that “culture and cultural traditions were emphasised.” They described their school setting by stating that the primary school was good in an educational manner and that the secondary school contained many learners and teachers who directly and indirectly discriminated against them. They explain that they took the negative experiences, which were many, and created it into a positive drive to succeed in their educational opportunities.
- *SMPB* is a “male homosexual” who identified as “straight” at school, but although they acted straight, peers called them words such as ‘fag’. They also explain their background as “ethnically white” and Presbyterian. They attended an Afrikaans medium public primary school and then went to an Afrikaans medium public secondary school, which was perceived as homophobic and racist.
- *SMP C* is a “non-binary pansexual” who “self-identified as bisexual” at school and whose background was an “Afrikaner with a liberal socialist culture”, an “intersectional feminist” who is a “non-religious pantheist.” *SMP C* attended an Afrikaans public primary school which was focused on academic achievement and an Afrikaans medium public

secondary school which was predominantly white and focused on popularity and participation.

- SMPD identified as a “questioning female” while at school and they now identify as a “female lesbian”. They identify their background as “Caucasian Christian from an Afrikaans culture.” They attended a “good Afrikaans primary school” and an academically good dual medium secondary school. They did not date as they felt it easier than to explain that they prefer women.
- SMP E identifies as a “queer cis-woman” who comes from a “white, Afrikaans, Christian” background. SMP E identified as a “pansexual cis-gender” when at school but did not disclose their identity when at school although speaking openly about LGBO+ rights and issues. SMP E attended a government co-educational primary school and then attended a private co-educational secondary school.
- SMP F identified as a “straight female” at school and recently came “to the realisation or rather acceptance”, that they are “sexually attracted to other women”. They now go between the concepts “bisexual or lesbian” and describe themselves as female. Their background is “black, traditional isiZulu background; open-minded; Christian”. They attended “four different co-educational primary schools, three predominantly black and one Model C-mixed race”; they then attended a conservative private girls’ secondary school.
- SMP G is a “lesbian” who now identifies their gender as ‘womxn’ (*cf.* 5.2). They wrote that their sexual orientation “moved between bisexual and lesbian” when they were at school. Their background is described as “colour Christian”. They attended a “racially diverse, middle-class, sub-standard public” primary school and then went to a “mostly coloured, good education, middle-class, public” secondary school. They were not very explicit regarding their expression of their sexual orientation at school.
- SMP H identifies as a “homosexual male” and explained that they never showed nor expressed their sexuality at school and that they still do not express it in public although they accepted and understood their sexual orientation since grade 10. They define their background as “optimistic Nihilist, Taoist, existentialist”. They did not elaborate on their primary and secondary schools but merely mentioned that both phases had teachers who did not care about learners’ individuality. They also explained that teachers abused their authority by enforcing their own beliefs on their learners.

- SMPI did not put a label on their sexual orientation when they were at school; they now identify as “bisexual female” and state that they maybe did not self-identify in high school because they were not aware of the term bisexual. They come from a “white, English” background and consider themselves as liberal. They attended a multicultural Catholic primary school with more Setswana children than other cultures, and they had religious studies and Mass once a week. They then went to a multicultural Catholic secondary school, which had a variety of cultures and worldviews.
- SMPJ is a “gay male” who identified as being “heterosexual” at school. They describe their background as an “Afrikaner Christian.” They were in a conservative primary school and then attended a secondary school that was “more liberalistic, upholding diversity as a core value”. They denied being “part of the LGBTQ+ community at school” and only perceived themselves as different from their peers.
- SMPK disclosed their identity in school as a “straight male” but now identifies as a “gay male.” They come from an “Afrikaans Christian background” and attended a Christian-oriented private primary school and a Christian-oriented public secondary school.
- SMPL stated that they have identified as a “lesbian” since school, but they changed their gender self-identification from “female to genderqueer/a-gender”. They describe their background as white, atheist and South African – Greek. They attended a public primary school and a Model C secondary school. They were open about their sexual identity since school.
- SMPM is a “queer cis-gender woman” who bounced between various self-identifications of their sexual orientation at school as they explain that they first identified as “straight, then lesbian, then bisexual and then also as pansexual.” They describe their background as white middle class agnostic. They attended co-educational Catholic private primary and secondary schools in both primary and secondary school.
- SMPN is a “gay male” who identified as a “straight male” when at school. They explain that they were bullied for being gay and tried to hide it by acting straight. Their background is described as “white Christian” who is open to other people’s voices and opinions. They attended a “small town primary school” and were verbally and physically bullied; they state that the bullying escalated in secondary school.
- SMPO identifies as a “gay male” but stated that their identity was different at school because they were closeted. They explained their background as an “African liberal.” They attended both primary and secondary schools in rural areas. They did not express

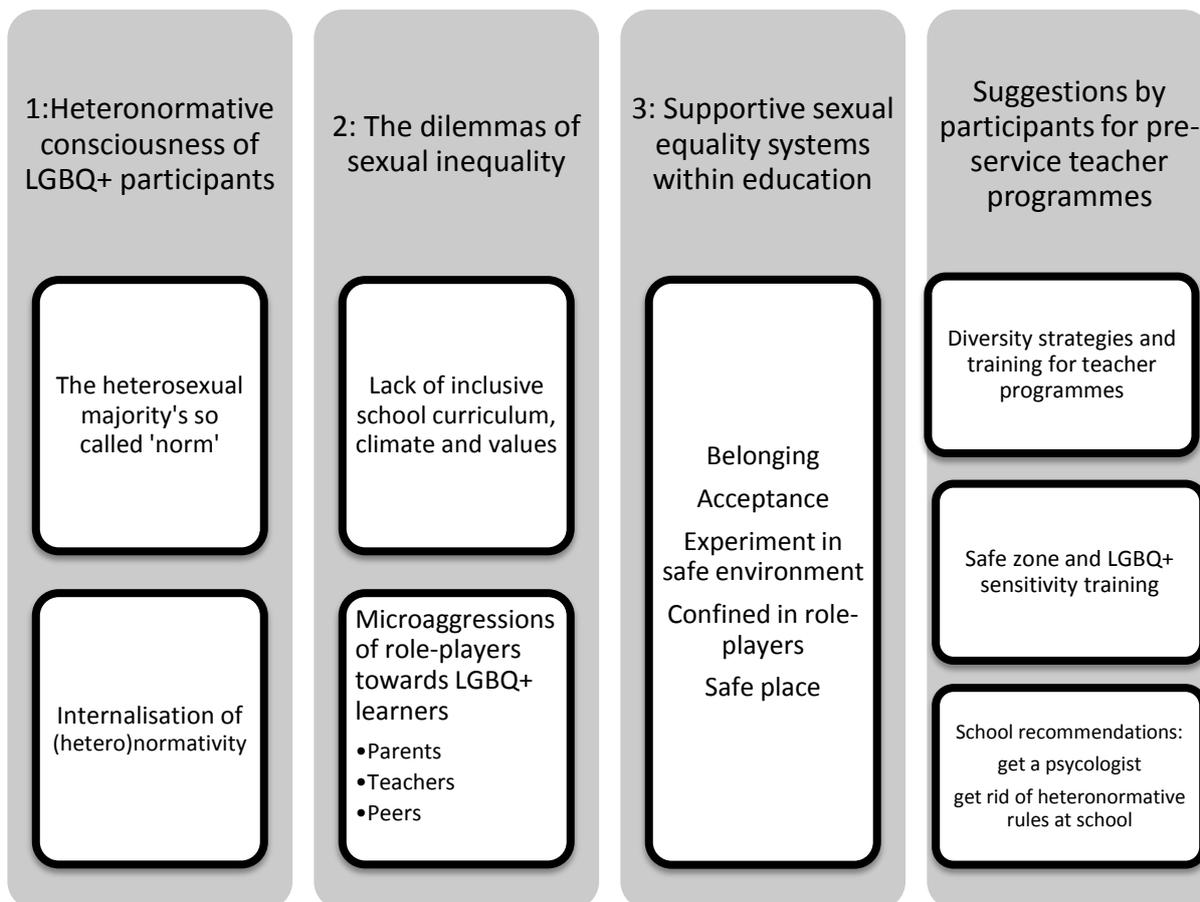
their sexual identity at school and explained that they spent most of the time trying to hide” that they are gay and that made them miserable and lost”.

- SMPP is a “gay cis-man” and has identified this way since school. They describe their background as “black atheist.” They expressed their identity at school by talking about it to others in class and explained that their black ethnicity is a big part of who they are. They attended a public primary school and “a very conservative Christian” secondary school that they feel did not accept them.
- SMPQ identified at school as an “asexual trans man” and still identifies as an “asexual transgender” with a “white Christian and South African background.” SMPQ, expressed their sexual identity at school by putting a trans pride flag on their note folder. SMPQ attended a Model C school at primary level and then moved to a private secondary school.
- SMPR is a “black cis-male” who has self-identified as a “bisexual individual” since they were at school. They also indicated that they expressed their sexual identity at school by being friends with other LGBTQ+ people. They indicated that they attended a township school in primary and did not stipulate their secondary school, but explained that the secondary school was accepting and non-judgemental.

The participant portfolios described above will be kept in mind while looking at the findings from the lived experiences of LGBTQ+ participants.

### **5.3 Findings**

The following themes and sub-themes were derived from the data collected from LGBTQ+ participants (*cf.* Figure 5-3 Themes derived from data). The upcoming section will discuss the themes derived from the lived experiences of the participants.



**Figure 5-3 Themes derived from data**

**5.3.1 Theme one: Heteronormative consciousness of LGBTQ+ participants**

Heteronormative awareness is eminently visible in the lived experiences of this study's LGBTQ+ participants. The heteronormative awareness in schools is not just visible in the heterosexual majority's attitudes, actions and social constructions of what and who fits into the so-called 'norm', but it is also visible in the participants' internalised identification systems. Francis (2017:59) indicates that the realisation of a learner's sexual orientation can be a noticeable and social construct, which emphasises to the LGBTQ+ minority group member how different from the heteronormative norm he or she is. Toomey *et al.* (2012:188) furthermore emphasise the importance of schools in understanding the implications of heteronormativity on LGBTQ+ youth. The sub-themes that were derived from theme one explored the experiences of LGBTQ+ participants in a heteronormative environment and how they internalised heteronormativity through numerous ways.

**5.3.1.1 The heterosexual majority's so-called 'norm'**

Some participants showed a heightened awareness of the fact that they did not conform to the norm (n= 3/18) when they were at school. *SMPD* explained that their sexual orientation

identity changed after they matriculated, because of a free-er environment at university. They explained their school context regarding sexual identities as follows:

*It was frowned upon to be anything that was not heterosexual...Taught in LO that it was abnormal behaviour... Did not have the opportunity to learn that it is okay to be different than the norm. (SMPD<sub>Q</sub>3.12.1.)*

This links with Francis's (2017:57-59) emphasis of the invisibility and (non)recognition of LGBTQ+ learners' identities which forces them either to "deny their existence" or to suppress their identities, merely because they are different. Participant <sub>SMP</sub>M, similarly to others, explained that they experienced or thought of their sexual orientation as "not normal" and that even though they did not come out, they felt that "they all could see it in" them (<sub>SMP</sub>M<sub>Q</sub>3.12.1). Participant <sub>SMP</sub>E also emphasised the fear of externalising their attraction to women by explaining that their identity changed from bisexual to lesbian after they left school because they

*was afraid of the stigma attached to identifying as a lesbian, and identified as a bi as I thought it would be easier for people to accept (SMP<sub>E</sub><sub>Q</sub>3.12.1)*

Francis (2017:78) and Kumashiro (2000:45) identify the concept of "understanding the self in the other" which means that teachers, learners and other members of the school system should try to embrace, understand and acknowledge that we all have a human element within us and that we all are in some or other way the same. Thus, in order for future generations to move beyond the heteronormative standards, it is important to break the binary of 'them' and 'us' and try to preserve "the centrality and normalcy of the self" (Francis, 2017:78).

### **5.3.1.2 Internalisation of (hetero) normativity**

Kosciw *et al.* (2015:167) emphasise that sexual identity development of LGBTQ+ youth typically requires them to (1) be aware of their sexual orientation and that it differs from what society perceives as the norm, (2) self-identify as part of the LGBTQ+ community and finally to (3) disclose their identity to people. Some participants showed the internalised struggle of self-acceptance and the process of developing and defining the self before it can be externalised and expressed within society (n= 12/18). Words and phrases such as "accept myself" (<sub>SMP</sub>O), "come to the realization, or rather acceptance" (<sub>SMP</sub>G), "comfortable" (<sub>SMP</sub>C), "come to terms" (<sub>SMP</sub>D), "made peace" (<sub>SMP</sub>I) emphasise the difficulty and extra pressure learners have just to accept and embrace their difference within society.

Dessel *et al.* (2017:137) explain that self-acceptance is not only an internal occurrence of self-realisation that can be difficult to learners but also the environment in which LGBTQ+

students find themselves. Participants also emphasised that they struggled, or some still struggle, to express their sexual orientation externally (n=7/18) and that it led to them “withdrawing” (SMPB); experiencing “shame and confusion” and feeling “isolated and alone” (SMPM); feeling “lonely” (SMPJ); being “insecure about ... identity” (SMPG); pretending to be straight (SMPN; SMPK; SMP C; SMPB; SMPG). It is, however, necessary to emphasise that there were participants who did not indicate that they struggled to accept their sexual orientation when they were at school (n= 4/18). Of the four participants who did not change their sexual orientation, only one of them revealed their identity while at school and indicated that they were bullied because of their openness about their sexual orientation (n= 1/18); the other three participants did not express their sexual orientation when they were at school.

### **5.3.2 Theme two: The dilemmas of sexual inequality**

The environment and climate of a school can influence a learner both positively and negatively (Bhana, 2012:317; Bhana, 2014:363; Toomey *et al.*, 2012:187); for instance, when a school has a climate of heteronormativity and hostility towards sexual minorities, it instils an ‘othering’ category into a learners’ awareness by identifying any non-heterosexual person as the sexual ‘other’. Thus, negative behaviours such as harassment, discrimination and violence towards LGBTQ+ learners occur at such a school. This theme explores the ways in which school environments and role-players could influence the sexual equality of LGBTQ+ learners at schools. It highlights the effect that the pitfalls of sexual inequality in education have on LGBTQ+ learners.

#### **5.3.2.1 Lack of inclusive school curriculum, climate and values**

Russel *et al.* (2010:3) indicate that one of the most challenging tasks that teachers, as professional educators, have is to create methods and strategies that can establish supporting climates for all students, including LGBTQ+ youth. The guidelines and policies within a school can, so to speak, ‘make or break’ a heteronormative climate (Toomey *et al.*, 2012:188). SMP<sub>PQ4</sub> mentioned that they found their school’s uniform and dress code to be a negative experience (“... Negative – uniform and dress code” SMP<sub>PQ4</sub>) but did not elaborate on that. It could relate to issues such as the *Pillay* court case (2007) where a learner was not allowed by the school to wear a nose stud for religious purposes and the *Settlers High* court case (2013) where a Rastafarian girl was not allowed to wear her hair in dreadlocks. These two cases (*Pillay* and *Settlers High*) focused on the gendered nature of dress codes and how these dress codes could possibly exclude non-conforming role-players such as learners and teachers within schools (De Wet, 2018:82; Jones *et al.*, 2016:164-165). Although these cases do not focus on sexual equality, they do focus on the implementation of the right to

equality, on the prohibited grounds as stated in section 9(3) of the Constitution (1996), within codes of conduct at schools. The cases related to dress codes and codes of conduct could also refer to the need for school policies and regulations to allow learners the right to express themselves freely (1996:sec.16) in a safe and regulated environment; equality would be negatively influenced if school policies and regulations do not allow minority learners to express themselves freely (form of unfair discrimination). *SMP*P did not elaborate on their negative experiences regarding their school's dress code regulations, but for it to be a negative experience; it could have been something that stopped them from expressing their sexual orientation.

*SMP*D<sub>Q4</sub> explained that their school environment was “not an accepting environment to express or explore” their own identity. They felt as if it had a certain amount of segregation by describing that “... either you are or you are not LGBT and if you are, you can be friends with others (LGBT) but not with the non-LGBT” (*SMP*D<sub>Q4</sub>). *SMP*R<sub>Q3.15</sub> said, “I was friends with other LGBT people.” The mention of being able to or feeling as if they could only be friends with other LGBTQ+ learners (n= 2/18) links with the idea of a safe zone for LGBTQ+ / non-conforming learners. Studies done nationally and internationally (Hassan *et al.*; 2018; Sadowski, 2017; Wood *et al.*, 2016) mention the idea of safe zones for LGBTQ+ youth in school. Wood *et al.* (2016:46) define safe zones as areas where LGBTQ+ learners can feel free to explore, embrace and celebrate their LGBTQ+ identity without being afraid of bullying, victimization, and any insults from other stakeholders within the school.

*SMP*M<sub>Q5</sub> emphasised that “the school environment affected” their “perceptions, because only heterosexual and cis-gender identities” were ever spoken about. *SMP*E<sub>Q5</sub> explained that the school environment which they were in “didn't dwell much on sexual orientation and it was dominantly heteronormative”. These instances refer back to a heteronormative (*cf.* 1.5.5) school environment which instils the notion of the sexual ‘other’ (*cf.* 1.5.4) for learners who do not conform to the ‘heterosexual norm’. It is, however, important to emphasise that when participants suggest that they are being treated differently, it does not mean that the differential treatment constitutes unfair discrimination. A normative assumption (such as a person evaluating when something is good or bad according to his or her personal value system or the majority group within society's value system) which accompanies differentiation creates a situation where the individual is unfairly discriminated against. *SMP*M described a school which, according to their lived experiences, does not include or accommodate their sexual orientation. *SMP*H<sub>Q5</sub> also touched on the need for inclusive school environments by explaining that

*There is little to no equality for any LGBT+ individual. The law protects LGBT+ community, but the people never enforce these laws to protect us and support these individuals (SMPHQ5).*

Participants emphasised the need for an inclusive school environment and culture which did not make them feel different, abnormal or as if they did not belong (n= 17/18). Indications for inclusive school environments or cultures are as follows:

### **5.3.2.2 Microaggressions of role-players towards LGBQ+ learners**

The concept microaggressions is defined as verbal or non-verbal indignities which insult or influence oppressed groups such as LGBQ+ people (Francis & Reygan, 2016:181; Nadal, 2008:23). This refers to any domineering action, be it “verbal, behavioural or environmental” (Nadal, 2018:23), which is focused on heteronormativity, sexism or any other oppressive measure toward a minority group. The LGBQ+ participants identified the following role-players who negatively influenced their sexual equality experiences when they were at school: (1) parents; (2) teachers and (3) peers. This section will look at the microaggressions from role-players and forms of inequality which participants endured when they were at school.

#### **5.3.2.2.1 Parents**

Bhana (2013:115) describes parents as one of the key role-players in promoting a society where inclusivity and social justice are focus points. The ideal of social change starts at school, where Bhana (2013) and the Schools Act (84 of 1996) clearly identify parents as one of the most important role-players in achieving it. Participants did not really focus on parents (n= 2/18) as role-players in their sexual equality experiences. However, two participants highlighted microaggressions by parents: SMPQ4 experienced that parents of heterosexual learners expressed that they did not want them to be taught with their children. SMPC4 also mentioned parents as role-players in their lived experiences during school, but this reference was on a more personal level where SMPC did not feel that they could “come out” to their parents because their parents were uncomfortable about the topic.

#### **5.3.2.2.2 Teachers**

Another important role-player within the school system is the teacher who has the duty not only of educating learners but of creating respectful and responsible citizens of South Africa. A few (n=5/18) participants indicated that their negative sexual equality experiences in school were caused by teachers in one way or another. SMPHQ3.9 experienced that the teachers at their primary school projected themselves and their views onto their learners and that these

primary teachers did not create a space where learners could embrace their individuality but rather abused their authority as teachers (SMPHQ3.9: “Biased, uneducated teachers. Most teachers project themselves through their students. They have very little care about embracing their individuality and they abuse their authority.”) Furthermore, SMPAQ3.9 felt that their primary school teachers did not understand them which made them uncomfortable in class. SMPAQ3.10 expressed experiences of direct and indirect discrimination from their secondary school teachers: “... Where do I begin ... I had such a brought source of drive. Learners, teachers who discriminated against me directly and indirectly...” Johnson (2014:1250) emphasises the important role which teachers have in creating an inclusive education system by helping learners understand and be respectful of LGBTQ+ issues. It is, however, fundamentally important that teachers have the knowledge and necessary skills to be able to educate learners on diversity and respect in order for them to create inclusive classrooms and schools. SMPDQ3.12 explained that they were taught in the Life Orientation classroom that being part of the LGBTQ+ community is abnormal behaviour and that such families are ‘nuclear families’. The negativity and falsified information, based on those teachers’ views, could create a hostile environment for LGBTQ+ learners because it encourages ‘othering’. SMPIQ4 described a conservative art teacher who did not want her to draw female nudes whereas SMPH experienced teachers who were “religiously biased” and explained that they felt it created a dangerous environment for all learners who did not conform to their beliefs and values. (SMPHQ4 stated: “Teachers are religiously biased. They also have very little understanding of psychology. This influences the students and creates a dangerous environment for anyone who doesn't conform to their norms, values or beliefs.”)

#### 5.3.2.2.3 Peers

Wernick *et al.* (2013:297) emphasise that (heteronormative) learners are uniquely positioned to affect their LGBTQ+ peers because they have access to the social aspect of schooling and they also can access physical places which teachers cannot access. The role-players within the education system could influence heterosexual learners to either be respectful of their peers or to bully their non-conforming peers physically and/or verbally. The data emphasised that peer-related bullying is a common occurrence with this study’s participants – it is important to mention that the bullying described by participants was not explicitly related to homophobia, but there is also no evidence that the bullying is not related to issues relating their sexuality. SMPNQ3.9 indicated that they experienced brutal verbal and physical bullying by peers in primary school (SMPNQ3.9: “Small town primary school and about 600 in the whole school. And got brutally bullied physically and verbally”), and SMPAQ3.10 experienced direct and indirect discriminations from their secondary school peers (SMPAQ3.10: “... Learners, teachers who discriminated against me directly and indirectly ...”). This indicates that bullying

is a problem in both primary and secondary schools. SMPR<sub>Q</sub>4 pointed out that the effect which bullies had on them made it extremely hard for them to go to school on certain days – “It was hard for me to go to school some days due to bullying.” Peer bullying seems to have had a drastic effect on their educational experiences by making them feel like they do not want to attend school (SMPR<sub>Q</sub>4). SMPN<sub>Q</sub>3.14 furthermore explained that “the main reason for bullying was that they think I was gay.” Another participant (SMPM<sub>Q</sub>3.14) also mentioned homophobic bullying: “When I was 8 years old the school bullies called me lesbian.” Peer bullying was a concern for the majority of the participants (n= 12/18). Their lived experiences of being bullied spans from less serious (name calling - SMPB<sub>Q</sub>3.14: “Well they did call me a fag, and other stuff as an insult...”) to really damaging assault (physical bullying - SMPN<sub>Q</sub>3.9: “brutally bullied physically”). Participants also experienced that their peers showed their discomfort (n= 4/18) around them in different contexts such as dressing and undressing in locker rooms (SMPG<sub>Q</sub>4: “Negative: Being put in uncomfortable situations of people asking me questions about sexuality but in ways that felt judgmental instead of curious. People would tease me. Many girls felt uncomfortable to be around me or to change clothes in front of me before extra-murals etc. As a result, I started feeling insecure about my identity.”) Peer-related bullying and the feeling of discomfort that peers felt or instilled in LGBTQ+ learners were the only two aspects relating to peers which were discussed by participants.

### **5.3.3 Theme three: Supportive sexual equality systems within education**

This study’s participants did not elaborate on their positive experiences of sexual equality when they were at school (mention of positive experiences n=10/18; no mention of positive experiences n=8/18). This theme was derived from question 4 in the open-ended questionnaire which asked participants to share their positive and negative experiences as LGBTQ+ people at school. There were a few participants who did not even mention positive experiences (n=8/18). This theme explored the experiences that LGBTQ+ participants identified as positive when they were at school. Participants (n=2/18) indicated that having peers who welcomed and accepted them was part of their positive sexual experiences when they were at school: SMPM<sub>Q</sub>4 “In high school I had very supportive friends, who were accepting and some of whom were also questioning and exploring their sexuality...”; SMPL<sub>Q</sub>4 “My peers were mostly supportive.” Participants then also mentioned that finding people, be it teachers or learners, who were like them also positively influenced their sexual equality experiences (SMPR<sub>Q</sub>4: “I found it positive to make friends with the other LGBT people”; SMPQ<sub>Q</sub>4: “I found it positive to find teachers who were like me ...”; SMPP<sub>Q</sub>4: “Positive – coming out and finding people like me”; SMPJ<sub>Q</sub>4: “Positive experiences: A teacher that was LGBTQ+ had supported me”; SMPD<sub>Q</sub>4: “... I had an LGBTQ+ teacher, very open about her sexual identity (not inappropriately) but in a sense normalised it”) (n= 5/18). SMPI<sub>Q</sub>4 said their school

environment was very liberal and indicated that such an environment allowed them to explore their sexuality. SMPE<sub>Q4</sub>, also described a school environment which was very supportive and where homophobia was not tolerated. Some participants (n= 3/18) had LGBTQ+ teachers who treated them as sexual equals which helped them to feel more 'normal' or which supported them and helped them to understand and accept their sexual orientation ("I found it positive to find teachers who were like me ..."; SMPJ<sub>Q4</sub>: "... A teacher that was LGBTQ+, had supported me"; SMPD<sub>Q4</sub>: "... I had an LGBT+ teacher, very open about her sexual identity (not inappropriately) but in a sense normalised it"). SMPG<sub>Q4</sub> experienced their self-acceptance and understanding of their identity as a positive experience and mentioned that it became easier for them to accept themselves once they started exploring and realising what their sexual orientation entails. The positive experiences of participants highlighted the importance of LGBTQ+ learners feeling that they (1) belong; (2) are a part of the system; (3) are accepted; (4) need to find a connection with others that also go through their struggles; (5) can explore; (6) can confide in role-players and (7) are in a safe place.

#### **5.4 Suggestions by participants for pre-service teacher programmes**

Participants were asked if they had any suggestions for pre-service teacher education programmes in order to support teachers to advance inclusivity at schools; the following suggestions were provided:

##### **5.4.1 Diversity strategies and training for teacher programmes**

A few participants mentioned the importance of diversity training programmes in teacher education programmes (n=8/18). The recommendations regarding the need for diversity training and strategies include: (1) strategies which assist teachers to see learners as diversified individuals and not as a collective (SMPA); (2) programmes on or awareness of different gender identities and gender neutral language and better sexual education: diversity of sexual orientations and not just heterosexual (SMPC); (3) strategies which will assist teachers in teaching about difference and acceptance of different sexual orientations (SMPD; SMPG; SMPI; SMPP); (4) programmes which equip teachers with techniques and strategies which can break down the hegemonic boundaries (SMPI); (5) teachers should be taught strategies on how to create open-discussions with learners regarding these topics (SMPM).

##### **5.4.2 Safe zone and LGBTQ+ sensitivity training**

SMPE emphasised the need for student-teacher programmes to include sensitivity training such as safe zone training - "SafeZones training (a form of sensitivity training), being spoken to by representatives of LGBT organisations, sensitivity training to understand how to speak

to people and respect identity.” LGBQ+ participants also stipulated the need for teacher education programmes to include sexual education programmes which could assist in teaching teachers how to handle diversity of sexual orientations in their classrooms (<sub>SMPF</sub>). <sub>SMPJ</sub> and <sub>SMPK</sub> also mentioned that student teacher should have practical skills which could equip teachers with addressing LGBQ+ issues (may include LGBQ+ education). <sub>SMPB</sub> also suggested strategies which would assist teachers in promoting the acceptance of LGBQ+ people.

Other student-teacher programme suggestions included:

- More knowledge regarding equality: teachers should know that “different genders or orientations does not mean you need to be treated differently” (<sub>SMP L</sub>)
- Teach student teachers how to ‘put their prejudice aside’ (<sub>SMP Q</sub>)
- Programmes should teach student teachers “to act within the law” (<sub>SMP R</sub>)

Two participants also mentioned recommendations for schools:

- Get a psychologist at all schools (<sub>SMP N</sub>)
- Get rid of heteronormative rules at school (<sub>SMP O</sub>)

The guidelines derived from the lived experiences of the LGBQ+ participants within this study will be further explored in the next chapter.

## **5.5 Conclusion**

This chapter explored the education-related sexual equality experiences of LGBQ+ students and looked at how their experiences could inform transformative teacher education programmes. This section particularly explored how participants experienced the (non)realisation of sexual equality at school and the guidelines which according to their lived experiences could inform teacher-education programmes in the promotion of sexual equality within schools. The data generated identified four main themes: (1) heteronormate consciousness of LGBQ+ learners which specifically looked at the ‘norm’ created by the heterosexual majority and the internalisation of (hetero)normativity at LGBQ+ learners; (2) the dilemmas of sexual inequality which highlighted the impact that a lack of inclusive school curriculum, climate and values as well as the effect that microaggressions of role-players have on LGBQ+ learners; (3) supportive sexual equality systems within education and their effect on LGBQ+ learners’ participation and on teaching and learning; and (4) the guidelines

as provided by the LGBTQ+ participants derived from their lived experiences of sexual equality within education.

The next chapter contains detailed descriptions of the whole study and will look at the overview of the study, theoretical and empirical findings, recommendations derived from this study, self-reflection of the study, the limitations experienced within the study together with issues for further research.

# CHAPTER SIX: GUIDELINES FOR TEACHER EDUCATION PROGRAMMES TOWARDS THE PROMOTION OF SEXUAL EQUALITY: CONCLUSION AND RECOMMENDATIONS

## 6.1 Introduction

This study was based on the principles of a qualitative study which involved a literature review and empirical research centred within a phenomenological research design (*cf.* 1.6.3.1). The *primary aim* of this study was to unlock LGBQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives included the following:

- To outline the legal and theoretical determinants for sexual equality at schools.
- To explore how LGBQ+ university students experienced the (non)realisation of sexual equality while they were at school.
- To develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

This study made use of open-ended questionnaires on SurveyMonkey to generate data from LGBQ+ students from two South African universities. Content analysis was used while employing peer review to enhance trustworthiness. In this final chapter, I will discuss the findings that emanated from the study relevant to the research questions. The chapter will include an overview of the study, the theoretical and empirical findings, the recommendations derived from the findings, limitations within the study, possible issues for further consideration and finally the conclusion of this research study. The main purpose of the chapter is to suggest guidelines, as informed by the findings in this study, which could inform teacher education towards the promotion of sexual equality.

## 6.2 Overview of the study

The *first chapter* in this study provided an orientation of the study and explored previous research within LGBQ+ studies as well as studies which related to equality within education. In the background to the study (*cf.* 1.2), I considered existing research and literature on the research topic in an attempt to identify the gaps in the literature and the direction to take with my study. The identified gaps in the research informed the main research question which asks (*cf.* 1.3 & 1.4) *how education-related sexual equality experiences of LGBQ+ students can inform transformative teacher education.* This study sought to explore the lived

experiences of all students when they were at school. Exploring their lived experiences while at school would unlock knowledge gained from their first-hand experiences which in turn would inform teacher education towards sexual equality.

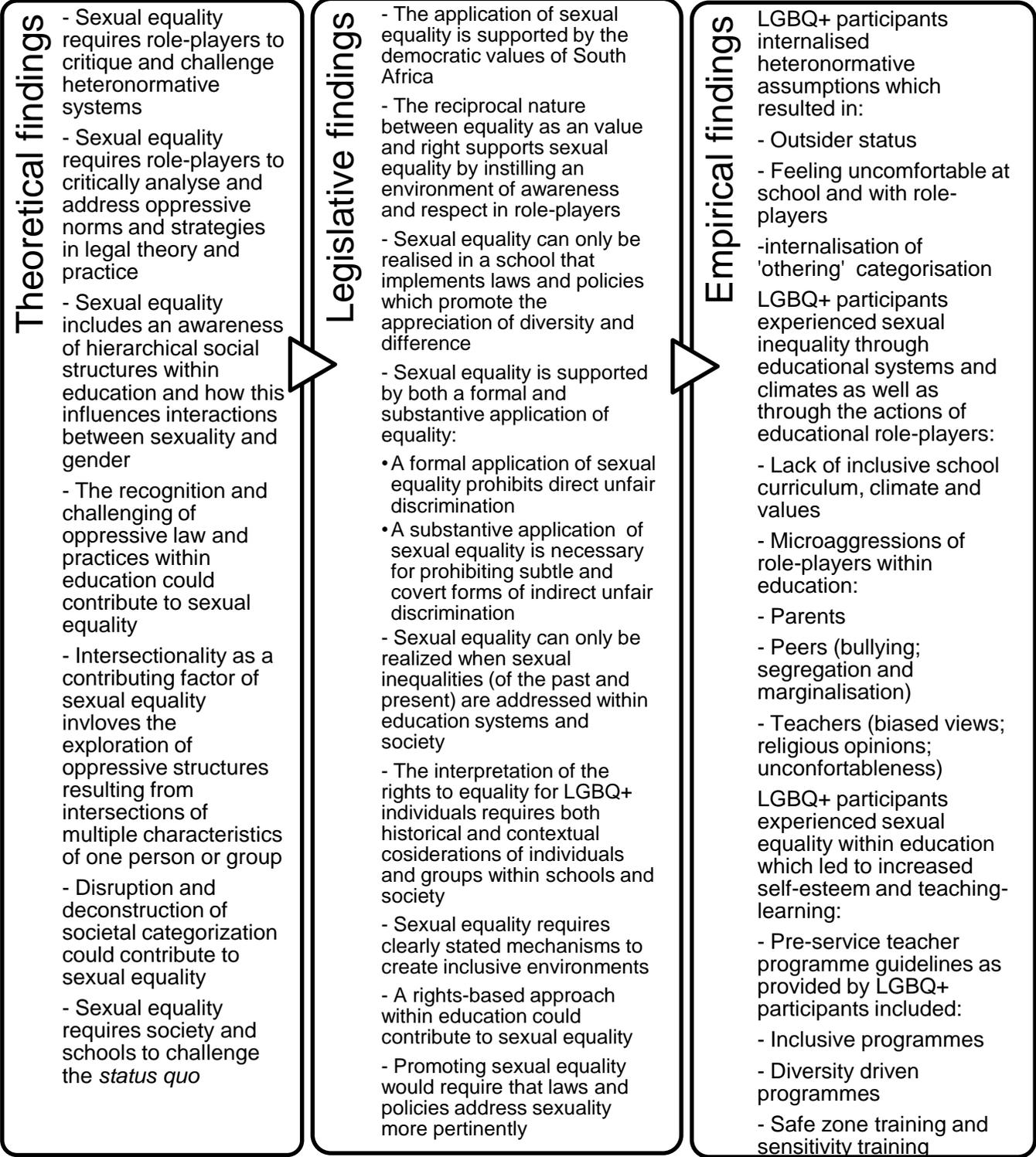


Figure 6-1 A visual summary of the findings of this study

## **6.2.1 Theoretical findings**

The *second chapter* explored the theoretical perspectives which could inform determinants for sexual equality at schools. These determinants, derived from the theoretical perspectives, are briefly highlighted below:

### **6.2.1.1 Sexual equality requires role-players to critique and challenge heteronormative systems**

The critical perspectives highlight the heteronormative ways in which the majority within the education system could suppress the minority by enforcing the conformity of dominant views. They highlight the importance of *critical dialogue* not only in classrooms, but in society while emphasising the importance of teachers' actions in not enforcing power relations, but rather challenging and critiquing these structures through methods which could open up spaces that can empower the powerless. Critical perspectives also call on teachers to be able to *challenge their own biased assumptions* through critical reflection. *Critical reflection* will allow teachers the chance to change their biased assumptions and to expose, challenge and break down power structures within their classrooms, one step at a time.

The determinants of sexual equality that are derived from the critical perspective in its broadest form are an indication of some ways in which role-players could challenge heteronormative systems within education. However, it is also necessary to look at the determinants acquired from the other perspectives within critical theory which could also support role-players in advancing sexual equality in education. In this regard, critical legal theory adds to the determinants by adding that teachers and other role-players also have to be aware of potential legislation and policies which might support or create oppressive structures within schools.

### **6.2.1.2 Sexual equality requires role-players to analyse critically and address oppressive norms and strategies in legal theory and practices**

Critical legal perspectives could assist sexual equality within schools by enabling teachers and other role-players to be able to *analyse critically* classroom and school rules (code of conduct) by looking for rules or guidelines which could oppress certain groups while being advantageous for other groups within the school. Critical legal perspectives could also highlight to role-players that schools should consist of guidelines which are not rigidly structured and created by the majority, but rather guidelines which are created through critical analysis of all human rights and which show *awareness of possible grounds for inequality*. This suggests that teachers and other role-players should be *aware of all possible*

*oppressive structures* which can prohibit LGBTQ+ learners from being taught in a sexually equal environment. To summarise, critical perspectives and critical legal perspectives each contribute to this study by *highlighting the injustice and inequality* regarding LGBTQ+ issues within *school systems* (critical perspectives), *laws and policies* (critical legal perspectives).

#### **6.2.1.3 Sexuality equality includes an awareness of hierarchical social structures within education and how this influences interactions between sexuality and gender**

To add to the critical perspectives within this study, feminist perspectives assist this study by identifying ways in which oppressive structures could be identified. An example of oppressive structures is “othering” practices within classrooms where learners could group the minority learners and exclude them from teaching-learning activities. Feminist perspectives could assist teachers to identify the minority groups and to create strategies to include these groups in teaching-learning activities as well as create standards which would fight the oppressive and hierarchical structures within their classrooms. Feminist perspectives also challenge the hierarchal structure between teachers and students. Teachers who implement feminist determinants of sexual equality can create an environment of *mutual respect* between teacher and learner as well as learner and learner. In this relationship, the teacher is seen as not above the learners but on an equal footing in the sense that if the teacher respects them, they will respect the teacher and *vice versa*. It is pertinent for a teacher to create a safe environment of trust where learners can communicate between one another and with the teacher as well. It is not only important that teachers address the hierarchical social structures within education, but also that they are able to recognise and challenge oppressive laws and practices which may exist within education systems.

#### **6.2.1.4 The recognition and challenging of oppressive law and practices within education could contribute to sexual equality**

A feminist legal perspective seeks out legislation and policies which could promote hierarchal structures in education to change these structures by dismantling injustice or exploitative actions supported by policies and guidelines, while developing or suggesting new guidelines which could create a substantive equal environment. Thus, the determinants that could be used with a feminist legal perspective in mind are twofold: it firstly *seeks to explain* hierarchical and oppressive structures and secondly it is *dedicated to change* those structures. Oppressive legislation and practices within education may be found to be focused on the layered characteristics of learners within schools; it is therefore necessary also to mention the determinants which could be derived from intersectionality.

### **6.2.1.5 Intersectional awareness as a contributing factor of sexual equality involves the exploration of oppressive structures resulting from intersections of multiple characteristics of one person or group**

Intersectionality highlights the multiple layers of potential discrimination within individuals. It is therefore necessary that role-players are able to look at educational practices within the education system and how these practices are implemented. Intersectionality gives role-players a way of challenging and resisting oppressive structures by being able to observe the environment around them and reform multiple oppressive structures by challenging the *status quo*. Intersectionality supports the determinant of *inclusivity* within classrooms; thus teachers not merely acknowledge that there are individual learners with a wide variety of characteristics within their classes but are also able to create an environment where *difference* is talked about and *celebrated* which, in turn, can teach learners to respect and acknowledge all others' rights no matter how different or strange they may seem to them.

To build on the critical and feminist perspective determinants, the queer perspectives describe that social categorisation and binaries within society and schools should be critiqued, disrupted and deconstructed in a way that role-players acknowledge that identities are processes and not solid constructions.

### **6.2.1.6 Disruption and deconstruction of societal categorisation could contribute to sexual equality**

Queer perspectives could assist teachers to be more mindful of not only the classroom environment but also their own beliefs and ideas regarding sexuality. They require role-players to challenge school and classroom rules which could be harmful or oppressive to LGBTQ+ learners. There are numerous things that teachers can do to create a safe environment for all learners; for example, they can be aware of their own biased assumptions, they can use more gender neutral words, they can incorporate (e.g. in life orientation classes) discussions on all sexualities and not just heterosexuality, and they can challenge and teach learners to recognise that their LGBTQ+ peers deserve equal treatment and that bullying is prohibited. It is important to note that queer strategies within a classroom should not be forced onto learners; teachers should focus on applying democratic values within their teaching and learning strategies and let LGBTQ+ *awareness* casually spread out of these values.

Critical perspectives, feminist perspectives and queer perspectives highlighted the sexual equality determinants within education, each with its own focus. The idea of human rights literacies adds to the latter and describes the need to explore lived experiences of minority

groups such as LGBTQ+ individuals and the ways in which the *status quo* could be challenged.

### **6.2.1.7 Sexual equality requires society and schools to challenge the *status quo***

Human rights literacies could create a classroom environment where sexual equality is grounded upon the lived experiences of learners, thus suggesting that teachers should be able not only to create classroom rules which allow for change but should provide an environment where learners can feel free to share their lived experiences regarding human rights. This creates an environment which is not based upon fixed ideas but which could enable communication regarding the realisation of human rights in learners' lives and how these lived experiences could inform an equality-based classroom.

## **6.2.2 Legislative findings**

The *third chapter* explored the right to equality as well as policies and guidelines which promote sexual equality within schools.

The right to equality is a responsibility which is not only given to the minority groups but which should also be applied by the majority groups within society. The basic legal framework looked at the different approaches to equality and how these approaches (formal and substantive) are implemented within South Africa. The court cases described within these two approaches explained the stance of direct and indirect discrimination within society and education. The struggle for an equal society is still an ongoing one which is embedded within multiple forms of unfair discrimination and inequality. It is, however, important to address the gap between the equality ideals within legislation and the lived experiences of inequality within people's lives. The Constitutional Court (*cf.* 3.4.1; 3.4.2) has made attempts to address the rights of minority groups to equality and has encouraged society (*cf.* 3.4.1; 3.4.2) and educational systems (3.4.2) to be aware of both direct and indirect discrimination practices (*cf.* 3.4.3) which may harm minority groups such as sexual minorities. This chapter found the following legal determinants:

- The application of sexual equality is supported by the democratic values of South Africa (*cf.* 3.3)
- The reciprocal nature between equality as a value and right supports sexual equality by instilling an environment of awareness and respect in role-players (*cf.* 3.3)
- Sexual equality can only be realised in a school that implements laws and policies which promote the appreciation of diversity and difference (*cf.* 3.4)

- Sexual equality is supported by both a formal and substantive application of equality:
  - A formal application of sexual equality prohibits direct unfair discrimination (*cf.* 3.4.1)
  - A substantive application of sexual equality is necessary for prohibiting subtle and covert forms of indirect unfair discrimination (*cf.* 3.4.2)
- Sexual equality can only be realised when sexual inequalities (of the past and present) are addressed within education systems and society (*cf.* 3.4.2)
- The interpretation of the rights to equality for LGBTQ+ individuals requires both historical and contextual considerations of individuals and groups within schools and society (*cf.* 3.4.2)
- Sexual equality requires clearly stated mechanisms to create inclusive environments (*cf.* 3.4.3.2)
- A rights-based approach within education could contribute to sexual equality (*cf.* 3.5)
- Promoting sexual equality would require that laws and policies address sexuality more pertinently (*cf.* 3.5)

This chapter also explored the policies and guidelines which could assist educational systems and practices in creating (sexual) equality-based school environments for all role-players. The heteronormative assumptions within the equality system and laws and policies are deeply embedded within society, and it is up to all role-players within the education system to challenge these assumptions. An awareness of heteronormative assumptions can be instigated by teachers within their teaching and learning strategies. To assist teachers in creating sexual equality within their classrooms, the following policies and guidelines were explored:

- PEPUDA (2000) provides teachers with examples of unfair practices which could potentially unfairly discriminate against learners.
- *Manifesto on values, education and democracy* document (Department of Basic Education, 2001) supports teachers by highlighting the ten democratic values within South Africa and their importance in education systems and practices.

- SCCFS document (DEB, 2008) provides teachers with basic elements of what a safe school environment entails and also supports teachers with general implementation guidelines on how to ensure that such an environment is created.
- SACE Code of Professional Ethics (SACE, 2000) provides teachers with the standards and conduct expected from a teacher as professional.

The above-mentioned policies and guidelines are only a few of the policies and documents which could assist teachers in creating an environment of sexual equality within schools. It is, however, of the utmost importance for teachers to be aware of these guidelines that could assist them. The implementation of these guidelines within even one classroom could make a difference and spread out to the school.

The *fourth chapter* contained detailed descriptions of the design, methods, methodologies, procedures and ethical considerations followed before, during and after the empirical data generation. This study was embedded within a qualitative research methodology (*cf.* 1.6.3.2; 4.3) and phenomenological research design (*cf.* 1.6.3.1) which followed numerous research procedures (*cf.* 4.4.2). Strategies for ensuring trustworthiness (*cf.* 4.6) were described, and the ethical procedures and considerations (*cf.* 4.7) were explored.

### **6.2.3 Empirical findings**

The *fifth chapter* provided a detailed discussion of the empirical research which explored (1) the (non)realisation of LGBTQ+ students' experience of sexual equality when they were at school together with (2) guidelines which participants suggested for teacher-education programmes for the promotion of sexual equality. Findings in this regard are summarised below:

The first pertinent answer that was gathered through the data is that sexual equality in schools did not exist for the majority of the participants (n = 16/18) (*cf.* 5.3). The majority of this study's participants indicated that they were not only bullied by peers, but that they also experienced bullying from teachers and parents. The core findings within the themes will now be discussed.

#### **6.2.3.1 LGBTQ+ participants internalised heteronormative assumptions (*cf.* 5.3.1)**

Non-conformity was a key concept within the experiences of the participants. They emphasised that they were directly and indirectly made to feel like outsiders within the school context. Participants' lived experiences also indicated that the heteronormative assumptions within society and schools become internalised standards which influence LGBTQ+ learners in

different ways. Participants expressed feeling that other peers and role-players could see their non-conforming sexualities without the LGBTQ+ learners having to say it. The internalisation of heteronormativity creates a definite binary between “us” and “them”. It is essential to emphasise that this binary is not also externally created by heterosexual role-players but that LGBTQ+ learners have internalised the “othering” categorisation. By internalising their “other-ed” status, LGBTQ+ learners strengthen the binary and seemingly start to withdraw from their educational environment even before the heterosexual majority bullies them.

#### **6.2.3.2 LGBTQ+ participants experienced sexual inequality through educational systems and climates as well as through the actions of educational role-players (cf. 5.3.2)**

Participants highlighted that it was not just role-players within the education system that created a sexually unequal environment, but that it was also the school curriculum, climate and values which created an environment where they felt as if they did not belong. The empirical data showed that a code of conduct within a school can be created to support a heteronormative standard which suppresses LGBTQ+ learners’ sexual equality. Aspects such as dress codes and bathroom facilities within schools have the power to create inequality for learners who do not conform to the heteronormative assumptions of what is “normal”. A school’s school climate was also mentioned and there were mentions that LGBTQ+ learners did not feel that they could talk about or express their sexual orientation because some experiences envisioned schools to handle sexual orientation as a “taboo” subject. The data also brought up the concept of segregation which supports the binary of “them” and “us”. Segregation also led in certain instances to safe zones created by LGBTQ+ learners. LGBTQ+ learners thus created groups amongst themselves as support against bullying and harassment. Another form of sexual inequality within the lived experiences of this study’s participants was the microaggressions by role-players in the education system. The microaggressions came from the following people:

- Parents who expressed that their children should not be taught together with LGBTQ+ learners
- Teachers who forced their religious views onto LGBTQ+ learners
- Teachers who taught learners that LGBTQ+ constitutes abnormal behaviour
- Teachers’ views which prevented learners from expressing themselves

- Peers who created segregation
- Peers who bullied and harassed LGBTQ+ learners

Some of these instances are single events, but all of the mentioned microaggressions fall under the umbrella of bullying practices within schools. These practices highlight the important role that teachers have in applying the policies and guidelines which promote sexual equality. It is, however, also necessary to look at the positive experiences which LGBTQ+ participants described from their lived experiences.

#### **6.2.3.3 LGBTQ+ participants experienced sexual equality within education which led to increased self-esteem and teaching-learning (cf. 5.3.3)**

Participants did not have much to say regarding their positive sexual equality experiences, but those who did elaborate on them explained accepting environments which made them feel as if they were part of the education system. A liberal environment (refers to an environment which is accepting and respecting of different contexts, characteristics and individualities) gave learners an opportunity to explore their sexual orientation in a safe and accepting environment. In instances where participants mentioned the realisation of sexual equality at their schools, they emphasised the positive influence it had on not only their self-esteem but also their teaching-learning experiences.

#### **6.2.3.4 Pre-service teacher programme guidelines as provided by LGBTQ+ participants (cf. 5.4)**

Participants were also asked if they had any guidelines, stemming from their lived experiences, to provide for teacher-education programmes regarding the promotion of sexual equality in schools. They provided numerous ideas as described in 5.4; the most important guidelines to this study's focus will now be discussed.

Guideline one: education students should attend inclusive programmes which teach them strategies which promote, acknowledge and embrace (1) accepting environments; (2) teaching about diversity; (3) strategies to combat heteronormativity; (4) strategies on how to create open discussion regarding sensitive topics; (5) awareness programmes of gender and sexual orientation identities; (6) acting within the law and (7) safe zone training programmes.

Guideline two: education students should go for in-depth training courses on diversified sexual orientations and gender identities.

Guideline three: Safe zone and LGBTQ+ sensitivity training should be provided in teacher-education programmes in order for student teachers to have knowledge about different types of sexualities and genders and ways in which education should be provided in a respectful and inclusive manner.

#### **6.2.4 Conclusion to findings**

The findings within this section have addressed the research question (*cf.* 1.3) and the aims and objectives (*cf.* 1.4) set out in this study. These findings have explored the determinants of sexual equality in both a theoretical and legal framework. It also has explained the lived experiences of LGBTQ+ students relating to the (non)realisation of sexual equality within schools. The findings finally also described the guidelines which LGBTQ+ participants gave for pre-service teacher programmes towards the promotion of sexual equality within schools. The recommendations within the next section will be derived from the theoretical and legal findings together with the empirical findings. These recommendations will attempt to propose ways in which teachers and student teachers can promote sexual equality within schools. These recommendations will now be discussed.

### **6.3 Recommendations**

The recommendations suggested here are drawn from findings related to (1) theoretical determinants of sexual equality, (2) legal determinants for sexual equality and (3) the lived experiences of LGBTQ+ university students when they were at school. This section will include ways in which teacher education could contribute towards equality in schools while also adding that student teachers should learn the knowledge, skills and attitudes needed to be able to implement the values needed to understand and interpret sexual equality principles, methods and strategies within their classrooms.

#### **6.3.1 Recognition of the concept sexual equality**

The right to equality is based on numerous prohibited grounds for unfair discrimination (*cf.* 1.5.2; 3.4). The concept of sexual equality should be recognised within education and other practices as a positive right which stipulates that all individuals are entitled to equality based on sexual orientation, whether it is based in practice, family life or society in general. Only when sexual equality is truly acknowledged and seen being implemented and acknowledged within the actions and regulations of society will a step towards improving sexual equality be achieved. PEPUDA, for instance, only lists sexual orientation as prohibited grounds for unfair discrimination but does not elaborate on the type of practices which could constitute these acts of inequality within society. To emphasise the unfamiliarity of sexual equality, a few

participants in this study confused gender equality with sexual equality and thought that these two concepts are one and the same. The recognition of this specific subject (without its reference to all other prohibited grounds for equality) could in itself suggest methods and strategies on how teacher education programmes and education systems could start addressing these problems.

### **6.3.2 Diversity-driven inclusive education**

The word inclusive is used in education to refer to the strategies and methods used to address special needs within education (Department of Basic Education, 2001). Maguvhe (2015:1) describes inclusive education as a “transformation tool” that may create a human-rights-based approach which welcomes and encourages diversity within schools and, more importantly, society. Maguvhe (2015:2) furthermore explains how individuals within the education system need a perspective shift in order for them to become contributors to “the agenda for inclusivity”; this can be done when individuals undergo three internal steps:

- Use new information about diversity to understand themselves and their identity
- Make a shift in and improve their beliefs
- Adapt their behaviour to be respectful to a diversified environment

Wilmot and Naidoo (2014:335) also emphasise that textbooks and school policies should be designed and written in such a way that they assist learners with respecting their own and each other’s identities and make way for teachers to teach respect, responsibility and liberation to learners. Teachers can create a supportive and safe environment for learners by using an inclusive education approach within their classrooms (Johnson, 2014:1251). These inclusive schools can only be developed and implemented if teachers and school staff receive teacher-education programmes and developmental programmes which will provide them with “theoretical knowledge and practical intervention skills that can be used to respectfully and insightfully create inclusive classrooms for learners, where they can feel free to discuss and ask questions regarding sensitive topics such as race, sexual orientation and culture without feeling unwelcome or unsafe” (Francis, 2017:85; Johnson, 2014:1251).

A diversity-driven inclusive education would not only focus on disability but would rather focus on strategies and methods which advice teachers how to acknowledge and celebrate difference within their classrooms. Such a programme would, for instance, describe all prohibited grounds for unfair discrimination specifically within the context of education. It would suggest ways in which teachers could prevent “othering” because of sexual orientation

or gender. These programmes would be built on the lived experiences of participants and the ways in which their lived experiences could inform classroom rules and other forms of guidelines and strategies. Teachers and learners would be seen as constant collaborators who share lived experiences within an equal environment in order for them to create classroom rules and the accompanying responsibilities which are critically derived through challenging, disrupting and dismantling oppressive structures. Diversity-driven inclusive education would be twofold: (1) it would acknowledge diversity within South African society and (2) it would search for ways in which inclusive strategies for education could be implemented. Programmes like these will not and cannot be a onetime thing, it should rather be seen as continuously improving, and as society progresses and student teachers and teachers should be reminded of the necessity of implementing an inclusive system within a diversified country such as South Africa.

### **6.3.3 LGBQ+ awareness programmes**

The empirical findings within this study make it clear that some of the schools within South Africa are built upon heteronormative standards which are influenced by certain cultures, genders, religious beliefs and ethnicities. It is necessary for teachers to receive LGBQ+ awareness programmes which could inform them about different types of sexualities, genders and non-conforming orientations within society. Programmes like these would not just sensitise teachers, but they would also give teachers an opportunity to learn how to be respectful of issues that they sometimes do not understand. Programmes of this nature could consist of conceptualisations of terms within the LGBQ+ community, ways in which to use neutral words when referencing someone's sexual or gender identity, strategies on how to recognise oppressive rules or regulations, community programmes that could support LGBQ+ learners, and so much more. These programmes should equip teachers and student teachers with critical skills (*cf.* 2) as well as an understanding of legal protection of sexual equality (*cf.* 3).

### **6.4 Self-reflection of the study**

Journaling was used during the research processes. It was done in an informal manner where concept clarification and research ideas, contrasts and similarities were written down to assist me with the theoretical and legal frameworks as well as the strategies and methods I wanted to use within this study. I also reflected on my progress during the duration of the study and on the ideas which prompted ways in which answers to the research questions could be reached. Journaling was only a method of self-reflection; for that reason, it will not

be added as attachment to this study. The following key features were prominent within my journaling:

- Opportunities within the literature: I used literature which was relevant to (1) the theoretical perspectives which might provide sexual equality determinants; (2) the basic legal framework which informed the right to equality within South African society and sexual equality within education. I specifically looked for research within the fields of LGBTQ+ studies in education and equality studies within South Africa; the combination of these two was used in chapters two and three of this study.
- Strategies and procedures within methods, methodology and procedures: because this study is embedded within a qualitative methodology, it was necessary for me to think and rethink the strategies and procedures I used before, during and after the data generation process. Strategies before the generation process involved ethical issues of how to come into contact with the participants (*cf.* 4.4.2), the risk (*cf.* 4.7.3) participants may endure in the study and the procedures for generating data (*cf.* 4.4). Procedures which had to be considered after data generation consisted of the validity of the data analysis procedures (*cf.* 4.6) followed.

## **6.5 Limitations of the study**

The following limitations were encountered during this study:

### **6.5.1 Concept of sexual equality**

It was challenging to search for information regarding sexual equality within both society and education. The reason for this challenge was that there were very few articles which acknowledged or used the concept of sexual equality. I had to look at articles and laws and policies which infer the right to equality based on sexual orientation, and within the theoretical chapter, I had to look for the basic and in-depth descriptions of each perspective in general and then relate it to sexual equality within education. This concept serves as the celebration of equality for sexual minorities within communities; it then also emphasises the need for people to acknowledge and respect people with different sexual orientations.

### **6.5.2 Online questionnaire as qualitative phenomenological data generation strategy**

A phenomenological research design (*cf.* 1.6.3.1; 4.2) is based on the lived experiences of participants and contains data which is rich and descriptive. The online questionnaire was used because this study is a medium-risk study because the participants are a minority group within society that has endured discrimination and oppression. Interviews were initially

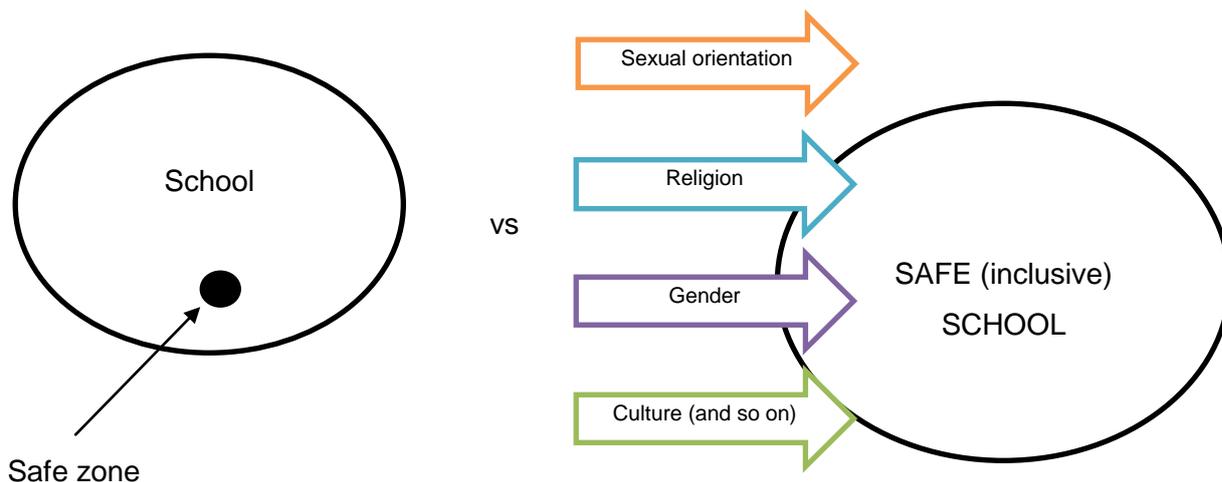
planned to gather rich data about the lived experiences of LGBTQ+ participants when they were at school. However, because the study was deemed as sensitive (within its sexual orientation focus), the ethical permission recommended the use of online open-ended questionnaires. For that reason, the data generation method decided on was an open-ended online questionnaire on SurveyMonkey. It was challenging to ask participants to participate in the study indirectly, working through mediators. Participants in some cases did not elaborate on their lived experiences and sometimes answered the open-ended questions with yes/no answers. The yes/no answers decreased the rich data; follow-ups were not possible (because of ethical implications), and the short answers to open-ended questions had to be enough. In this regard, it was difficult to derive the full experience of participants and to prompt questions which would lead to more questions.

## **6.6 Issues for further research**

Through the process of completing this study, the following areas were identified as areas that deserve further research:

### **6.6.1 Relevance of safe zones**

Within the empirical data, reference was made to safe zones created by LGBTQ+ learners to support and protect each other. The question arose of how the small safe zone within a whole school could be expanded to include all learners and teachers within the whole school instead of being just a small space. Reference can be made to the illustration as proposed in Figure 6-2. Although these safe zones are assisting and protecting small groups through support of each other, they are still a sign of the oppressive structures pertinent within South African education systems. The questions that I thought of when I read about “safe zones” are: (1) What happens when the LGBTQ+ learners have to go out of these spaces? (2) How do we go from a school that has a small group of learners who are each other’s safe spaces to a school where the environment in its entirety is a safe zone? (*cf.* Figure 6-2) There is only need for safe zones if the culture, norms and code of conduct of the school makes learners feel that they are unsafe away from their LGBTQ+ friends.



**Figure 6-2 Safe zone within a school vs safe school**

### 6.6.2 Relation and difference between gender equality and sexual equality

The empirical data also emphasised the assumption that gender equality is the same as sexual equality. Although these topics sometimes become intertwined with non-conforming identities, there is seemingly confusion between these two topics in LGBTQ+ studies. This might be because LGBTQ+ studies mostly involve both sexuality and gender. It is essential that the difference between these two topics within LGBTQ+ studies be investigated.

## 6.7 Conclusion

De Wet and Van Vollenhoven (2015:1) call for an increasing awareness of the 21st century society's diversified population, which consists, *inter alia*, of multiple sexual orientations, cultures and religions. These diversified identities could be found at any South African school. Francis (2017:71) describes how the South African education system has progressed to having some schools that now recognise and identify LGBTQ+ learners within classrooms and the school environment but that there are still inconsistencies within the process and methods used to create inclusive education. These inconsistencies include bullying and harassment and the unwelcoming heteronormative assumptions that create oppressive structures within schools by "othering" learners who do not conform to the ideals and standards created by the assumption of what it means to be 'normal' in an heteronormative society. Role-players, such as school governing bodies, teachers, parents and learners, within the education system have a very important role to play in challenging sexual inequality within educational systems. Role-players could challenge, disrupt and dismantle oppressive structures in numerous ways, namely, through policies and guidelines, through teaching strategies, through educational resources and through values and standards created within classrooms and schools.

Inclusivity within schools can play a big role in combating heteronormativity and sexual inequality, but in order for teachers to be able to implement inclusive education, they have to be aware of different types of sexual orientations and gender identities and ways in which they could, instead of supporting heteronormativity, start to challenge and disrupt heteronormative behaviour and assumptions. LGBTQ+ programmes could assist teachers to become aware of their own biased assumptions regarding sexual orientation and progressively deal with their biased behaviour by pro-actively learning and challenging oppressive structures such as “othering” and victimisation within their classrooms. Sexual equality within education is an ongoing issue which creates unsafe and dissatisfactory environments for learners. Teachers should be well equipped and informed about law and policies relevant to education and the ways in which (sexual) equality could be promoted within their classrooms.

This study explored the lived experiences of LGBTQ+ students regarding education-related sexual equality. It found that there are still numerous forms of oppression regarding sexual equality within education, although laws and policies recognise sexual orientation as prohibited ground for unfair discrimination. This emphasises that there is still a gap between what laws and policies state should happen and the real life experiences of sexual equality within education. Laws have limits and it is imperative that other disciplines contribute to the creation of an inclusive culture where diversity is celebrated.

## REFERENCE LIST

Acker, J., Barry, K. & Esseveld, J. 1983. Objectivity and truth: problems in doing feminist research. *Women's studies international forum*, 6:423-435.

Acts **see** South Africa.

Albertyn, C. 2007. Substantive equality and transformation in South Africa. *South African journal for human rights*, 23(2):253-276.

Albertyn, C., Fredman, S. & Fudge, J. 2007. Introduction: substantive equality, social rights and women: a comparative perspective. *South African journal for human rights*, 23(2):209-213.

Allen, K.R. 2000. A conscious and inclusive family studies. *Journal of marriage and the family*, 62:4-17.

Allen, K. & Jaramillo-Sierra, A. 2015. Feminist theory and research on family relationships: pluralism and complexity. *Sex roles*, 73(3-4):93-99.

Allen, S.H. & Mendez, S.N. 2018. Hegemonic heteronormativity: Towards a new era of queer family theory. *Journal of family theory & review*, 10(March 2018):70-86.

Amankwaa, L. 2016. Creating protocols for trustworthiness in qualitative research. *Journal of cultural diversity*, 23(3):121-127.

Arendt, H. 1990. Philosophy and politics. *Social research*, 57(1):73-103.

Ball, A.S. 2015. Disruptive pedagogy: incorporating critical theory in business law clinics. *Clinical law review*, 22(1):1-53.

Becker, A., De Wet, A. & Parker, G. 2014. Moving towards understanding one another: Cornelia Roux on religion, culture and human rights. *Journal for the study of religion*, 27(1):234-266.

Becker, A., De Wet, A. & Van Vollenhoven, W.J. 2015. Human rights literacies: moving towards rights-based education and transformative action through understandings of dignity, equality and freedom. *South African journal of education*, 35(2):1-12.

- Becker, A. & Du Preez, P. 2016. Ideological illusions, human rights and the right to education: The in(ex)clusion of the poor in post-apartheid education. *Journal of education*, 64:55-78.
- Becker, A. & Roux, C. 2019. (Re)-capturing human rights literacies: starting conversations. (In Roux, C. & Becker, A. eds. *Human rights literacies: future directions*. Springer. p. 277-300).
- Beckmann, J. & Prinsloo, J. 2015. Research education: developing globally competent researchers for international and interdisciplinary research. *Quality, social justice and accountability in education worldwide. BCES conference books*, 13(1):395-402.
- Beegan, R. & Moran, J. 2017. Prostitution and sex work: situating Ireland's new law on prostitution in the radical and liberal feminist paradigm. *Irish journal of applied social studies*, 17(1):59-75.
- Berg, B.L. & Lune, H. 2014. *Qualitative research methods for the social sciences*. 8th ed. New York, NY: Pearson Education.
- Berlant, L. & Warner, M. 1998. Sex in public. *Critical inquiry*, 24(2):547-566.
- Best, J.W. & Kahn, J.V. 2006. *Research in education*. 10th ed. New York, NY: Pearson Education.
- Best, B., Bonefeld, W. & O'Kane, C. 2018. *The SAGE handbook of Frankfurt school critical theory*. London, UK: SAGE.
- Bhana, D. 2012. Understanding and addressing homophobia in schools: a view from teachers. *South African journal of education*, 32(3):307-318.
- Bhana, D. 2013. The horizontal application of the Bill of Rights: a reconciliation of sections 8 and 39 of the Constitution. *South African journal on human rights*, 29(2):351-375.
- Bhana, D. 2014. Ruled by hetero-norms? Raising some moral questions for teachers in South Africa. *Journal of moral education*, 43(3):362-376.
- Bickmore, K. 2002. How might social education resist heterosexism? Facing the impact of gender and sexual ideology on citizenship. *Theory & research in social education*, 30(2):198-216.
- Boeije, H. 2010. *Analysis in qualitative research*. London: Sage.

- Bowins, B. 2016. A four-component model of sexual orientation & its application to psychotherapy. *American journal of psychotherapy*, 70(3):251-276.
- Brand, D. 2005. Introduction to socio-economic rights in the South African Constitution. (In Brand, D. & Heyns, C. eds. *Socio-economic rights in South Africa*. Pretoria: Pretoria University Law Press. p. 1-56).
- Brikkels, M.A. 2015. Social and educational experiences of secondary school lesbian youth. Pretoria: UP. (Thesis – MBA).
- Brisolara, S., Seigart, D. & SenGupta, S. 2014. *Feminist evaluation and research: Theory and practice*. New York, NY: Guilford Press.
- Butler, A.H., Alpaslan, A.H., Strümpher, J. & Astbury, G. 2003. Gay and lesbian youth experiences of homophobia in South African secondary education. *Journal of gay & lesbian issues in education*, 1(2):3-28.
- Cameron, D. & Kulick, D. 2003. *Language and sexuality*. Cambridge: Cambridge University Press.
- Cameron, E. 2014. *Justice: a personal account*. Cape Town: Tafelberg publishers.
- Campbell, S., Alexander, K. & Smith, K. 2017. Are we there yet? Gender equity journeys in early childhood practises. (In Smith, K., Alexander, K. & Campbell, S., eds. *Feminism(s) in early childhood: using feminist theories in research and practise*. Singapore: Springer. p. 179-192).
- Carastathis, A. 2013. Basements and intersections. *Hypatia*, 28(4):698-715.
- Ceplak, M.M. 2013. Heteronormativity: school, ideology, and politics. *Journal of pedagogy*, 4(2):162-187.
- Chegeni, N. & Chegeni, N. 2013. A closer look at the concept of teacher education: focusing on pre-service and in-service teacher education programs. *International research journal of applied and basic sciences*, 4(8):2092-2095.
- Christiansen, E.C. 2016. Substantive equality and sexual orientation: twenty years of gay and lesbian rights adjudication under the South African Constitution. *Cornell international law journal*, 49(3):565-615.

- Cho, S., Crenshaw, K.W. & McCall, L. 2013. Towards a field of intersectionality studies: Theory, applications and praxis. *Signs*, 38(4):785-810.
- Clarke, V., Ellis, S.J., Peel, E. & Riggs, D.W. 2010. Lesbian, gay, bisexual, trans & queer psychology. Edinburgh: Cambridge University Press.
- Cleary, M., Horsfall, J. & Hayter, M. 2014. Data collection and sampling in qualitative research: does size matter? *Journal of advanced nursing*, 70(3):473-475.
- Coady, M.M. 2017. Feminism and the development of early childhood education in Australia. (In Smith, K., Alexander, K. & Campbell, S., eds. *Feminism(s) in early childhood: using feminist theories in research and practise*. Singapore: Springer. p. 11-24).
- Connelly, L.M. 2016. Understanding research: trustworthiness in qualitative research. *MEDSURG nursing*, 25(6):435-436.
- Constitution **see** South Africa.
- Cope, D.G. 2014. Methods and meanings: credibility and trustworthiness of qualitative research. *Oncology nursing forum*, 41(1):89-91.
- Creswell, J.W. 2009. *Research design: qualitative, quantitative, and mixed methods approaches*. 3rd ed. Thousand Oaks, CA: Sage.
- Creswell, J.W., Hanson, W.E., Clark Plano, V.L. & Morales, A. 2007. Qualitative research designs: selection and implementation. *The counselling psychologist*, 35(2):236-264.
- Crisp, C. 2014. White and lesbian: intersections of privilege and oppression. *Journal of lesbian studies*, 18(2):106-117.
- Currie, I. & De Waal, J. 2013. *The Bill of Rights handbook*. 6th ed. Cape Town: Juta.
- Darawsheh, W. 2014. Reflexivity in research: promoting rigour, reliability and validity in qualitative research. *International journal of therapy & rehabilitation*, 21(12):560-568.
- David, E.J.R. & Derthick, A.O. 2014. What is internalized oppression, and so what? (In David, E.J.R., ed. *Internalized oppression: the psychology of marginalized groups*. New York, NY: Springer. p. 1-30).
- Department of Basic Education **see** South Africa. Department of Basic Education.

- Dembour, M. 2010. What are human rights? Four schools of thought. *Human rights quarterly*, 32(1):1-20.
- DePalma, R. & Atkinson, E. 2006. The sound of silence: talking about sexual orientation and schooling. *Sex education*, 6(4):333-349.
- DePalma, R. & Francis, D. A. 2014a. The gendered nature of South African teachers' discourse on sex education. *Health education research*, 29(4):624-632.
- DePalma, R. & Francis, D. 2014b. South African life orientation teachers: (not) teaching about sexuality diversity. *Journal of homosexuality*, 61(12):1687-1711.
- DePalma, R. & Jennett, M. 2010. Homophobia, transphobia and culture: deconstructing heteronormativity in English primary schools. *Intercultural education*, 21(1):15-26.
- Department of Basic Education. 1998. Guidelines for the consideration of governing bodies in adopting a code of conduct for learners.
- Department of Basic Education. 2001. Education white paper 6: special needs education (building an inclusive education and training system).
- Department of Basic Education. 2008. Implementation guidelines: safe and caring child-friendly schools in South Africa, jointly issued with UNICEF, 2008. Available: [https://www.unicef.org/southafrica/resources\\_8150.html](https://www.unicef.org/southafrica/resources_8150.html) Date of access: 11 Nov. 2016.
- Department of Basic Education. 2011. Evaluation of the safe and caring child-friendly schools programme, jointly issued with UNICEF, 2011.
- Dessel, A.B., Kulick, A., Wernick, L.J. & Sullivan, D. 2017. The importance of teacher support: differential impacts by gender and sexuality. *Journal of adolescence*, 56(2017):136-144.
- Dhawan, N. & Castro Varela, M.M. 2016. What difference does difference make: diversity, intersectionality, and transnational feminist politics. *Wagadu: Journal of transnational women's & gender studies*, 16:10-39.
- De Wet, A. 2017. Human rights and sexuality – reimagining the language of equality towards transformation in and through education. *South African journal of higher education*, 31(6):113-132.

De Wet, A. 2018. Gender and education in South Africa. (In De Wet, A., ed. Diversity and difference in South African schools. Cape Town: Juta. p. 53-90).

De Wet, A., Rothmann, J. & Simmonds, S. 2016. Human rights: protecting sexual minorities or enforcing the boundaries of 'the closet'? *South African review of sociology*, 47(3):85-109.

De Wet, A. & Van Vollenhoven, W. 2015. Inclusivity: applications of dignity, equality and freedom. *International journal of education law and policy*, Special edition:1-20.

De Wet, E. & Du Plessis, A. 2010. The meaning of certain substantive obligations distilled from international human rights instruments for constitutional environmental rights in South Africa. *African human rights journal*, 10:345-376.

Dill, B.T., McLaughlin, A.E. & Nieves, A.D. 2006. Future directions of feminist research: intersectionality. (In Hesse-Biber, S.N., ed. Handbook of feminist research theory and praxis. Thousand Oaks: Sage. p. 629-37).

Du Preez, P. & Becker, J.A. 2016. Ontologies and possibilities of human rights: Exploring dissensus to facilitate reconciliation in post-conflicts education contexts. *Perspectives in education*, 34(3):1-14.

Dugosh, K.L., Festinger, D.S., Croft, J.R. & Marlowe, D.B. 2010. Measuring coercion to participate in research within a doubly vulnerable population: initial development of the coercion assessment scale. *Journal of empirical research on human research ethics*, 5(1):93-102.

Elo, S., Kääriäinen, M., Kanste, O., Pölkki, T., Utriainen, K. & Kyngäs, H. 2014. Qualitative content analysis: a focus on trustworthiness. *SAGE open*, January-March:1-10.

Fahs, B. & McClelland, S.I. 2016. When sex and power collide: An argument for critical sexuality studies. *The journal of sex research*, 53(4-5):392-416.

Farber, B.A. 2006. Self-disclosure in psychotherapy. New York, NY: Guilford Press.

Farr, A.L., Perry-Farr, A.L. & Perry-Farr, L.N. (2016). Conference plenary: when liberation movements become one-dimensional: on critical theory and intersectionality. *New political science*, 38(4), 465-475.

Few-Demo, A.L. 2014. Intersectionality as the "new" critical approach in feminist family studies: evolving racial/ethnic feminisms and critical race theories. *Journal of family theory and review*, 6:169-183.

- Few-Demo, A.L., Humble, Á.M., Curran, M.A. & Lloyd, S.A. 2016. Queer theory, intersectionality, and LGBT-parent families: transformative critical pedagogy in family theory. *Journal of family theory & review*, 8(1):74-94.
- Fields, J. & Payne, E. (2016). Editorial introduction: gender and sexuality taking up space in schooling. *Sex Education*, 16(1), 1-7.
- Fineman, M. 2009. Introduction: feminist and queer legal theories. (In Fineman, M., Jackson, J. & Romero, A., eds. *Feminist and queer legal theory: intimate encounters, uncomfortable conversations*. Bodmin, UK: MPG Books. p. 1-6).
- Flick, U. 2009. *An introduction to qualitative research*. 4th ed. London: Sage.
- Flick, U. 2014. *An introduction to qualitative research*. 5th ed. London: Sage.
- Fraenkel, J.R., Wallen, N.E. & Hyun, H. 2015. *How to design and evaluate research in education*. 9th ed. New York, NY: McGraw-Hill.
- Francis, D.A. 2012. Sexuality education in South Africa: wedged within a triad of contradictory values. *Journal of psychology in Africa*, 21(2):317-322.
- Francis, D.A. 2017. *Troubling the teaching and learning of gender and sexuality diversity in South African education*. New York, NY: Palgrave Macmillan.
- Francis, D. & Reygan, F. 2016. "Let's see if it won't go away by itself." LGBT microaggressions among teachers in South Africa. *Education as change*, 20(3):180-201.
- Francis, D. & Msibi, T. 2011. Teaching about heterosexism: challenging homophobia in South Africa. *Journal of LGBTQ+ youth*, 8(2):157-173.
- Fredman, S. 2005. Providing equality: substantive equality and the positive duty to provide. *South African journal for human rights*, 21(2):163-190.
- Fusch, P.I. & Ness, R.L. 2015. Are we there yet? Data saturation in qualitative research. *The qualitative report*, 20(9):1408-1416.
- Gamble, S. 2001. Postfeminism. (In Gamble, S. *The Routledge companion to feminism and post feminism*. New York, NY: Routledge. p. 43-54).
- Garner, B.A. 2009. *Black's law dictionary*. 9th ed. St Paul, MN: Thomson Reuters.

Gegenfurtner, A. & Gebhart, M. 2017. Sexuality education including lesbian, gay, bisexual, and transgender (LGBT) issues in schools. *Education research review*, 22:215-222.

Ghajarieh, A.B. & Mozaheb, M.A. 2012. Rethinking gender and sexuality in education. *International journal of higher education*, 1(1):178-180.

Goodhand, M. 2014. Teachers' perceptions of heteronormativity in elementary schools: the hidden and evaded curricula of gendered diversity. Charlotte, NC: University of North Carolina. (Dissertation - PhD).

Graneheim, U.H., Lindgren, B.M. & Lundman, B. 2017. Methodological challenges in qualitative content analysis: a discussion paper. *Nurse education today*, 56:29-34.

Guest, G., Bunce, A. & Johnson, L. 2006. How many interviews are enough? An experiment with data saturation and variability. *Field methods*, 18(1):59-82.

Guetterman, T.C. 2015. Descriptions of sampling practices within five approaches to qualitative research in education and the health sciences. *Forum: qualitative social research*, 16(2):art. 25. <http://nbn-resolving.de/urn:nbn:de:0114-fqs1502256>.

Hagström, C. 2015. Questions and answers in the archives: knowledge production through open-ended questionnaires. Abstract from SIEF Congress, 2015, Zagreb, Croatia, 21-25 June. <https://lup.lub.lu.se/search/publication/7510690#?> Date of access: 15 Jun. 2017.

Hall, D. 2003. *Queer theories*. New York, NY: Palgrave MacMillan.

Hamilton, M.L. & Pinnegar, S. 2014. Interpretation and gender within the zone of inconclusivity. (In Taylor, M. & Coia, L., eds. *Gender, feminism, and queer theory in the self-study of teacher education practises*. Rotterdam: Sense. p. 44-60).

Hardiman, R., Jackson, B. & Griffin, P. 2007. Conceptual foundations for social justice education. (In Adams, M., Bell, L.A. & Griffin, P., eds. *Teaching for diversity and social justice*. 2nd ed. New York, NY: Routledge. p. 35-66).

Hart, C. 2018. *Doing a literature review: releasing the social science research imagination*. London, UK: Sage.

Hogg, M.A. 2016. Social identity theory. (In McKeown, S., Haji, R & Ferguson, N., eds. *Understanding peace and conflict through social identity theory: contemporary global perspective*. Cham, Switzerland: Springer. p. 3-17).

- Horkheimer, M. 2002. *Critical theory: selected essays*. New York, NY: Continuum.
- How, A. 2003. *Critical theory*. New York, NY: Palgrave Macmillan.
- Human Rights Watch. 2001. *Scared at school: sexual violence against girls in South African schools*. New York, NY.
- Jensen, S.Q. 2011. Othering, identity formation and agency. *Qualitative studies*, 2(2):63-78.
- Jiang, L.C., Yang, I.M. & Wang, C. 2017. Self-disclosure to parents in emerging adulthood. *Journal of social & personal relationships*, 34(4):425-445.
- Johnson, A.G. 2006. *Privilege, power, and difference*. 2nd ed. New York, NY: McGraw Hill.
- Johnson, B. 2014. The need to prepare future teachers to understand and combat homophobia in schools. *South African journal of higher education*, 28(4):1249-1268.
- Johnson, D., Pete, S. & Du Plessis, M. 2001. *Jurisprudence: a South African perspective*. Pietermaritzburg: Interpak Books.
- Jones, T. 2011. A sexuality education discourses framework: conservative, liberal, critical, and postmodern. *American journal of sexuality education*, 6(2):133-175.
- Jones, T., Smith, E., Ward, R., Dixon, J., Hillier L. & Mitchell, A. 2016. School experiences of transgender and gender diverse students in Australia. *Sex education*, 16(2):156-171.
- Juvonen, J. & Graham, S. 2014. Bullying in schools: the power of bullies and the plight of victims. *Annual review of psychology*, 65, 159-185.
- Keet, A. 2009. Reflections on the colloquium within a human rights discourse. (In Nkomo, M. & Vandeyar, S., eds. *Thinking diversity while building cohesion: transnational dialogue on education*. Pretoria: UNISA Press).
- Keet, A. 2012. Discourse, betrayal, critique: The renewal of human rights education. (In Roux, C.D., ed. *Safe spaces: human rights education in diverse contexts*. Rotterdam: Sense. p. 7-28).
- Keet, A., Nel, W. & Sattarzadeh, S.D. 2017. Retreating rights: human rights, pre-theoretical praxes and student activism in South African universities. *South African journal of higher education*, 31(6):79-95.

- Kok, J.A. 2007. A socio-legal analysis of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. Pretoria: UP. (Thesis - LLD).
- Kok, A. 2010. Is law able to transform society? *South African law journal*, 127: 59-83.
- Kornbluh, M. 2015. Combatting challenges to establishing trustworthiness in qualitative research. *Qualitative research in psychology*, 12(4):397-414.
- Kosciw, J.G., Neal, A.P. & Kull, M.R. 2014. Reflecting resiliency: Openness about sexual orientation and/or gender identity and its relationship to well-being and educational outcomes for LGBT students. *American journal of community psychology*, 55(1-2):167-178.
- Krumer-Nevo, M. & Komem, M. 2015. Intersectionality and critical social work with girls: theory and practice. *British journal of social work*, 45(4):1190-1206.
- Kumar, R. 2005. Research methodology: a step-by-step guide for beginners. 2nd ed. London: Sage.
- Kumashiro, K. 2000. Toward a theory of anti-oppressive education. *Review of educational research*, 70:25-53.
- Kwate, N.O.A. & Goodman, M.S. 2014. An empirical analysis of White privilege, social position and health. *Social science & medicine*, 116:1-29.  
<http://doi.org/10.1016/j.socscimed.2014.05.041>
- Kymlicka, W. (2007). Multicultural odysseys: navigating the new international politics of diversity. Oxford: Oxford University Press.
- Larsson, H., Redelius, K. & Fagrell, B. 2011. Moving (in) the heterosexual matrix. On heteronormativity in secondary school physical education. *Physical education & sport pedagogy*, 16(1):67-81.
- Lather, P. 1991. Getting smart: feminist research and pedagogy with/in the postmodern. New York, NY: Routledge.
- Lee, J. 2006. Beyond pain and protection: politics of identity and Iban girls in Korea. *Journal of lesbian studies*, 10(3-4):49-67.
- Leavy, P. Introduction to privilege through the looking-glass. (In Leavy, P., ed. Privilege through the looking-glass. Rotterdam: Sense. p. 1-6).

- Levit, N. & Verchick, R.M. 2016. *Feminist legal theory*. 2nd ed. New York, NY: New York University Press.
- Lincoln, Y.S. & Guba, E.G. 1985. *Naturalistic inquiry*. Newbury Park, CA: Sage.
- Lorber, J. 2010. *Gender inequality: feminist theories and politics*. New York, NY: Oxford University Press.
- Lovaas, K.E., Elia, J.P. & Yep, G.A. 2006. Shifting ground(s) surveying the contested terrain of LGBT studies and queer theory. *Journal of homosexuality*, 52(1-2):1-18.
- Lutz, H. 2015. Intersectionality as method. *Journal of diversity and gender studies*, 2(1-2):39-44.
- Mackay, F. 2015. *Radical feminism: Feminist activism in movement*. UK: Palgrave Macmillan.
- Madill, A. 2015. Qualitative research is not a paradigm: commentary on Jackson (2015) and Landrum and Garza (2015). *Qualitative psychology*, 2(2):214-22.
- Maguvhe, M. 2015. Inclusive education: a transformation and human rights agenda under spotlight in South Africa. *African journal of disability*, 4(1):1-7.
- Malherbe, R. 2004. Equal education opportunities in South Africa: the constitutional framework. *Tydskrif vir die Suid-Afrikaanse reg*, 37(3):427-447.
- Marecek, J. 2016. Invited reflection: intersectionality theory and feminist psychology. *Psychology of women quarterly*, 40(2):177-181.
- Maree, K. & Pietersen, J. 2016. Sampling. (In Maree, K., ed. *First steps in research*. 2nd ed. Pretoria: Van Schaik. p. 134-159).
- Marinucci, M. 2010. *Feminism is queer: the intimate connection between queer and feminist theory*. New York, NY: Palgrave Macmillan.
- Marshall, B., Cardon, P., Poddar, A. & Fontenot, R. 2013. Does sample size matter in qualitative research?: A review of qualitative interviews in is research. *Journal of computer information systems*, 54(1):11-22.
- Mayer, L.S. & McHugh, P.R. 2016. Sexual orientation. *New Atlantis: a journal of technology & society*, 50:13-58.

- McGlashan, H. & Fitzpatrick, K. 2017. LGBTQ youth activism and school: challenging sexuality and gender norms. *Health education*, 117(5):485-497.
- McHugh, M.C. 2014. Feminist qualitative research: toward transformation of science. (In Leavy, P. ed. *The Oxford handbook of qualitative research*. New York, NY: Oxford University Press. p. 137-164).
- McIntosh, P. 1989. White privilege: unpacking the invisible knapsack. *Peace and freedom*, 49(2):10-12.
- Merriam, S.B. & Tisdell, E.J. 2016. *Qualitative research: a guide to design and implementation*. 4th ed. San Francisco, CA: Jossey-Bass.
- Mitchell, D. & Reid, J. 2017. (Re)turning to practice in teacher education: embodied knowledge in learning to teach. *Teachers and teaching: theory and practice*, 23(1):42-58.
- Mittwede, S. K. 2012. Research paradigms and their use and importance in theological inquiry and education. *Journal of education & Christian belief*, 16(1):23-40.
- Morse, J. 1994. Designing funded qualitative research. (In Denzin, N. & Lincoln, Y., eds. *Handbook for qualitative research*. Thousand Oaks, CA: Sage. p. 220-235).
- Morse, J. 2015. Critical analysis of strategies for determining rigor in qualitative inquiry. *Qualitative health research*, 25(9):1212-1222.
- Msibi, T. 2012. 'I'm used to it now': experiences of homophobia among queer youth in South African township schools. *Gender and education*, 24(5):515-533.
- Msibi, T. 2018. *Hidden sexualities of South African teachers: black male educators and same-sex desire*. New York, NY: Routledge.
- Murphy, E. & Dingwall, R. 2001. The ethics and ethnography. (In Atkinson, P., Coffey, A., Delamont, S., Lofland, J. & Lofland, L., eds. *Handbook of ethnography*. London: Sage. p. 339-351).
- Nadal, K.L. 2008. Preventing racial, ethnic, gender, sexual minority, disability, and religious microaggressions: recommendations for promoting positive mental health. *Prevention in counselling psychology: theory, research, practice and training*, 2(2): 22-27.
- Nagoshi, J.L., Nagoshi, C.T. & Brzuzy, S. 2014. *Gender and sexual identity*. New York, NY: Springer.

Nash, J.C. 2008. Re-thinking intersectionality. *Feminist review*, 89:1-15.

NBAC (National Bioethics Advisory Commission). 2001. Ethical and policy issues in research involving human participants. *Science & government report*. Available: <https://bioethicsarchive.georgetown.edu/nbac/human/overvol1.pdf> Date of access: 1 Apr. 2017.

The National Action Plan to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. 2015. Available: <https://www.sahistory.org.za/sites/default/files/file%20uploads%20/nap-draft-2015-12-14.pdf>

Neal, G. & Eckersley, B. 2014. Immersing pre-service teachers in site based teacher school-university partnership. (In Jones, M. & Ryan, J., eds. *Successful teacher education: partnership, reflective practise and the place of technology*. Rotterdam: Sense. p. 31-48.)

Nieuwenhuis, J. 2007. *Growing human rights and values in education*. Pretoria: Van Schaik.

Nieuwenhuis, J. 2016a. Qualitative research designs and data-gathering techniques. (In Maree, K., ed. *First steps in research*. 2nd ed. Pretoria: Van Schaik. p. 72-102).

Nieuwenhuis, J. 2016b. Analysing qualitative data. (In Maree, K., ed. *First steps in research*. 2nd ed. Pretoria: Van Schaik. p. 104-131).

Nieuwenhuis, J. 2016c. Introducing qualitative research. (In Maree, K., ed. *First steps in research*. 2nd ed. Pretoria: Van Schaik. p. 50-70).

Oosthuizen, I.J. 2015. An ontological premise for education law. (In Oosthuizen, I.J., ed. *Aspects of education law*. 4th ed. Pretoria: Van Schaik. p. 3-12).

O'Reilly, M. & Parker, N. 2012. Unsatisfactory saturation: a critical exploration of the notion of saturated sample sizes in qualitative research. *Qualitative research*, 13(2):190-197.

Palinkas, L.A., Horwitz, S.M., Green, C.A., Wisdom, J.P., Duan, N. & Hoagwood, K. 2015. Purposeful sampling for qualitative data collection and analysis in mixed method implementation research. *Administration and policy in mental health and mental health services research*, 42(5):533-544.

Patton, M.Q. 2002. *Qualitative research and evaluation methods*. 3rd ed. London: Sage.

Patton, M.Q. 2015. *Qualitative research and evaluation methods*. 4th ed. London: Sage

- Pitre, N.Y. & Kushner, K.E. 2015. Theoretical triangulation as an extension of feminist intersectionality in qualitative family research. *Journal of family theory & review*, 7(3):284-298.
- Potgieter, C. & Reygan, F.C. 2012. Lesbian, gay and bisexual citizenship: a case study as represented in a sample of South African life orientation textbooks. *Perspectives in education*, 30(4):39-51.
- Powell, J.L. 2014. *Feminist social theories*. London: Nova Science Publishers.
- Prinsloo, S. 2008. Human rights in education. (In Joubert, R. & Prinsloo, S., eds. *The law of education in South Africa*. 2nd ed. Pretoria: Van Schaik. p. 30-72).
- Quinlivan, K. & Town, S. 1999. Queer pedagogy, educational practice and lesbian and gay youth. *Qualitative studies in education*, 17(5):509-524.
- Radley, H. 2015. South African constitutional and legislative framework on equality: How effective is it in addressing religious discrimination in the workplace? *Obiter*, 36(2):275-292.
- Renn, K.A. 2010. LGBT and queer research in higher education: the state and status of the field. *Educational researcher*, 39(2):132-141.
- Reygan, F. & Francis, D.A. 2015. Emotions and pedagogies of discomfort: Teachers' responses to sexual and gender diversity in the Free State, South Africa. *Education as change*, 19(1):101-119.
- Reyneke, J.M. 2010. Dignity: the missing building block in South African schools? *Juridical science special issue*, 35(1):71-105.
- Richards J.C. & Schmidt, R. 1985. *Dictionary of language teaching and applied linguistics*. London: Pearson Education.
- Rossouw, J.P. 2013. *The security of the professional educator: an education law perspective*. Potchefstroom: NWU. (Inaugural lecture, May 2013).
- Roux, C. & Becker, A. 2015. *Human rights literacies: quest for meaning*. Oslo, Norway: The European Wergeland Centre, Publications Editions of the Council of Europe. Available: <http://www.hrlit.org/human-rights-literacy-a-quest-for-meaning/> Date of access: 15 Feb. 2017.

Roux, C. 2019. The 'literacy turn' in human rights and human rights education. (In Roux, C. & Becker, A. eds. Human rights literacies: future directions. Springer. p. 3-30).

Roux, C. & Becker, A., eds. 2019. Human rights literacies: future directions. Springer. Available at: <https://doi.org/10.1007/978-3-319-99567-0>

Roux, C. & Du Preez, P. 2013. Human rights literacy: a quest for meaning. Available: <http://www.hrlit.org> Date of access: 15 Feb. 2017.

Rumens, N., De Souza, E.M. & Brewis, J. 2018. Queering queer theory in management and organization studies: Notes towards queering heterosexuality. *Organization studies*, 00(0):1-20.

Russell, S.T., Horn, S., Kosciw, J. & Saewyc, E. 2010. Safe schools policy for LGBTQ students and commentaries. *Social Policy Report*, 24(4):1-25.

Ryle, R. 2012. Questioning gender: a sociological exploration. Thousand Oaks, CA: Sage.

SACE (South African Council for Educators). 2000. Code of Professional Ethics (as amended). <https://www.sace.org.za/pages/the-code-of-professional-ethics> Date of access: 19 Oct. 2017.

Sanjakdar, F., Allen, L., Rasmussen, M., Quinlivan, K., Brömdal, A. & Aspin, C. 2015. In search of critical pedagogy in sexuality education: visions, imaginations, and paradoxes. *Review of education, pedagogy & cultural studies*, 37(1):53-70.

Schiek, D. 2016. Revisiting intersectionality for EU anti-discrimination law in an economic crisis - a critical legal studies perspective. *Sociologia Del Diritto*, 2:23-44.

Scout N. 2016. Transgender health and well-being: gains and opportunities in policy and law. *American journal of orthopsychiatry*, 86(4):378-383.

Serfontein, E. & De Waal, E. 2014. Advancing student research in education law. *South African journal of higher education*, 25(5):1593-1606.

Simmonds, S. 2014. Mapping the curriculum-making landscape of religion education from a human rights perspective. *Journal of the study of religion*, 27:129-153.

Simmonds, S. 2013. Curriculum implications for gender equity in Human Rights Education. Potchefstroom: Nwu. (Thesis –PhD).

- Smit, M. 2013. Fundamentals of human rights and democracy in education: a South African perspective. Pretoria: Van Schaik.
- Smith, A. 2014. Equality constitutional adjudication in South Africa. *African human rights law journal*, 14(2):609-632.
- Smith, K., Alexander, K. & Campbell, S. 2017. Feminism(s) in early childhood: using feminist theories in research and practice. Singapore: Springer.
- Sommer, J. & Marchia, J. 2015. (Re)Defining heteronormativity. Conference papers -- *American Sociological Association*, 18(2):1-24.
- Sommerville, J. 2000. Feminism and the family: politics and society in the UK and the USA. London: MacMillan Press.
- South Africa. 1957. Sexual Offences Act 23 of 1957.
- South Africa. 1996. Constitution of the Republic of South Africa 1996.
- South Africa. 1996. South African Schools Act 84 of 1996.
- South Africa. 1996. National Education Policy Act 27 of 1996.
- South Africa. 2000. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.
- Stoetzler, M. 2016. Intersectional individuality: Georg Simmel's concept of 'the intersection of social circles' and the emancipation of women. *Sociological inquiry*, 86(2):16-240.
- Stoilescu, D. 2016. Aspects of theories, frameworks and paradigms in mathematics education research. *European journal of science and mathematics education*, 4(2):140-154.
- Thompson, D. 2001. Radical feminism today. London: Sage.
- Thornham, S. 2001. Second wave feminism. (In Gamble, S., ed. The Routledge companion to feminism and post feminism. New York, NY: Routledge. p.16-28).
- Toomey, R.B., McGuire, J.K. & Russell, S.T. 2012. Heteronormativity, school climates, and perceived safety for gender nonconforming peers. *Journal of adolescence*, 35:187-196.

Tushnet, M.V. 2005. Critical legal theory (*In* Golding, M.P. & Edmundson, W.A., eds. *The Blackwell guide to philosophy of law and legal theory*. Carlton, Australia: Blackwell. p. 80-89).

UN (United Nations). 1948. Universal Declaration of Human Rights.

UN (United Nations). 2010. Office of the High Commissioner for Human Rights (OHCHR): draft plan of action for the second phase (2010-2014) of the world programme for human rights education. Available: [http://www.ohchr.org/Documents/Publications/WPHRE\\_Phase\\_2\\_en.pdf#?](http://www.ohchr.org/Documents/Publications/WPHRE_Phase_2_en.pdf#?) Date of access: 19 Feb. 2017.

Unsicker-Durham, S.K. 2018. Unlearning racism, discrimination and 'Othering.' *English journal*, 107(3):119-122.

Valerio, M., Rodriguez, N., Winkler, P., Lopez, J., Dennison, M., Liang, Y. & Turner, B.J. 2016. Comparing two sampling methods to engage hard-to-reach communities in research priority setting. *BMC medical research methodology*, 16(146):1-11.

Van Manen, M. 2014. *Phenomenology of practise: meaning-giving methods in phenomenological research and writing*. Walnut Creek, CA: Left Coast Press.

Van Vollenhoven, W.J. & Els, C.J. 2013. The human rights paradox of lesbian, gay, bisexual and transgender students in South African education. *De Jure*, 46(1):263-284.

Vardi, I. 2012. Developing students' referencing skills: a matter of plagiarism, punishment and morality or of learning to write critically? *Higher education research and development*, 31(6):921-30.

Vavrus, M. 2015. *Diversity & education: a critical multicultural approach*. New York, NY: Teachers College Press.

Ward, I. 1998. *An introduction of critical legal theory*. London, UK: Cavendish Publishing Limited.

Wellington, J. 2000. *Educational research: contemporary issues and practical approaches*. London: Continuum.

Wernick, L.J., Kulick, A. & Inglehart, M.H. 2013. Factors predicting student intervention when witnessing anti-LGBTQ harassment: The influence of peers, teachers and climate. *Children and youth services review*, 35(2):296-301.

Willis, J.W. 2007. *Foundation of qualitative research: interpretive and critical approaches*. Thousand Oaks, CA: Sage.

Wilmot, M. & Naidoo, D. 2014. Keeping things straight: the representation of sexualities in life orientation textbooks. *Sex education*, 14(3):323-337.

Wood, K., Kissel, B. & Miller, E. 2016. Safe zones: Supporting LGBTQ youth through literature. *Voices from the middle*, 23(4):46-54.

Wrye, H.K. 2009. The fourth wave of feminism: psychoanalytic perspectives introductory remarks. *Studies in gender and sexuality*, 10(4):285-189.

Yin, R.K. 2016. *Qualitative research from start to finish*. 2nd ed. New York, NY: Guilford Press.

### **Case law**

Bel Porto School Governing Body and Others v Premier of the Western Cape Province and Another (CCT58/00) [2002] ZACC 2; 2002 (3) SA 265; 2002 (9) BCLR 891 (21 February 2002).

Du Toit and Another v Minister of Welfare and Population Development and Others (CCT40/01) [2002] ZACC 20; 2002 (10) BCLR 1006; 2003 (2) SA 198 (CC) (10 September 2002).

Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others (CCT5/95) [1995] ZACC 13; 1996 (1) SA 984 (CC); 1996 (1) BCLR 1 (6 December 1995).

Fourie and Another v Minister of Home Affairs and Another (232/2003) [2004] ZASCA 132; [2005] 1 All SA 273 (SCA) (30 November 2004).

Harksen v Lane NO and Others (CCT9/97) [1997] ZACC 12; 1997 (11) BCLR 1489; 1998 (1) SA 300 (7 October 1997).

Lesbian and Gay Equality Project and Eighteen Others v Minister of Home Affairs (CCT 10/05) [2005] ZACC 20; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005).

MEC for Education: Kwazulu-Natal and Others v Pillay (CCT 51/06) [2007] ZACC 21; 2008 (1) SA 474 (CC); 2008 (2) BCLR 99 (CC) (5 October 2007).

Minister of Home Affairs and Another v Fourie and Another (CCT 60/04) [2005] ZACC 19; 2006 (3) BCLR 355 (CC); 2006 (1) SA 524 (CC) (1 December 2005).

National Coalition for Gay and Lesbian Equality v Minister of Home Affairs 2000 1 BCLR 39 (CC).

President of the Republic of South Africa and Another v Hugo (CCT11/96) [1997] ZACC 4; 1997 (6) BCLR 708; 1997 (4) SA 1 (18 April 1997).

Prinsloo v Van der Linde and Another (CCT4/96) [1997] ZACC 5; 1997 (6) BCLR 759; 1997 (3) SA 1012 (18 April 1997).

Satchwell v President of the Republic of South Africa and Another (CCT48/02) [2003] ZACC 2; 2003 (4) SA 266 (CC); 2004 (1) BCLR 1 (CC) (17 March 2003).

S v Jordan and Others (CCT 31/01) [2002] ZACC 22; 2002 (6) SA 642; 2002 (11) BCLR 1117 (9 October 2002).

St Helena Primary School and Another v MEC: Department of Education, Free State Province and Another (891/2004) [2005] ZAFSHC 10; [2005] JOL 15846 (O); 2007 (4) SA 16 (O) (15 September 2005).

## ADENDUM A: SURVEYMONKEY QUESTIONNAIRE



**Thank you for participating in my open-ended questionnaire.  
Your feedback is important!**

**Title of the study:** Exploring education-related sexual equality experiences of LGBTQ+ students: an education law perspective

Please remember that you will remain completely anonymous.  
Please feel free to share all your thoughts regarding the topic.

### **Counseling**

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
- If you are a student of the University of the Witwatersrand, contact 011 443 3555.

You may contact these counsellors at any time during the night or day.

### **NB! Please note**

Please follow the below-listed link for the participant information document.  
Remember that you may not participate in this study if you do not read and understand the participant information document and if you have not stated in the up coming questions that you voluntarily agree to participate.

[https://drive.google.com/file/d/0BzRHmQdlh0\\_KuWGtZXzJKS1RjWUu/view?usp=sharing](https://drive.google.com/file/d/0BzRHmQdlh0_KuWGtZXzJKS1RjWUu/view?usp=sharing)

Kind regards,

Elmien van Wyk (The researcher)



## Sexual Equality Open-ended Questionnaire

### 2. Participant information

#### Counseling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
  - If you are a student of the University of the Witwatersrand, contact 011 443 3555.
- You may contact these counsellors at any time during the night or day.

\* Please indicate below whether you have read and understood the participant information. If you have not yet received or previously read the participant information form, please take some time to read through this important information now before you decide whether you want to participate in the study or not. The participant information form is at the link on page 1 of this questionnaire.

If you have already read and understood the participant information, you may tick the appropriate response and proceed to question 2, which is the declaration of voluntary participation.

If you have read the participant information, but still have some questions you need to be answered before you decide whether you want to participate, please close the questionnaire and contact your campus' LGBTQ+ organisation or the researcher with your questions. You can return later to complete the questionnaire if you still want to participate.

- I have read and understood the participant information
- I have not yet read the participant information
- I have read the participant information but have some questions



### 3. Declaration of voluntary participation (consent)

#### Counseling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
  - If you are a student of the University of the Witwatersrand, contact 011 443 3555.
- You may contact these counsellors at any time during the night or day.

#### \* **Declaration of voluntary participation**

The participant information was presented to me by Elmien van Wyk. I am able to interpret and comprehend what is said and/or written in this language. The researcher allowed questions with regards to this study and I am satisfied with the responses.

#### **I hereby declare that:**

- I have read this information in a language with which I am fluent and comfortable.
- The research was explained clearly to me.
- I have had a chance to ask questions to both the person getting the consent from me, as well as the researcher and all my questions have been answered.
- I understand that taking part in this study is voluntary and I have not been pressurised to take part.
- I may choose to leave the study at any time and will not be treated in a negative way if I do so.
- I was provided with a copy of this document and that I give consent to be part of this study.

YES

NO



## Sexual Equality Open-ended Questionnaire

### 4. Biographical and demographical information

#### Counseling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
  - If you are a student of the University of the Witwatersrand, contact 011 443 3555.
- You may contact these counsellors at any time during the night or day.

Please provide some biographical and demographical information about yourself. This will enable me to contextualize and understand your answers and suggestions better.

1. At what university are you currently enrolled?
2. In what year of study are you currently?
3. What are you studying?
4. Which other qualification(s) have you obtained?
5. What age are you?
6. How would you describe your sexual orientation?
7. How would you describe your gender?
8. How would you describe your background in terms of ethnicity, culture and world-view or religion?
9. Briefly describe the setting of the primary school(s) you attended.
10. Briefly describe the setting of the secondary school(s) you attended.
11. In which year did you matriculate?

12. When you were at school, how did you identify in terms of your sexuality, sexual orientation and gender?

12.1. Is it different from how you identify now? Explain how and why.

13. If you did not identify (disclose yourself) as LGBTQ+ person, how did you perceive yourself? Please explain.

14. When you were at school, did others perceive or say that they perceived you as LGBTQ+ in any way? Please describe how.

15. Please describe how you expressed (showed and demonstrated) your sexual identity when you were at school.



## Sexual Equality Open-ended Questionnaire

### 5. Open-ended questions

#### Counseling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
- If you are a student of the University of the Witwatersrand, contact 011 443 3555.

You may contact these counsellors at any time during the night or day.

Kindly complete the open-ended questions below. I want to reassure you that you can be absolutely honest. This questionnaire is completed anonymously and therefore the information you provide will not be traced to your identity. Even so, when publishing data, all possible identifiers will be removed.

When answering the questions, there is no limit to the length of your answer. Use as much space or words as you need.

1. Please share your positive and negative experiences as LGBTQ+ person when you were at school.

2. Describe the contexts or situations that typically influenced and/or affected your experiences of sexual equality when you were at school.

3. What would you suggest for pre-service teacher education programmes in order to support teachers to advance inclusivity (more equal school environments) at schools?



Sexual Equality Open-ended Questionnaire

6. The end !!!!

#### Counseling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number:

- If you are a student of the North-West University, contact 018 299 1777
- If you are a student of the University of the Witwatersrand, contact 011 443 3555.

You may contact these counsellors at any time during the night or day.

#### Announcements of the study's findings

A short summary of the findings and recommendations of this study will be e-mailed to your LGBTQ+ organisation who will be asked to forward it to all of the members or to post it on your organisation's website or social media platforms. You are also welcome to request a copy of this document from me at [elmien1993@gmail.com](mailto:elmien1993@gmail.com).



I appreciate your participation.  
Best wishes,  
Elmien van Wyk

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# ADENDUM B: M&D PROGRAMME COMMITTEE PERMISSION LETTER



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NORDBESITHI-UNIBESITHI  
POTCHEFSTROOM CAMPUS  
Faculty of Education Sciences  
Faculty Research Administration  
Reference nr. 9.4

## FAKULTEIT OPVOEDINGSWETENSAPPE / FACULTY OF EDUCATION SCIENCES

### Notule / Minutes

#### Vergadering / Meeting

#### M&D Programkomitee / M&D Programme Committee

Datum / Date: Donderdag 13 April 2017, 9:00 / Thursday, 13 April 2017, 9:00

Plek / Venue: Seminaarlokaal 299E, gebou C6 / Seminar room 299E, building C6

ITEM															
<b>1</b>	<b>Presensie en personalia / Attendance and personalia</b>														
	<p><b>Presensie / Attendance:</b> Prof JP Rossouw (voorsitter/chair), Proff/Profs, L Conley, J Heystek, L Wood, E de Waal, drr/Drs L Postma, B Geduld.</p> <p><b>Notulehouer / Minute keeper:</b> Me/Ms E Greyling</p> <p><b>Administratief / Administrative:</b> Me/Ms D Legoete</p> <p><b>Verskoning / Apology:</b> Proff/Profs J Botha, J de Beer, Drr/Drs S Simmonds, K Kaiser, P Warnich, L de Sousa, S Niewoudt, C du Toit, mnr/Mr J Liebenberg.</p>														
<b>2</b>	<b>MEd-sake / MEd matters</b>														
<b>2.1</b>	<b>Goedkeuring van navorsingsvoorstelle, titels en studieleiers / Approval of research proposals, titles and supervisors</b>														
<b>2.1.1</b>	<table border="1"> <tbody> <tr> <td><b>Student/Student</b></td> <td><b>Me/Ms E van Wyk (23423633)</b></td> </tr> <tr> <td><b>Graad/Degree</b></td> <td>Onderwysreg / Education Law</td> </tr> <tr> <td><b>Titel/Title</b></td> <td>Teacher-education towards promoting sexual equality at schools: an education law perspective</td> </tr> <tr> <td><b>Studieleier/Supervisor</b></td> <td>Dr A de Wet</td> </tr> <tr> <td><b>Medestudieleier/Co-supervisor</b></td> <td>Prof E de Waal</td> </tr> <tr> <td><b>Werkverdeling/ Work distribution</b></td> <td>Prof Jan Heystek Prof Lesley Wood</td> </tr> <tr> <td><b>Besluit/Decision</b></td> <td> <p>Goedgekeur, maar gee aandag aan die volgende punte:</p> <ul style="list-style-type: none"> <li>Dit is 'n baie breedvoerige studie vir 'n MEd-studie.</li> <li><i>Main research question</i> – LGBTQI+ - kom nie voor in die titel nie. Heroorweeg.</li> <li><i>Research approach – data saturation (p13) – Maybe too much for a MEd. Maybe limit the participants (because it is a MEd degree). Or the fourth bullet on p13 can be dropped.</i></li> <li><i>Make sure about the ethics matters - maybe a psychologist should be available.</i></li> <li>Meer volledige notas sal aan die student gegee word.</li> </ul> <p>Die vraag is gevra hoekom daar aan die einde van die titel "an education law perspective" moet staan. Prof De Waal het verduidelik dat sy nie op die terrein van "social justice" werk nie; haar vakgebied is <b>education law</b>. Haar projek in die Navorsingsentiteit: Education and Human Rights is</p> </td> </tr> </tbody> </table>	<b>Student/Student</b>	<b>Me/Ms E van Wyk (23423633)</b>	<b>Graad/Degree</b>	Onderwysreg / Education Law	<b>Titel/Title</b>	Teacher-education towards promoting sexual equality at schools: an education law perspective	<b>Studieleier/Supervisor</b>	Dr A de Wet	<b>Medestudieleier/Co-supervisor</b>	Prof E de Waal	<b>Werkverdeling/ Work distribution</b>	Prof Jan Heystek Prof Lesley Wood	<b>Besluit/Decision</b>	<p>Goedgekeur, maar gee aandag aan die volgende punte:</p> <ul style="list-style-type: none"> <li>Dit is 'n baie breedvoerige studie vir 'n MEd-studie.</li> <li><i>Main research question</i> – LGBTQI+ - kom nie voor in die titel nie. Heroorweeg.</li> <li><i>Research approach – data saturation (p13) – Maybe too much for a MEd. Maybe limit the participants (because it is a MEd degree). Or the fourth bullet on p13 can be dropped.</i></li> <li><i>Make sure about the ethics matters - maybe a psychologist should be available.</i></li> <li>Meer volledige notas sal aan die student gegee word.</li> </ul> <p>Die vraag is gevra hoekom daar aan die einde van die titel "an education law perspective" moet staan. Prof De Waal het verduidelik dat sy nie op die terrein van "social justice" werk nie; haar vakgebied is <b>education law</b>. Haar projek in die Navorsingsentiteit: Education and Human Rights is</p>
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**"Public Schooling in Diversity"**: en die student se tema val binne haar vakgebied en verg ook dringende navorsing. Ook is daar 'n besliste onderwysregtelike perspektief reeds in die navorsingsvoorstel sigbaar. Soos aangedui by die beplande hoofstukindeling, word een van die hoofstukke ook spesifiek daaraan gewy (hoofstuk drie).

**Notulehouer / Minute keeper: Me/MS E Greyling**

## ADENDUM C: EMHS-REC APPROVAL LETTER



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT  
POTCHEFSTROOM CAMPUS

Private Bag X6001, Potchefstroom  
South Africa 2520

Tel: 018 299-1111/2222  
Web: <http://www.nwu.ac.za>

**Education Management Humanities and Social  
Sciences Research Ethics Committee (EMHS-REC)**

Tel: 018-299 4778  
Email: [Lukas.Meyer@nwu.ac.za](mailto:Lukas.Meyer@nwu.ac.za)

24 November 2017

Dr. A de Wet  
Faculty of Education

Dear Dr. A de Wet

### **APPROVAL OF YOUR APPLICATION BY THE EDUCATION MANAGEMENT HUMANITIES AND SOCIAL SCIENCES RESEARCH ETHICS COMMITTEE (EMHS-REC) OF THE FACULTY OF EDUCATION**

**Ethics number: NWU-00482-17-S2**

Kindly use the ethics reference number provided above in all correspondence or documents submitted to the Education Management Humanities and Social Sciences Research Ethics Committee (EMHS-REC) secretariat.

**Study title: Exploring education-related sexual equality experiences of  
LGBQ+ students: an education law perspective**

**Study leader/supervisor: Dr. A de Wet**

**Student: Me E van Wyk**

**Application type: Single study**

**Risk level: Medium**

You are kindly informed that your application was reviewed at the meeting held on 17/07/2017 of the EMHS-REC, Faculty of Education, and was approved on 26/09/2017.

The commencement date for this study is 24/11/2017. Continuation of the study is dependent on receipt of the annual (or as otherwise stipulated) monitoring report and the concomitant issuing of a letter of continuation up to a maximum period of three years when extension will be facilitated during the monitoring process.

**After ethical review:**

Translation of the informed consent document to the languages applicable to the study participants should be submitted to the EMHS-REC, Faculty of Education (if applicable).

The EMHS-REC, Faculty of Education requires immediate reporting of any aspects that warrants a change of ethical approval. Any amendments, extensions or other modifications to the proposal or other associated documentation must be submitted to the EMHS-REC, Faculty of Education prior to implementing these changes. Any adverse/unexpected/unforeseen events or incidents must be reported on either an adverse event report form or incident report form at [Ethics-EMHS-incident-SAE@nwu.ac.za](mailto:Ethics-EMHS-incident-SAE@nwu.ac.za).

A monitoring report should be submitted within one year of approval of this study (or as otherwise stipulated) and before the year has expired, to ensure timely renewal of the study. A final report must be provided at completion of the study or the EMHS-REC, Faculty of Education must be notified if the study is temporarily suspended or terminated. The monitoring report template is obtainable from the Faculty of Education Ethics Office for Research, Training and Support at [Ethics-EMHS-mon@nwu.ac.za](mailto:Ethics-EMHS-mon@nwu.ac.za). Annually a number of studies may be randomly selected for an external audit.

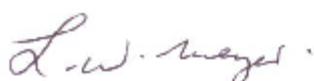
Please note that the EMHS-REC, Faculty of Education has the prerogative and authority to ask further questions, seek additional information, require further modification or monitor the conduct of your research or the informed consent process.

Please note that for any research at governmental or private institutions, permission must still be obtained from relevant authorities and provided to the EMHS-REC, Faculty of Education. Ethics approval is required BEFORE approval can be obtained from these authorities.

The EMHS-REC, Faculty of Education complies with the South African National Health Act 61 (2003), the Regulations on Research with Human Participants (2014), the Ethics in Health Research: Principles, Structures and Processes (2015), the Belmont Report and the Declaration of Helsinki (2013).

We wish you the best as you conduct your research. If you have any questions or need further assistance, please contact the Faculty of Education Ethics Office for Research, Training and Support at [Ethics-EMHS@nwu.ac.za](mailto:Ethics-EMHS@nwu.ac.za).

Yours sincerely



Prof Lukas Meyer  
EMHS-REC Chairperson

# ADENDUM D: FEEDBACK ON NWU-EMELTEN-REC MONITORING REPORT



Private Bag X6001, Potchefstroom  
South Africa 2520

Tel: +2718 299-1111/2222  
Web: <http://www.nwu.ac.za>

North-West University Education, Management  
and Economic Sciences, Law, Theology,  
Engineering and Natural Sciences Research  
Ethics Office (NWU-EMELTEN-REC)  
Tel: +2718 299 4707  
Email: [lukas.meyer@nwu.ac.za](mailto:lukas.meyer@nwu.ac.za)

16 October 2018

## FEEDBACK ON NWU-EMELTEN-REC MONITORING REPORT

Dear Dr De Wet

### FEEDBACK ON NWU-EMELTEN-REC MONITORING REPORT NWU-00482-17-A2

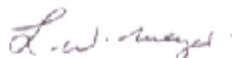
We would like to thank you for submitting the monitoring report for your project entitled, *“Exploring education-related sexual equality experiences of LGBQ+ students: an education law perspective”* to the North-West University Education, Management and Economic Sciences, Law, Theology Engineering and Natural Sciences Research Ethics Committee (NWU-EMELTEN-REC) in a timely manner. Please find below the decision of the NWU-EMELTEN-REC regarding the continuation of your project.

Classification	Mark with X	Comment
Clarification		
Completion (Final report)		
Suspended		
Continuation	X	Date of next monitoring report: 30 April 2019
Termination		

Should you have any further queries, please feel free to contact Ms Marize Bisschoff at your earliest convenience (E-mail: [Ethics-EMHS-mon@nwu.ac.za](mailto:Ethics-EMHS-mon@nwu.ac.za); Tel: 018 299 4707).

We wish you well with this research study.

Yours sincerely,



Chairperson: NWU-EMELTEN-REC  
Prof Lukas Meyer

G:\My Drive\Research and postgrad education\9.1.5 Ethics\NWU-00482-17-A2\Report of Project\9.1.5.4\_Continuation of Research

## ADENDUM E: PERMISSION LETTER TO GATEKEEPERS



Dr Annamagriet de Wet  
Private Bag X6001, Potchefstroom  
South Africa, 2520

Tel: 018 299-1111/2222  
Web: <http://www.nwu.ac.za>

**Faculty of Education Law**  
Tel: 018 299 4596  
E-mail: [annamagriet.dewet@nwu.ac.za](mailto:annamagriet.dewet@nwu.ac.za)

### REQUEST FOR PERMISSION TO CONDUCT RESEARCH<sup>1</sup>

Dear Sir/Madam

I, Elmien van Wyk, am currently studying for a M.Ed. in Education Law in the Research Unit for Human Rights and Education in Diversity (Edu-HRight) at the North-West University. I hereby wish to request your permission to invite students at your institution to participate in research I am conducting as part of my Masters' study. The study is a sub-project in a larger project which explores the possibilities of human rights literacies for transformative teacher education. The details of this study are as follows:

<b>Masters' title:</b>	<i>Exploring education-related sexual equality experiences of LGBTQ+ students: an education law perspective</i>
<b>Ethics reference number:</b>	NWU-00482-17-S2
<b>My name (Masters' student):</b>	Elmien van Wyk
<b>My contact details:</b>	0827916111 / <a href="mailto:elmien1993@gmail.com">elmien1993@gmail.com</a> Wilgen street 36, Potchefstroom, 9520
<b>Project leader and study supervisor contact details:</b>	Dr Annamagriet de Wet 0826728320 / <a href="mailto:Annamagriet.DeWet@nwu.ac.za">Annamagriet.DeWet@nwu.ac.za</a>
<b>Umbrella project title:</b>	Possibilities of human rights literacies for transformative teacher education
<b>Umbrella project ethics reference number:</b>	NWU-HS-2017-0086

This study has been approved by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the Faculty of Education Sciences of the North-West University (NWU Potchefstroom) and will be conducted according to the ethical guidelines and principles of Ethics in Education Research: Principles, Processes and Structures<sup>2</sup> (DoH, 2015) and other international ethical guidelines applicable to this study. It might be necessary for the research ethics committee members or other relevant people to inspect the research records.

<sup>1</sup> The Faculty of Health Sciences Ethics Office of the North-West University is acknowledged for the use of their document with minor adjustments by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the North-West University.

<sup>2</sup> Department of Health. 2015. Ethics in Health Research: Principles, Structures and Processes

Detail about my research is explained below under the following headings:

<b>PURPOSE OF THIS STUDY</b> .....	2
<b>RESEARCH SITES AND PARTICIPANTS</b> .....	2
<b>VOLUNTARY PARTICIPATION AND INFORMED CONSENT</b> .....	2
<b>WHAT IS EXPECTED OF PARTICIPANTS?</b> .....	3
<b>BENEFIT TO PARTICIPANTS</b> .....	3
<b>RISKS INVOLVED FOR PARTICIPANTS</b> .....	4
<b>CONFIDENTIALITY AND PROTECTION OF IDENTITY</b> .....	4
<b>DISSEMINATION OF FINDINGS</b> .....	5
<b>IDENTIFICATION OF INVESTIGATOR</b> .....	5

#### Purpose of this study

The main purpose of this study is to unlock LGBQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives are 1) to outline the legal and theoretical determinants for sexual equality at schools, 2) to explore how LGBQ+ (teacher) students experienced the (non)realization of sexual equality while they were at school; 3) to investigate how LGBQ+ (education) students currently experience the (non)realization of sexual equality as students at a university and 4) to develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

#### Research sites and participants

Students at North-West University and the University of Witwatersrand who belong to the LGBQ+ community will be invited to participate in the study. Since my study forms part of a larger study (see page 1) with inter-campus collaboration, I have decided to use the institutions of the project-collaborators for my data analysis. These institutions are NWU and Wits.

I will use the following criteria to select participants:

- Participants identify as LGBQ+ (thus be self-disclosed).
- Participants must be English literate.
- Participants must be registered as full-time students at NWU or Wits.

Participants will be invited via LGBQ+ organisations (mediator-organisations) on their campuses.

#### Voluntary participation and informed consent

Only students who volunteered will participate in the study. During the recruitment process participants will receive a *participant information and consent form* to study before deciding whether they want to consent or not. This form will inform prospective participants of the following:

- The ethical clearance number of this study

- Background and motivation for the study
- Data collection processes and expectations regarding their participation
- Possible risks and harm
- Participants' right to have their privacy and confidentiality as well as their dignity respected throughout the process of data collection, interpretation and dissemination of findings
- Participants' right to withdraw from the study at any time despite their consent and voluntary participation, and without adverse consequences to them
- Contact numbers in case of complaints.
- Counselling support for participants who feel that they need it

After reading this form, students may decide whether they still want to participate or not. If they choose to become involved, they will be requested to complete the declaration of participation and agreement of voluntary and informed participation via the SurveyMonkey questionnaire.

#### What is expected of participants?

Participants will be expected to complete a once-off open-ended questionnaire (online via the SurveyMonkey platform) at a place and time that is safe and comfortable for them (it should thus only fall within the timeline given). The link will be provided via a LGBTQ+ organisation at each institution and will also be on the informed consent forms and the recruitment pamphlet.

The findings from this research will be used in writing my dissertation. Strict rules regarding protection of confidentiality and anonymity will be maintained. I will respect and promote the following bioethical and human rights principles throughout this study:

- *Autonomy*: This principle emphasises that the research and the researcher will respect participants' "right to bodily and psychological integrity" (1996<sup>3</sup>:sec.12(2)).
- *Beneficence*: This term refers to each participants' right to access healthcare services (1996:sec.27(1)(a)), which means that the researcher will also have counsellors available to support participants if and/or when they need these services during the study.
- *Non-maleficence*: The researcher will create an environment that is not harmful to participants (1996:sec.24(a)).
- *Justice*: Each participant will be treated equally and with no form of unfair discrimination (1996:sec.9).

#### Benefit to participants

The study may hold some indirect benefits for students who participate. Participants may experience psychological benefits such as enhanced self-understanding, self-expression, knowledge attainment, and/or self-acceptance. Participants may also benefit indirectly in future by the knowledgeable information that this study could supply to the community.

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<sup>3</sup> South Africa. 1996. The Constitution of the Republic of South Africa.

### Risks involved for participants

The information that participants supply are going to be on a personal level, because this study focuses on their lived experiences and perspective regarding sexual equality at schools. Participants may be influenced by the following risks when participating in this study:

- Possible *psychological harm* may be caused by the research topic, namely sexual equality, that is considered as 'sensitive' and which may stir up unpleasant memories and emotions. Other possible harms in this category may involve emotional discomfort, boredom, inconvenience, embarrassment, or fear of the process.
- Possible *physical harm* such as fatigue, headaches or physical discomfort may be endured when participants are completing questionnaires.

Although some of these risks are similar to what one might have experiences in day-to-day life, it requires self-disclosure and possibly unpleasant memories which places the study in the medium risk category. I will still take the following steps to manage these risks:

- There will be no direct contact between me and the participants.
- The participants may refrain from answering questions that cause discomfort.
- Participants may complete the open-ended questionnaires at any time and place which is convenient to them (they just have to partake during the duration of the data generation process which will be a maximum of six months).
- Participants will be inform that he/she may withdraw from the study at any moment without any negative consequences.
- Participation will be completely voluntary.

### Confidentiality and protection of identity

The participants will stay completely anonymous to the researcher. The following steps will be followed to ensure safeguarding participants' personal information:

- o Participants will have to agree to the informed consent form that will protect them and me.
- o The data will only be used with permission of the participants.
- o Peer review will be used to assure the rigour of the research.
- o Transcriptions will then be stored under alphabetic letters (for example, participant A), in order to make transcriptions anonymous to other researchers and/or people.
- o All information will be kept in electronic format and stored as password protected files. Anonymised questionnaires are the only information that will be printed and kept.
- o All information and transcriptions of a participant will be destroyed if the participant no longer wants to participate in this study.

- All open-ended questionnaires will be destroyed after seven years.

#### Dissemination of findings

The findings of this study will only be used for this study. After the successful completion of the study, the results will be disseminated by means of:

- Peer reviewed publications
- Conference papers
- Contribution to a guidelines booklet disseminated to participating universities via collaborators at or nearby participating faculties.

Participant may wish to obtain a summary of the findings and recommendations. A short summary of the findings and recommendations will be e-mailed to the LGBTQ+ organisation on each campus who will be asked to forward it to all of their members or post it on their website or social media platforms. A copy may also be requested from the researcher ([elmien1993@gmail.com](mailto:elmien1993@gmail.com)).

#### Identification of investigator

Any questions with regard to the research can be answered by Dr Annamagriet de Wet (supervisor of the study) at 018 299 4596 or 082 672 8320. You can also e-mail your question to her at [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za).

My own contact details are Tel: 082 791 6111 and/or Email: [elmien1993@gmail.com](mailto:elmien1993@gmail.com).

Your positive response in this regard will be highly appreciated.

Kind regards,

Elmien van Wyk

## ADENDUM F: NWU RDGC PERMISSION GRANTED LETTER



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT

Private Bag X1290, Potchefstroom  
South Africa 2520  
Tel: 018 299-4900  
Fax: 018 299-4910  
Web: <http://www.nwu.ac.za>

Ms Elmien van Wyk  
Per Email: [elmien1993@gmail.com](mailto:elmien1993@gmail.com)  
CC: [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za)

### NWU RDGC PERMISSION GRANTED LETTER

Based on the documentation provided by the researcher specified below and after being reviewed at the meeting held on 26/09/2017 the NWU Research Data Gatekeeper Committee (NWU-RDGC) hereby grants permission for the specific project (as indicated below) to be conducted at the North-West University (NWU).

**Project title:** *Exploring education-related sexual equality experiences of LGBQ+ students: an education law perspective.*

**Supervisor/ Promoter:** Dr Annamagriet de Wet

**Co-Supervisor:** Elda de Waal

**Student:** Ms Elmien van Wyk

**NWU-RDGC reference no:** NWU-GK-2017-032

**NWU Ethics reference no:** NWU-00482-17-S2

**Approval date:** 26/09/2017

**Expiry date:** 26/09/2018

**Permission granted for the following in terms of recruitment and invitation of participants:**

1. The researcher to invite NWU students who belong to the LGBQ+ community (thus be self-disclosed).
2. The researcher to invite the participants via LGBQ+ organisations (mediator-organisations) on the NWU campuses.

#### General Conditions of Approval (ONLY IF APPLICABLE):

- The NWU-RDGC will not take the responsibility to recruit research participants or to gather data on behalf of the researcher. This committee can therefore not guarantee the participation of our relevant stakeholders.
- Any changes to the research protocol within the permission period (for a maximum of 1 year) must be communicated to the NWU-RDGC. Failure to do so will lead to withdrawal of the permission.
- The NWU-RDGC should be provided with a report or document in which the results of said project are disseminated.

Please note that under no circumstances will any personal information of possible research subjects be provided to the researcher by the NWU RDGC. The NWU complies with the Promotion of Access to Information Act 2 of 2000 (PAIA) as well as the Protection of Personal Information Act 4 of 2013 (POPI). For more information on how the NWU complies with PAIA and POPI please refer to the following website (<http://www.nwu.ac.za/access-to-information-act>).

The NWU RDGC would like to remain at your service as scientist and researcher, and wishes you well with your project. Please do not hesitate to contact the NWU RDGC for any further enquiries or requests for assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Verhoef'.

Prof. Marlene Verhoef  
Chair: NWU-RDGC

## ADENDUM G: WITS PERMISSION GRANTED LETTER



OFFICE OF THE DEPUTY REGISTRAR

17 January 2018

Ms Elmien Van Wyk  
M.Ed. Candidate  
School of Education  
North-West University

### TO WHOM IT MAY CONCERN

**“Exploring education-related sexual equality experiences of LGBTQ+ students:  
an education law perspective”**

This letter serves to confirm that the above project has received permission to be conducted on University premises, and/or involving staff and/or students of the University as research participants. In undertaking this research, you agree to abide by all University regulations for conducting research on campus and to respect participants' rights to withdraw from participation at any time.

If you are conducting research on certain student cohorts, year groups or courses within specific Schools and within the teaching term, permission must be sought from Heads of School or individual academics.

Ethical clearance has been obtained. (Protocol Number NWU-00482-17-S2)

A handwritten signature in black ink, appearing to read 'Nicolleen Potgieter'.

Nicolleen Potgieter  
University Deputy Registrar

# ADENDUM H: SUB-STUDY PERMISSION LETTER



Dr Annamagriet de Wet  
Private Bag X6001, Potchefstroom  
South Africa, 2520

Tel: 018 299-1111/2222  
Web: <http://www.nwu.ac.za>

Faculty of Education Law  
Tel: 018 299 4596  
E-mail: [annamagriet.dewet@nwu.ac.za](mailto:annamagriet.dewet@nwu.ac.za)

17 September 2017

Me. Judy Heymans  
Faculty of Education  
North West University  
[Judy.Heymans@nwu.ac.za](mailto:Judy.Heymans@nwu.ac.za)

## REQUEST FOR PERMISSION TO CONDUCT RESEARCH<sup>1</sup>

Dear Madam

I, Elmien van Wyk, am currently studying for a M.Ed. in Education Law in the Research Unit for Human Rights and Education in Diversity (Edu-HRight) at the North-West University. I hereby wish to request your permission to invite students at your institution to participate in research I am conducting as part of my Masters' study. The study is a sub-project in a larger project which explores the possibilities of human rights literacies for transformative teacher education. The details of this study are as follows:

<b>Masters' title:</b>	<i>Exploring education-related sexual equality experiences of LGBTQ+ students: an education law perspective</i>
<b>Ethics reference number:</b>	NWU-00482-17-S2
<b>My name (Masters' student):</b>	Elmien van Wyk
<b>My contact details:</b>	0827916111 / <a href="mailto:elmien1993@gmail.com">elmien1993@gmail.com</a> Wilgen street 36, Potchefstroom, 9520
<b>Project leader and study supervisor contact details:</b>	Dr Annamagriet de Wet 0826728320 / <a href="mailto:Annamagriet.DeWet@nwu.ac.za">Annamagriet.DeWet@nwu.ac.za</a>
<b>Umbrella project title:</b>	Possibilities of human rights literacies for transformative teacher education
<b>Umbrella project ethics reference number:</b>	NWU-HS-2017-0086

This study has been approved by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the Faculty of Education Sciences of the North-West University (NWU Potchefstroom) and will be conducted according to the ethical guidelines

<sup>1</sup> The Faculty of Health Sciences Ethics Office of the North-West University is acknowledged for the use of their document with minor adjustments by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the North-West University.

and principles of Ethics in Education Research: Principles, Processes and Structures<sup>2</sup> (DoH, 2015) and other international ethical guidelines applicable to this study. It might be necessary for the research ethics committee members or other relevant people to inspect the research records.

Detail about my research is explained below under the following headings:

<b>PURPOSE OF THIS STUDY</b> .....	<b>2</b>
<b>RESEARCH SITES AND PARTICIPANTS</b> .....	<b>2</b>
<b>VOLUNTARY PARTICIPATION AND INFORMED CONSENT</b> .....	<b>3</b>
<b>WHAT IS EXPECTED OF PARTICIPANTS?</b> .....	<b>3</b>
<b>BENEFIT TO PARTICIPANTS</b> .....	<b>4</b>
<b>RISKS INVOLVED FOR PARTICIPANTS</b> .....	<b>4</b>
<b>CONFIDENTIALITY AND PROTECTION OF IDENTITY</b> .....	<b>4</b>
<b>DISSEMINATION OF FINDINGS</b> .....	<b>5</b>
<b>IDENTIFICATION OF INVESTIGATOR</b> .....	<b>5</b>

#### Purpose of this study

The main purpose of this study is to unlock LGBTQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives are 1) to outline the legal and theoretical determinants for sexual equality at schools, 2) to explore how LGBTQ+ (teacher) students experienced the (non)realization of sexual equality while they were at school; 3) to investigate how LGBTQ+ (education) students currently experience the (non)realization of sexual equality as students at a university and 4) to develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

#### Research sites and participants

Students at North-West University and the University of Witwatersrand who belong to the LGBTQ+ community will be invited to participate in the study. Since my study forms part of a larger study (see page 1) with inter-campus collaboration, I have decided to use the institutions of the project-collaborators for my data analysis. These institutions are NWU and Wits.

I will use the following criteria to select participants:

- Participants identify as LGBTQ+ (thus be self-disclosed).
- Participants must be English literate.
- Participants must be registered as full-time students at NWU or Wits.

Participants will be invited via LGBTQ+ organisations (mediator-organisations) on their campuses.

<sup>2</sup> Department of Health. 2015. Ethics in Health Research: Principles, Structures and Processes

## Voluntary participation and informed consent

Only students who volunteered will participate in the study. During the recruitment process participants will receive a *participant information and consent form* to study before deciding whether they want to consent or not. This form will inform prospective participants of the following:

- The ethical clearance number of this study
- Background and motivation for the study
- Data collection processes and expectations regarding their participation
- Possible risks and harm
- Participants' right to have their privacy and confidentiality as well as their dignity respected throughout the process of data collection, interpretation and dissemination of findings
- Participants' right to withdraw from the study at any time despite their consent and voluntary participation, and without adverse consequences to them
- Contact numbers in case of complaints.
- Counselling support for participants who feel that they need it

After reading this form, students may decide whether they still want to participate or not. If they choose to become involved, they will be requested to complete the declaration of participation and agreement of voluntary and informed participation via the SurveyMonkey questionnaire.

What is expected of participants?

Participants will be expected to complete a once-off open-ended questionnaire (online via the SurveyMonkey platform) at a place and time that is safe and comfortable for them (it should thus only fall within the timeline given). The link will be provided via a LGBTQ+ organisation at each institution and will also be on the informed consent forms and the recruitment pamphlet.

The findings from this research will be used in writing my dissertation. Strict rules regarding protection of confidentiality and anonymity will be maintained. I will respect and promote the following bioethical and human rights principles throughout this study:

- *Autonomy*: This principle emphasises that the research and the researcher will respect participants' "right to bodily and psychological integrity" (1996<sup>3</sup>:sec.12(2)).
- *Beneficence*: This term refers to each participants' right to access healthcare services (1996:sec.27(1)(a)), which means that the researcher will also have counsellors available to support participants if and/or when they need these services during the study.
- *Non-maleficence*: The researcher will create an environment that is not harmful to participants (1996:sec.24(a)).
- *Justice*: Each participant will be treated equally and with no form of unfair discrimination (1996:sec.9).

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<sup>3</sup> South Africa. 1996. The Constitution of the Republic of South Africa.

#### Benefit to participants

The study may hold some indirect benefits for students who participate. Participants may experience psychological benefits such as enhanced self-understanding, self-expression, knowledge attainment, and/or self-acceptance. Participants may also benefit indirectly in future by the knowledgeable information that this study could supply to the community.

#### Risks involved for participants

The information that participants supply are going to be on a personal level, because this study focuses on their lived experiences and perspective regarding sexual equality at schools. Participants may be influenced by the following risks when participating in this study:

- Possible *psychological harm* may be caused by the research topic, namely sexual equality, that is considered as 'sensitive' and which may stir up unpleasant memories and emotions. Other possible harms in this category may involve emotional discomfort, boredom, inconvenience, embarrassment, or fear of the process.
- Possible *physical harm* such as fatigue, headaches or physical discomfort may be endured when participants are completing questionnaires.

Although some of these risks are similar to what one might have experiences in day-to-day life, it requires self-disclosure and possibly unpleasant memories which places the study in the medium risk category. I will still take the following steps to manage these risks:

- There will be no direct contact between me and the participants.
- The participants may refrain from answering questions that cause discomfort.
- Participants may complete the open-ended questionnaires at any time and place which is convenient to them (they just have to partake during the duration of the data generation process which will be a maximum of six months).
- Participants will be inform that he/she may withdraw from the study at any moment without any negative consequences.
- Participation will be completely voluntary.

#### Confidentiality and protection of identity

The participants will stay completely anonymous to the researcher. The following steps will be followed to ensure safeguarding participants' personal information:

- o Participants will have to agree to the informed consent form that will protect them and me.
- o The data will only be used with permission of the participants.
- o Peer review will be used to assure the rigour of the research.
- o Transcriptions will then be stored under alphabetic letters (for example, participant A), in order to make transcriptions anonymous to other researchers and/or people.

- All information will be kept in electronic format and stored as password protected files. Anonymised questionnaires are the only information that will be printed and kept.
- All information and transcriptions of a participant will be destroyed if the participant no longer wants to participate in this study.
- All open-ended questionnaires will be destroyed after seven years.

#### Dissemination of findings

The findings of this study will only be used for this study. After the successful completion of the study, the results will be disseminated by means of:

- Peer reviewed publications
- Conference papers
- Contribution to a guidelines booklet disseminated to participating universities via collaborators at or nearby participating faculties.

Participant may wish to obtain a summary of the findings and recommendations. A short summary of the findings and recommendations will be e-mailed to the LGBTQ+ organisation on each campus who will be asked to forward it to all of their members or post it on their website or social media platforms. A copy may also be requested from the researcher ([elmien1993@gmail.com](mailto:elmien1993@gmail.com)).

#### Identification of investigator

Any questions with regard to the research can be answered by Dr Annamagriet de Wet (supervisor of the study) at 018 299 4596 or 082 672 8320. You can also e-mail your question to her at [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za).

My own contact details are Tel: 082 791 6111 and/or Email: [elmien1993@gmail.com](mailto:elmien1993@gmail.com).

Your positive response in this regard will be highly appreciated.

Kind regards,

Elmien van Wyk

# ADENDUM I: MEDIATOR PERMISSION REQUEST LETTER



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT



Education and  
Human Rights  
in diversity



Human Rights Literacies  
Institute for Research



National  
Research  
Foundation

Dr Annamagriet de Wet  
Private Bag X6001, Potchefstroom  
South Africa, 2520

Tel: 018 299-1111/2222

Web: <http://www.nwu.ac.za>

Elmien ethics\_Good will\_Mediators

**Faculty of Education Law**

Tel: 018 299 4596

E-mail: [annamagriet.dewet@nwu.ac.za](mailto:annamagriet.dewet@nwu.ac.za)

## REQUEST FOR PERMISSION TO CONDUCT RESEARCH<sup>1</sup>

Dear Sir/Madam

I, Elmien van Wyk, am currently studying for a M.Ed. in Education Law in the Research Unit for Human Rights and Education in Diversity (Edu-HRight) at the North-West University. I hereby wish to request your permission to invite members of your organisation to participate in research I am conducting as part of my Masters' study. The study is a sub-project in a larger project which explores the possibilities of human rights literacies for transformative teacher education. The details of this study are as follows:

<b>Masters' title:</b>	<i>Exploring education-related sexual equality experiences of LGBQ+ students: an education law perspective</i>
<b>Ethics reference number:</b>	NWU-00482-17-S2
<b>My name (Masters' student):</b>	Elmien van Wyk
<b>My contact details:</b>	0827916111 / <a href="mailto:elmien1993@gmail.com">elmien1993@gmail.com</a> Wilgen street 36, Potchefstroom, 9520
<b>Project leader and study supervisor contact details:</b>	Dr Annamagriet de Wet 0826728320 / <a href="mailto:Annamagriet.DeWet@nwu.ac.za">Annamagriet.DeWet@nwu.ac.za</a>
<b>Umbrella project title:</b>	Possibilities of human rights literacies for transformative teacher education
<b>Umbrella project ethics reference number:</b>	NWU-HS-2017-0086

This study has been approved by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the Faculty of Education Sciences of the North-West University (NWU Potchefstroom) and will be conducted according to the ethical guidelines and principles of Ethics in Education Research: Principles, Processes and Structures<sup>2</sup> (DoH, 2015) and other international ethical guidelines applicable to this study. It

<sup>1</sup> The Faculty of Health Sciences Ethics Office of the North-West University is acknowledged for the use of their document with minor adjustments by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the North-West University.

<sup>2</sup> Department of Health. 2015. Ethics in Health Research: Principles, Structures and Processes

might be necessary for the research ethics committee members or other relevant people to inspect the research records.

Detail about my research is explained below under the following headings:

<b>PURPOSE OF THIS STUDY</b> .....	<b>2</b>
<b>RESEARCH SITES AND PARTICIPANTS</b> .....	<b>2</b>
<b>VOLUNTARY PARTICIPATION AND INFORMED CONSENT</b> .....	<b>3</b>
<b>WHAT IS EXPECTED OF PARTICIPANTS?</b> .....	<b>4</b>
<b>BENEFIT TO PARTICIPANTS</b> .....	<b>5</b>
<b>RISKS INVOLVED FOR PARTICIPANTS</b> .....	<b>5</b>
<b>CONFIDENTIALITY AND PROTECTION OF IDENTITY</b> .....	<b>5</b>
<b>DISSEMINATION OF FINDINGS</b> .....	<b>6</b>
<b>IDENTIFICATION OF INVESTIGATOR</b> .....	<b>6</b>

#### Purpose of this study

The main purpose of this study is to unlock LGBTQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives are 1) to outline the legal and theoretical determinants for sexual equality at schools, 2) to explore how LGBTQ+ (teacher) students experienced the (non)realization of sexual equality while they were at school; 3) to investigate how LGBTQ+ (education) students currently experience the (non)realization of sexual equality as students at a university and 4) to develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

#### Research sites and participants

Students at South African Universities who belong to the LGBTQ+ community will be invited to participate in the study. Since my study forms part of a larger study (see page 1) with inter-campus collaboration, I have decided to use the institutions of the project-collaborators as a starting point for my data analysis. These institutions are NWU and Wits.

I will use the following criteria to select participants:

- Participants identify as LGBTQ+ (thus be self-disclosed).
- Participants must be English literate.
- Participants must be registered as full-time students at NWU or Wits.

Participants will be invited via LGBTQ+ organisations (mediator-organisations) on their campuses. LGBTQ+ organisations will be asked to 1) help me with organising a one-off information session for members, 2) to advertise my study in the various ways that are

possible for them and 3) to recruit possible participants. I will supply mediators with the following documents to assist their recruitment of other possible participants:

- An *e-mail invitation* to forward to their members whose e-mail addresses they have
- A *short text message* mediators can distribute to members' cell phone numbers
- A *recruitment pamphlet/poster* they can put up if they have a physical space where LGBTQ+ students regularly go to, or publish on their website or social media platforms.
- An *informed consent and participant information document*, which will inform and assist participants in understanding what, will be expected from them.

Mediators will be asked to distribute the invitation by means of the following ways:

- If the mediators' organisation has a physical space (e.g. an office or room) which they use, I will ask them to put *recruitment pamphlets/posters* (see below) up where students may be able to see it.
- If the mediators' organisation has a virtual space (e.g. social media site, chat group, website) which they use, I will ask them to publish the *recruitment pamphlets/posters* on such platform.
- If the mediators' organisation makes use of lists of members' cell phone numbers to send text messages, I will ask them to send the *short text message* (see below) to their members' cell phones.
- If the mediators' organisation makes use of e-mail to contact their members, I will ask them to email the *e-mail invitation* and/or recruitment pamphlet/poster, which introduce my study, to all the members of their organisation and to ask them if they are interested in participating in my study.

#### Voluntary participation and informed consent

Only students who volunteered will participate in the study. During the recruitment process participants will receive a *participant information and consent form* to study before deciding whether they want to consent or not. This form will inform prospective participants of the following:

- The ethical clearance number of this study
- Background and motivation for the study
- Data collection processes and expectations regarding their participation

- Possible risks and harm
- Participants' right to have their privacy and confidentiality as well as their dignity respected throughout the process of data collection, interpretation and dissemination of findings
- Participants' right to withdraw from the study at any time despite their consent and voluntary participation, and without adverse consequences to them
- Contact numbers in case of complaints.
- Counselling support for participants who feel that they need it

After reading this form, students may decide whether they still want to participate or not. If they choose to become involved, they will be requested to complete the declaration of participation and agreement of voluntary and informed participation via the SurveyMonkey questionnaire.

#### What is expected of participants?

Participants will be expected to complete a once-off open-ended questionnaire (online via the SurveyMonkey platform) at a place and time that is safe and comfortable for them (it should thus only fall within the timeline given). The link will be provided via a LGBTQ+ organisation at each institution and will also be on the informed consent forms and the recruitment pamphlet.

The findings from this research will be used in writing my dissertation. Strict rules regarding protection of confidentiality and anonymity will be maintained. I will respect and promote the following bioethical and human rights principles throughout this study:

- *Autonomy*: This principle emphasises that the research and the researcher will respect participants' "right to bodily and psychological integrity" (1996<sup>3</sup>:sec.12(2)).
- *Beneficence*: This term refers to each participants' right to access healthcare services (1996:sec.27(1)(a)), which means that the researcher will also have counsellors available to support participants if and/or when they need these services during the study.
- *Non-maleficence*: The researcher will create an environment that is not harmful to participants (1996:sec.24(a)).
- *Justice*: Each participant will be treated equally and with no form of unfair discrimination (1996:sec.9).

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<sup>3</sup> South Africa. 1996. The Constitution of the Republic of South Africa.

### Benefit to participants

The study may hold some indirect benefits for students who participate. Participants may experience psychological benefits such as enhanced self-understanding, self-expression, knowledge attainment, and/or self-acceptance. Participants may also benefit indirectly in future by the knowledgeable information that this study could supply to the community.

### Risks involved for participants

The information that participants supply are going to be on a personal level, because this study focuses on their lived experiences and perspective regarding sexual equality at schools. Participants may be influenced by the following risks when participating in this study:

- Possible *psychological harm* may be caused by the research topic, namely sexual equality, that is considered as 'sensitive' and which may stir up unpleasant memories and emotions. Other possible harms in this category may involve emotional discomfort, boredom, inconvenience, embarrassment, or fear of the process.
- Possible *physical harm* such as fatigue, headaches or physical discomfort may be endured when participants are completing questionnaires.

Although some of these risks are similar to what one might have experiences in day-to-day life, it requires self-disclosure and possibly unpleasant memories which places the study in the medium risk category. I will still take the following steps to manage these risks:

- No direct contact between the participants and me is necessary.
- The participants may refrain from answering questions that cause discomfort.
- Participants may complete the open-ended questionnaire anonymously at any time and place which is convenient to them.
- Participants will be inform that he/she may withdraw from the study at any moment without any negative consequences.
- Participation will be completely voluntary.

### Confidentiality and protection of identity

The participants will stay completely anonymous to the researcher. The following steps will be followed to ensure safeguarding participants' personal information:

- o Participants will have to agree to the informed consent form that will protect them and me.
- o The data will only be used with permission of the participants.
- o Peer review will be used to assure the rigour of the research.

- Transcriptions will then be stored under alphabetic letters (for example, participant A), in order to make transcriptions anonymous to other researchers and/or people.
- All information will be kept in electronic format and stored as password protected files. Anonymised questionnaires are the only information that will be printed and kept.
- All information and transcriptions of a participant will be destroyed if the participant no longer wants to participate in this study.
- All open-ended questionnaires will be destroyed after seven years.

The open-ended questionnaires on SurveyMonkey will allow participants to avoid possible stigmatisation, which may result from participation in the study. Online participation at a time and venue that the participant chooses and feels comfortable with, allows their participation to remain private. Unless they talk about their participation with others, no-body will know that they have participated.

#### Dissemination of findings

The findings of this study will only be used for this study. After the successful completion of the study, the results will be disseminated by means of:

- Peer reviewed publications
- Conference papers
- Contribution to a guidelines booklet disseminated to participating universities via collaborators at or nearby participating faculties.

Participant may wish to obtain a summary of the findings and recommendations. A short summary of the findings and recommendations will be e-mailed to the LGBQ+ organisation on each campus who will be asked to forward it to all of their members or post it on their website or social media platforms. A copy may also be requested from the researcher ([elmien1993@gmail.com](mailto:elmien1993@gmail.com)).

#### Identification of investigator

Any questions with regard to the research can be answered by Dr Annamagriet de Wet (supervisor of the study) at 018 299 4596 or 082 672 8320. You can also e-mail your question to her at [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za). My own contact details are: Tel: 082 791 6111 and/or Email: [elmien1993@gmail.com](mailto:elmien1993@gmail.com). Your positive response in this regard will be highly appreciated.

Kind regards,

Elmien van Wyk

# Voice your lived experiences!



Education and  
Human Rights  
in diversity



National  
Research  
Foundation



Participate in a  
research study

## Title of study:

Exploring education-  
related sexual equality  
experiences of LGBTQ+  
students: an education  
law perspective

## Who is invited?

All full-time  
self-disclosed  
LGBTQ+  
students

## Purpose of study:

To unlock LGBTQ+  
students' education-related  
sexual equality  
experiences  
towards informing  
transformative  
teacher education

**How do I participate?** Complete an online open-  
ended questionnaire anonymously via SurveyMonkey.

Go to

<https://www.surveymonkey.com/r/LGBTQEquality>

## **Need counseling?**

Please feel free to contact

**NWU:** 018 299 1777

**WITS:** 011 717 9140/32

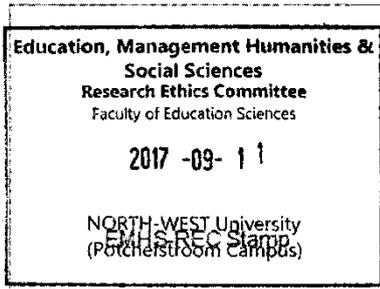


# ADENDUM K: PARTICIPANT INFORMATION AND CONSENT FORMS

 YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT  
POTCHEFSTROOMKAMPUS  
Private Bag X6001, Potchefstroom  
South Africa, 2520

Tel: 018 299-1111/2222  
Web: <http://www.nwu.ac.za>

**Faculty of Education Law**  
Tel: 018 299 4596  
E-mail: [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za)



## INFORMED CONSENT FORM FOR LGBQ+ STUDENTS<sup>1</sup> CONSENT TO PARTICIPATE IN RESEARCH<sup>2</sup>

You are hereby invited to take part in a **research study** conducted by Elmien van Wyk (a M.Ed. student) from the Faculty of Education Law at the North-West University. The study is a sub-project in a larger project which explores the possibilities of human rights literacies for transformative teacher education. The details of this study are as follows:

<b>Masters' title:</b>	<i>Exploring education-related sexual equality experiences of LGBQ+ students: an education law perspective</i>
<b>Ethics reference number:</b>	NWU-00482-17-S2
<b>My name (Masters' student):</b>	Elmien van Wyk
<b>Contact details:</b>	Wilgen street 36, Potchefstroom, 9520 0827916111 / <a href="mailto:elmien1993@gmail.com">elmien1993@gmail.com</a>
<b>Project leader and study supervisor contact details:</b>	Dr Annamagriet de Wet 0826728320 / <a href="mailto:Annamagriet.DeWet@nwu.ac.za">Annamagriet.DeWet@nwu.ac.za</a>
<b>Umbrella project title:</b>	Possibilities of human rights literacies for transformative teacher education
<b>Umbrella project ethics reference number:</b>	NWU-HS-2017-0086

Please take some time to read the information presented here, which will explain the details of this study. Please ask the researcher or person explaining the research to you any

<sup>1</sup> The Faculty of Health Sciences Ethics Office of the North-West University is acknowledged for the use of their document with minor adjustments by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the North-West University.

<sup>2</sup> Partly funded by the faculty of Education Sciences (Dean's Prestige Bursary).

questions about any part of this study that you do not fully understand. It is very important that you are fully satisfied that you clearly understand what this research is about and how you might be involved. Also, your participation is **entirely voluntary** and you are free to say no to participate. If you say no, this will not affect you negatively in any way whatsoever. You are also free to withdraw from the study at any point, even if you do agree to take part now.

This study has been approved by the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) of the Faculty of Education Sciences of the North-West University (NWU Potchefstroom) and will be conducted according to the ethical guidelines and principles of Ethics in Education Research: Principles, Processes and Structures (DoH, 2015) and other international ethical guidelines applicable to this study. It might be necessary for the research ethics committee members or other relevant people to inspect the research records. The results of this study will be included in a M.Ed. dissertation and will be available to the public. The study forms part of a larger interdisciplinary and inter-university NRF-funded study titled "*The possibilities of Human Rights Literacies (HRLit) for transformative teacher education*".

Details about the research are explained below under the following heading:

Contents

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**WHY HAVE YOU BEEN INVITED? ..... 3**

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### Purpose of this study

The main purpose of this study is to unlock LGBQ+ students' education-related sexual equality experiences towards informing transformative teacher education. Specific objectives are (1) to outline the legal and theoretical determinants for sexual equality at schools; (2) to explore how LGBQ+ (teacher) students experienced the (non)realization of sexual equality while they were at school; (3) to investigate how LGBQ+ (education) students currently experience the (non)realization of sexual equality as students at a university; (4) to develop and suggest guidelines that could inform teacher education towards the promotion of sexual equality.

### Why have you been invited?

You have been invited to be part of this research because:

- You identify (self-disclose) as LGBQ+
- You are English literate
- You are registered as full-time student at NWU or Wits.

Thus, you are invited to take part of this study, because your perspectives and lived experiences as a person belonging to the LGBQ+ community or identifying as sexually different plays a vital role in uncovering guidelines for how teachers can be better prepared to contribute towards sexual equality at schools.

### Procedures

Partaking in this study will require you to participate once off in an open-ended online questionnaire, which you will be able to complete anonymously. The link to the open-ended questionnaires is included in the invitation you have received (pamphlet, poster, text message, e-mail) and on this participant information form. Once you access the link, you will first be required to indicate whether you have read and understood this information, and secondly whether you participate out of your free choice (voluntarily) before you can proceed to the questions. The open-ended questionnaire includes three phenomenological open-ended questions about your sexual equality experiences in the education system and your thoughts on how teachers could be better prepared to contribute to a welcoming and inclusive environment for LGBQ+ learners at school. When answering these questions, please share your thoughts, feelings, experiences and opinions freely and elaborately. The more information you give, the better I will be able to derive guidelines for teacher education towards more inclusive education environments. In addition to the three open-ended questions, fifteen

biosocial questions will gain some information about you and your education settings to allow me to contextualise your expressions.

#### Possible risks and awkwardness

The information that participants supply are going to be on a personal level, because this study focuses on their lived experiences and perspective regarding sexual equality at schools. Participants may be influenced by the following risks when participating in this study:

- Possible *psychological harm* may be caused by the research topic, namely sexual equality that is considered as 'sensitive'. Whereas people who identify as sexual minority face stigmatisation and discrimination in society, participating in this research, which requires you to reflect on your sexual equality related experiences at school, may stir up unpleasant memories and emotions. Other possible psychological harm may involve emotional discomfort, boredom, inconvenience, embarrassment, or fear of the process.
- Possible *physical harm* such as fatigue, headaches or physical discomfort may be endured when you complete the open-ended questionnaire.

Although some of these risks are similar to what one might have experiences in day-to-day life, it requires self-disclosure and possibly unpleasant memories that places the study in the medium risk category. I will still take the following steps to manage these risks:

- There will be no direct contact between the researcher and the participants during completion of the questionnaire. You can thus participate anonymously or at least without disclosing your identity to the researcher.
- The participants may refrain from answering questions that cause discomfort.
- Participants may complete the open-ended questionnaires at any time and place, which is convenient to them, as long as you have completed the questionnaire by 1 December 2017.
- Participants may withdraw from the study at any moment without any negative consequences. If you wish to withdraw from the study while completing the questionnaire, simply exit or close your browser.
- Participation will be completely voluntary. No-body has to know whether you have participated or not.

#### Prospective benefits to participants and/or the society

The study may hold some indirect benefits for students who participate. Participants may experience psychological benefits such as enhanced self-understanding, self-expression, knowledge attainment, and/or self-acceptance. Participants may also benefit indirectly in future by the knowledgeable information that this study could supply to the community. This study's findings may create a greater awareness regarding the (non)realisation of sexual equality in education, by gathering and providing guidelines which may inform teacher-education programmes towards the promotion of sexual equality in education.

#### Dissemination of findings

The findings of this study will only be used for this study. After the successful completion of the study, the results will be disseminated by means of:

- Peer reviewed publications
- Conference papers
- Contribution to a guidelines booklet disseminated to participating universities via collaborators at or nearby participating faculties.

As participant in this study, you may wish to obtain a summary of the findings and recommendations. A short summary of the findings and recommendations will be e-mailed to the LGBTQ+ organisation on your campus who will be asked to forward it to all of their members or post it on their website or social media platforms. You are also welcome to request a copy of this document from the researcher at [eimien1993@gmail.com](mailto:eimien1993@gmail.com).

#### Availability of counselling

If you need a counsellor or any psychological support after or during the completion of the questionnaire, please feel free to contact the following number for counselling:

- If you are a student of the North-West University, contact 018 299 1777
- If you are a student of the University of the Witwatersrand, contact 011 443 3555.

You may contact these counsellors at any time during the night or day.

#### Imbursement for participants

No payment will be made to participants. There will not be any personal contact between the participants and the researcher. Participating in the study will not incur costs from the

participant, apart from possible data costs if you choose to participate in the online survey off-campus.

#### Discretion

The following process, regarding data generation and usage, will be followed throughout this study:

- a) All names, universities and other possible identifiers will be removed from the transcriptions and they will be given anonymised names; thus ensuring privacy protection to participants.
- b) Transcriptions of completed questionnaires will be stored under alphabetic letters (for example, participant A), in order to make transcriptions anonymous to other researchers and/or people.
- c) Peer review will be used to assure the rigour of the research.
- d) Records may be destroyed after seven years.

Thus, all data generated in this study, that you can be identified with, will continue to stay confidential and will only be revealed on your approval or as prerequisite by the law. No other party will be able to get hold of any data.

#### Partaking and withdrawal

Being part of this study is voluntarily. If you agree to participate in this study you have the right to withdraw at any time with no negative consequences of any nature to you. You may choose to participate without having to answer all of the questions.

#### Identification of investigator

- Any questions with regard to the research can be answered by Dr Annamagriet de Wet (supervisor of the study) at 018 299 4596 or 082 672 8320. You can also e-mail your question to her at [Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za).
- You can also contact the Education, Management, Humanities and Social Sciences Research Ethics Committee (EMHS-REC) via Miss Jessica Mabaso at 018 299 4707 or [Ethics-EMHS@nwu.ac.za](mailto:Ethics-EMHS@nwu.ac.za) if you have any concerns that were not answered about the research or if you have complaints about the research.
- You can obtain and keep a copy of this information and consent form for your own purposes from the LGBQ+ organisation on your campus.

#### Rights of research participants

You have the right to withdraw your consent at any given stage of the study with no consequences. You have the right to refuse to answer certain questions. If you decide to

withdraw from the study after you have completed a questionnaire, you have the right to have your data destroyed. The supervisor Dr Annamagriet de Wet ([Annamagriet.dewet@nwu.ac.za](mailto:Annamagriet.dewet@nwu.ac.za)) can clarify questions with regard to your participation.

Link to the open-ended questionnaire

Please feel welcome to follow the below-listed link if you have decided to participate in this study. Please remember that you cannot start the open-ended questionnaire if you do not declare on the first question that you have read and understood the informed consent and participant information form and that you are hereby prepared to participate.

Link to open-ended questionnaire: <https://www.surveymonkey.com/r/LGBQEquality>

The declaration below is included as question 1 of the online questionnaire.

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#### DECLARATION BY PARTICIPANTS

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The information stated above, was presented to me by Elmien van Wyk. I am able to interpret and comprehend what is said and/or written in this language. The researcher allowed questions with regards to this study and I am satisfied with the responses.

I declare that:

- I have read this information/it was explained to me by a trusted person in a language with which I am fluent and comfortable.
- The research was clearly explained to me.
- I have had a chance to ask questions to both the person getting the consent from me, as well as the researcher and all my questions have been answered.
- I understand that taking part in this study is **voluntary** and I have not been pressurised to take part.
- I may choose to leave the study at any time and will not be handled in a negative way if I do so.

I hereby declare that I was provided with a copy of this document and that I give consent to be part of this study.

ELMIEN VAN WYK

NAME OF RESEARCHER

# ADENDUM L: PEER REVIEW BY DR ANTHONY BROWN



## Critical Reader's Report

**Candidate:** Elmiën van Wyk  
**Programme:** M.Ed  
**Institution:** North-West University (Potchefstroom Campus)  
**Supervisor:** Dr. Annamagriet de Wet

**Critical Reader:** Prof. Anthony Brown  
**Institution:** University of Johannesburg, Faculty of Education  
**Contact:** [abrown@uj.ac.za](mailto:abrown@uj.ac.za)  
+27 (0) 72 374 4206  
+27 (0) 11 559 2831

**Date:** 15 November 2018

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### Introduction

I would like to applaud the candidate, Elmiën van Wyk who managed to process a very complex data set into a cohesive and coherent chapter. It is commendable that the candidate who conducted a rather strong qualitative study in nature was able to design it into a quantitative method. Although there is a need for more quantitative research in the South African discourse of Gender and Sexuality, we find that institutions through ethics policing prevent this nature of research and avoid contact with so called vulnerable participants as a means to avoid in-depth data generation. Congratulations to the supervisor and the candidate for adapting this study to its current format.

I suggest that the candidate attend to the comments below in order to strengthen this very important study.

#### 1. Research questions

I suggest that the candidate in the introduction briefly remind the readers/assessors what the research questions were. It is in this chapter that the candidate will demonstrate how she attempted to respond to the research questions. I would like to remind the candidate that this aspect is critical and she should throughout this chapter establish the link of her findings to the research questions in a creative manner.

#### 2. Terminology

The use of language is critical in the discourse of gender and sexuality. Elmiën will have to be clear with the coining of terms as used in this chapter to make sure that the reader does interpret the intended meaning. If need be, some of the definitions explained in the literature chapter will have to be repeated to remind the reader what was meant. See the comments made on the chapter 5 document.

### 3. Key literature

This chapter has interesting findings that relates to previous research conducted in the South African context. It is important that the candidate show the relation of her findings to that of previous studies. The connection could illustrate the pervasiveness and persistence of sexuality diversity dissonance in the South African education system. I provided some examples of key research publications within the chapter 5 document.

I am confident that that this study is a valuable contribution to the emerging body of knowledge in school related research on gender and sexuality, transformation and inclusion. I further urge that candidate and the supervisor map a few articles from this very important study. I wish the candidate and the supervisor all the best towards the finalizing and submission of this study.

Warmest regards,

A handwritten signature in black ink, appearing to read 'Anthony Brown', is centered below the text 'Warmest regards,'.

Anthony Brown

## ADENDUM M: PROOF OF LANGUAGE EDITING

Thank you for submitting your master's thesis to Language Online for editing.

I have used the tracking function in order to review your document. This will help you see the changes I have made. First, establish if you can see my tracked comments. If you cannot, click *Review* tab and change to *Final Showing Markup* (Word 2007). Any additions I have made will appear in blue and be underlined. You need to read the sentence and determine whether you agree with my suggestion. By right clicking over the insertion, you have the option to accept or reject it. You will be able to see a deletion as a strikethrough: Again, you will have the option to accept or reject the deletion. Depending how your computer is set, you may see the deletions in balloons to the side. Either is fine. I have also made comments that you can view in balloons or by clicking on *Comments* to explain some of the changes I have made or to ask you to clarify or add information. (These comments are in brown.) You can remove my comments by right clicking on the comment and clicking *Delete Comment*.

In working through your document, I have checked references and citations, punctuation, style, idiom, grammar and spelling. I have also checked formatting consistency. I have used the *North-West University Referencing Guide* as a resource, and page numbers in parentheses refer to this guide.

### ***Formatting***

- *Spacing*. I deleted some extra spaces between words and sentences, and I ensured two spaces between the parts of a reference. I made spacing before and after headings and between paragraphs consistent.
- *Font*. I made font type and size consistent.
- *Headings*. Some headings are not correctly formatted and thus do not appear in the table of contents. I have **highlighted** them in the text. You have some “orphan headings”—one

sub-heading on a specific level. I have noted them in balloon comments and suggested revisions.

- *Table of contents.* I updated page numbers, but the headings in the table do not update properly.
- I used numbers in parentheses [(1), (2), (3)] consistently for lists within a paragraph.
- *Footnotes.* I formatted the footnotes consistently in Arial 10 and without italics for court cases.
- *Use of italics.* I tried to make the use of italics more consistent by retaining italics for foreign words/abbreviations and for concepts and key words when they are first mentioned or defined. The use of italics for block quotes is inconsistent, and I suggest Roman type for all quotes. **Please check use of italics.**
- *Use of quotation marks.* I tried to make the use of single and double quotation marks consistent: single for hedging (but avoid this practice) and quotes within a quote; double for all direct quotes.
- *Figures.* I reformatted citations with figure captions so that they should not appear in the list of figures. At present, I have deleted them manually.
- *Bullets.* You use several styles of bullet. I revised some for consistency. **Consider further revisions.**

### ***References***

- I have used the *North-West University Referencing Guide* Harvard guidelines as a guide for checking the references.
- The reference list is not justified (p. 12).
- References are in alphabetical order and chronological order, earliest of works with the same author first. I made several changes.

- I checked spacing: Two spaces between elements of a reference; no space between two initials.
- I queried some information in balloon comments.
- I deleted unnecessary publishing information. Give the name of the publisher in a brief a form as is intelligible (p. 17).
- I used U.S. state abbreviations consistently although these are not essential (p. 16).
- The publisher's city should be give, but the country is unnecessary. However, I retained the country name where you had included it and the city is not well known.
- I typed short hyphens for all page numbers: 12-14.
- The Harvard examples use Available: (not "at").
- You have included several sources that you have not cited. I have noted them in balloon comments in the reference list: Albertyn, 2009; Angelides, 2004; Balter et al., 2016; Beasley, 2005; Canon, 2001; Crenshaw, 1989; Crenshaw, 1991; De Wet, 2016; Hall, 2003; Herriot, & Hiseler, 2015; Kincheloe, & McLaren, 2011; Labuschagne, 2011; Liebenberg, & Goldblatt, 2007; Maree, & Pietersen, 2016b; Mulholland, 2015; Osgood & Robinson, 2017; Rothmann, & Simmonds, 2015; Sanders, 2001; Tsaliki, 2016.

### *Citations*

- In some citations, the date is missing or does not match that in the reference list. I have tried to check and generally changed the citation to correspond with the reference list date.
- When citing two or more works in the same parentheses, put the works in the same order that they appear in the reference list, separated by semicolons (alphabetically, date order, etc.). I checked and made some changes (p. 7).
- The following citations have no corresponding reference list entry: Adams, 2004; Allen & Mendez, 2018; Badenhorst, 2018; Barnard, 2018; Best et al., 2018; Brisolara, 2014;

Cameron, 2014; Cho et al., 2013; Cohen et al., 2007; Dawson, 2017; Dessel et al., 2017; De Wet & Du Plessis, 2017; Du Plessis, 2016; Fahs and McClelland, 2016; Falcon & Nash, 2015; Francis & Revgan, 2016; Ghajarieh & Mozaheb, 2012; Hart, 2018; Hassan et al., 2018; Kosciw et al., 2015; Kincheloe & McLaren, 2011; Kumashiro, 2000; Lutz, 2015; Mackay, 2015; McLaren & Steinberg, 2002; McGlashan & Fitzpatrick, 2017; Oosthuizen et al., 2009; Rivers, 2017; Radley, 2015; Rumens *et al.*, 2018; Russel et al., 2010; Sadowski, 2017; *Settlers High court case* (SA, 2013); *South African Council for Educators (SACE) Code of Professional Ethics* (SA, 2000b); UNICEF, 2011; Ward, 1998; Wernick et al., 2013; Wood et al., 2016.

***Referencing and citation of acts, the Constitution, government departments, and case law or legal reports***

- The *North-West University Referencing Guide* lists all the above categories with the prefix South Africa and cross references them with “Acts (for example) *see* South Africa”. You have similar cross references for DBE (to Department of Basic Education) and SA (to South Africa), but this does not seem to be the intention of the Harvard guide. You have used the “Law” format rather than Harvard for the case law section of your reference list. **Find out if you need a cross reference: Law reports or Case law *see* South Africa, or if you should retain the separate list of cases appended to your reference list.**
- When citing these sources, the guide does not use South Africa or SA as you have sometimes done. It cites the name of the act, the Constitution (p. 26), the name of the government department (p. 28), or the name of the case (p. 27).
- In keeping with the Harvard guide (p. 27), I have used Roman type for names of court cases in the text. I used Roman type consistently in the footnotes. I wonder if your abbreviations for the cases are acceptable; for example, “the Coalition case” or “National Coalition for Equality case” for “National Coalition for Gay and Lesbian Equality and

Others v Minister of Home Affairs and Others” seems loose and informal. Check whether this is acceptable.

- The Harvard system does not use footnotes, but the Law system does.
- Please check the changes I have made and be guided by your own information and practice when referencing and citing these four categories of sources.

### ***Punctuation***

- I used a comma to set off most introductory elements.
- I usually used a comma before the seven coordinating conjunctions (*and, but, so, nor, or, for, yet*) when linking independent clauses.
- I deleted a comma when two clauses joined by a coordinating conjunction are not independent because they have the same subject or when the coordinating conjunction joins two phrases in a compound element. I allowed a few exceptions, however, where a comma facilitates the reading of a long sentence.
- I deleted a comma between a multi-word subject and its verb.
- Most subordinating conjunctions are not preceded by a comma because they belong with the main clause that precedes them.
- I placed punctuation outside quotation marks except when complete sentences were being quoted (p. 6).
- I avoided most dashes and slashes because they are considered informal.
- I avoided back-to-back parentheses.

### ***Semantics, Style and Grammar***

- Avoid split infinitives by keeping to with the verb: *is necessary to also consider* → *is necessary also to consider*
- Use *since* to refer to time but *because* to refer to cause.
- I changed some prepositions for better idiom.

- *Antecedent-pronoun agreement.* For clarity, a pronoun or possessive adjective should agree with its antecedent--the word for which the pronoun stands--in number (singular or plural) and gender (feminine or masculine). Using the plural *they, them,* and ~~*their*~~ to refer to one participant is confusing. I have identified each participant as being either masculine or feminine (grammatically speaking) and used *he, she, him, her,* and *his, her* accordingly.
- Another point to note is that *it* cannot refer to a plural antecedent.
- Check subject-verb agreement, especially with the verb *to be*: *is* and *was* are singular and *are* and *were* plural.
- The phrase *sexual equal environment* does not read well; neither does the more correct *sexually equal*. I have suggested other expressions.
- I used words consistently to express most numbers.
- If using the first person (I) is acceptable, use it consistently. The alternative is *the researcher*, but a mixture of the first and third person is awkward. I generally avoided the use of the first-person (*I, me, my*) where possible and used the more formal third-person perspective.
- I tried to avoid **and/or** because it is colloquial and imprecise. Usually, one or other word is more appropriate.
- Avoid *among others*; it is not idiomatic. The Latin *inter alia* is sometimes appropriate. Usually, you can use a phrase like *for example* or the verb *include* ~~to show~~ that other possibilities exist.
- Avoid the overuse of *further* and *furthermore*. I deleted several instances.
- The expression *teaching-learning* as a noun seems strange. I tried to use it as an adjective with a word like *activities* added.

- For correct idiom, I used *student teachers* rather than *teacher students* and *single* (having one part) in place of *singular* (unusual, exceptional).
- I changed some verb tenses to reflect that the study ~~has been completed~~. The future tense is not appropriate for a study that ~~has been completed~~.

### ***Spelling***

- Use lowercase for general terms: applicant, court, human rights literacies, life orientation. Use an initial capital for a section of the Constitution (Section 36; p. 26).
- Spell chapter names consistently: Chapter ~~Two~~, Chapter 2, chapter two or chapter 2. You should probably treat questions in the same way as chapters or at least be consistent. I chose the format Chapter ~~Two~~ (because you have used words in the chapter headings) and Question 2 (because this is common academic convention).
- I used SA English spelling: programme; practice (noun; verb: practise).
- SA spelling usually prefers an *s* to a *z*. I made spelling consistent, generally using *s* instead of *z*: realise rather than realize. ~~Also~~ categorise, characterise, criticise, internalise, marginalise, sexualise, theorise. I retained the *z* in direct quotes and in a few words such as ~~victimize~~ and ~~minoritize~~.
- I used hyphens consistently in compound adjectives (medium-risk study; teaching-learning activity, peer-review process; teacher-education programme, but teacher education) and checked other words for consistency: ~~microaggressions~~. I used a hyphen with the prefix *cis*.

Thank you for the opportunity to edit your ~~thesis which~~ I found most interesting.

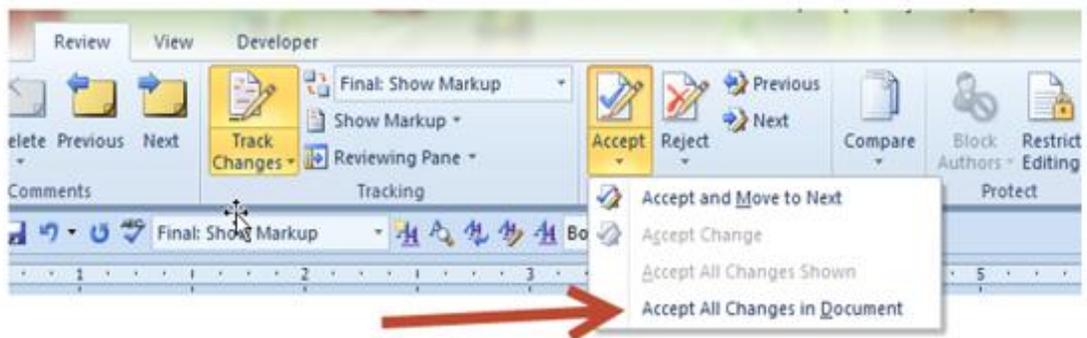
Best wishes with the submission process.

Elizabeth Robinson, BA Hons. (Language Online editor)

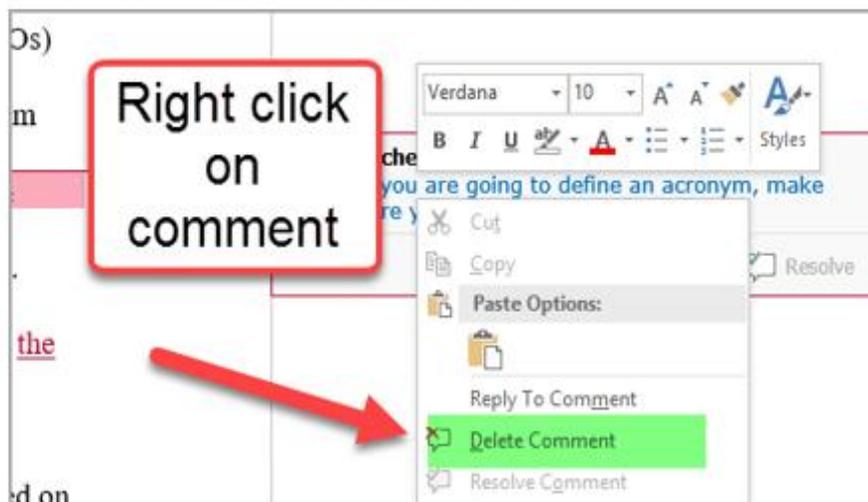
[www.languageonline.co.za](http://www.languageonline.co.za)

## A NOTE FROM DESRAY J BRITZ

A reminder: look at all the changes first to get a sense of what we have done. Then if happy with everything, time to accept tracking. My advice: accept everything in one go, in other words accept all our changes globally. Then deal with the balloon comments. Some are for information. Some need you to take action. As you've read each one or dealt with the concern, delete and all to soon the document will be clear of comments.



In case you are unsure about how to remove the balloon comments, a screenshot below to help. I recommend doing one at a time and delete as you complete reading the black comments or doing something for the brown and red comments.



*Desray J Britz*

CEO Language Online Editing

[www.languageonline.co.za](http://www.languageonline.co.za)