

Teacher unions and educator professionalism - an Education Law perspective

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Potchefstroom

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ETHICS APPROVAL OF PROJECT

This is to certify that the next sub project was approved by the NWU Ethics Committee under the main project:

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WITHIN A CHANGING EDUCATION ENVIRONMENT.**

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The formal ethics approval certificate will follow shortly.

Yours sincerely

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SUMMARY

Dissertation title : Teacher unions and educator professionalism – an Education Law perspective

Despite the transformation that the education system has been undergoing, unionism at school level is still characterised by controversies that adversely affect education delivery. Teacher unions have neglected the significant meaning of their partnership with the national Department of Education in the sense that their activities are contrary to what their partner expects and; in most cases contravene the law and policies.

From the transformation process and the legislative framework utilised to transform and democratise education, the South African education system should have yielded good results by now. However, professionalisation of education has been badly neglected as well as regulating unionism to adapt to progressive mechanisms and democracy. The character of South African education has not changed much except for registration with the South African Council for Educators (SACE) which is a legislated prerequisite for entrance into the teaching profession. To improve and to alter the education system, the Department of Basic Education should venture into adopting legal measures like writing board examinations just like the other major professions do to prospective practitioners.

The character of trade unionism in general, has not improved as the country transformed. Unionism in South Africa has kept the vanguard status it had during the apartheid era as well as the militancy that characterised it then. The inappropriate involvement of teacher unions in politics and the interference during the filling of promotion posts attest to this. This may further de-professionalise education if it goes unchecked and unchallenged by the Department of Basic Education and parents. Teacher unions have a responsibility to ensure that educators are not victimised in any way. However, this study has confirmed that educators who democratically choose not to strike during public servants' strikes and remain teaching in their posts are victimised. If teacher unions abdicate their responsibility to protect and pursue the career-related interests of their members, they might cease to be effective as unions.

Deeper understanding of Education Law might assist the daunting position in which the Department of Basic Education finds itself. This kind of understanding could be enhanced through training and development of principals as leaders in schools where

professionalism and unionism phenomena are practicably visible. The government could channel funds towards this, as well as the South African Council of Educators. Conclusions drawn from this study suggest that despite the plethora of good legislation that the South African government has invested in, educators' professional and labour activities are inadequately regulated. A few amendments and reinforcement of certain legislation that impacts on education could turn the South African schools into places of excellence.

Key words: Professionalisation of education, professional ethics, unprofessional conduct, Education Law, teacher unionism, strikes, professional productivity, legislation and policy, labour relations and promotional posts.

OPSOMMING

Titel van skripsie: Onderwysvakbonde en opvoeder-professionalisme – 'n Onderwysregtelike perspektief.

Ten spyte van die transformasie wat die onderwysstelsel besig is om te ondergaan, word die vakbondwese op skolevlak steeds gekenmerk deur omstredenheid wat die onderwys negatief affekteer. Onderwyservakbonde het menigmaal die wesenlike bedoeling van 'n vennootskap met die Nasionale Departement van Onderwys versaak, aangesien hul aktiwiteite indruis teen die reg en beleid.

Dit sou verwag word dat die onderwysstelsel vanweë die transformasieproses en die veelvuldige wetswysiging beter resultate sou oplewer. Daar is egter in 'n groot mate nagelaat om die professionalisering van die onderwysberoep daadwerklik te bevorder en om die onderwyservakbondwese behoorlik te reguleer deur progressiewe en demokratiese meganismes. Ondanks die vereiste registrasie by die Suid-Afrikaanse Raad vir Opvoeders het onderwys nie in wese verander nie. Ten einde die onderwysstelsel te verbeter, behoort die Nasionale Departement van Onderwys regsmaatreëls in plek te stel waarvolgens van voornemende onderwysers vereis word om 'n professionele raadseksamen af lê, ooreenkomstig die gebruik by die vernaamste professies.

Die aard van die vakbondwese het in die algemeen nie verbeter soos die land getransformeer het nie. Die oordrewe klem op die vakbondwese gedurende die apartheidera, sowel as die kenmerkende militantheid daarvan, is behou. Die onbehoorlike betrokkenheid van onderwysersunies by politiek en inmenging tydens bevorderings getuig hiervan. Indien die Nasionale Onderwysdepartement en ouers hierdie ongesonde stand van sake ongehindert sou laat voortduur, sal dit tot verdere afname in professionaliteit in onderwys lei.

Onderwysvakbonde het die verantwoordelikheid om te verseker dat onderwysers nie geviktimiseer word nie. Hierdie studie het egter bevind dat onderwysers wat demokraties besluit om nie aan stakings deel te neem nie, wel geviktimiseer word. As onderwysersvakbonde hul plig versaak om die loopbaanbelange van hul lede te bevorder, dan kan hul ophou om as effektiewe vakbonde voort te bestaan.

Dieper insig en kennis in Onderwysreg mag bydra om die gedugte uitdagings vir die Nasionale Onderwysdepartement te oorkom. Hierdie kennis en begrip behoort versterk te word deur opleiding en ontwikkeling van skoolhoofde as leiers van skole waar die verskynsels van professionalisme en gesonde vakbondwese sigbaar is. Die regering sowel as die Suid-Afrikaanse Raad vir Opvoeders kan fondse vir hierdie doeleindes beskikbaar stel. Die gevolgtrekkings van hierdie studie bevestig dat ten spyte van die oormaat van goeie wetgewing wat die Suid-Afrikaanse regering ontwikkel het, daar steeds leemtes bestaan om die professionele en arbeidsaktiwiteite behoorlik te reguleer. 'n Paar voorgestelde wetswysigings en versterkings van wetgewing kan die gevolg hê dat skole plekke van uitnemendheid word.

Sleutelwoorde: Professionalisering van onderwys, professionele etiek, onprofessionele handeling, onderwysreg, onderwyser-vakbondwese, stakings, professionele produktiwiteit, wetgewing en beleid, arbeidsverhoudinge en bevordering.

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CHAPTER 1

PROBLEM STATEMENT AND RESEARCH DESIGN

1.1. INTRODUCTION

The aim of this chapter is to give a brief orientation of the research that was undertaken in this study. The orientation starts with a brief background to the problem. Then follows the problem statement; the significance of study, research goals and objectives, research questions and research method. This chapter ends with the format of the study and a brief conclusion. Then follows the problem statement; the significance of the study, research goals and objectives, research questions and research method. This chapter ends with the format of the study and a brief conclusion.

1.2. BACKGROUND TO THE PROBLEM

According to Bloch (2009:107), the international community and non-governmental organisations view the general academic productivity of educators in South Africa as counting amongst the lowest around the globe. The World Competitiveness Yearbook (Nienaber, 2004:25) ranks South Africa's overall comparative competitiveness as 42nd out of 46 industrialised countries. According to Erasmus and Steyn (2002:6), these findings were despite the education transformation in the mid-nineties which gave rise to a number of laws and policies to regulate education and to improve intellectual productivity in schools. Laws that impact on education, according to Oosthuizen, Botha, Roos, Rossouw and Smit (2009:58), include the following: The Employment of Educators Act, The Constitution of the Republic of South Africa, the South African Council for Educators (SACE) Act and the Labour Relations Act.

According to Rossouw (2010:1), labour relations transformed rapidly in South Africa during the 20th century. This marked the inception of an era of co-determination and

cooperation as opposed to the era of adversarialism. The new labour laws, Employment of Educators Act (SA, 1998), the Constitution of the Republic of South Africa (SA, 1996a) and SACE Act (SA, 2000) have reinforced organised labour, giving employee and employer organisations collective bargaining powers in matters of mutual interest (Rossouw, 2010:1-2; Oosthuizen *et al.*, 2009:132-133). This new legislation was adopted by all stakeholders in education because it seemed to bring the end to the use of schools as battle arenas by unions (Rossouw, 2010:11), and it was assumed that it would restore the dignity of and instil professionalism in the teaching fraternity, particularly since the SACE Act (SA, 2000) was specifically promulgated for this purpose .

Bloch (2009:106-107) is uncertain whether the current legislation is applied as effectively as intended because schools have remained toxic and chaotic. The South African Council for Educators Act (SA, 2000), as well as the Employment of Educators Act (SA, 1998), features prominently in the regulation of the professional conduct of educators. Legislation related to education is meant to enhance professionalism among educators, thereby enhancing effective teaching and learning environments. However, if the educators' conduct is to be judged in the light of the provisions of the Code of Conduct for Education, it is nowhere near the ideal (Musgrave, 2007:3). Jansen (2007:12) concurred with Musgrave's (2007:3) findings as he reports an example of unprofessional conduct during a visit to a certain school where the classrooms were packed with learners but no educators were in sight. The staffroom was full of educators, and learners' books littered the floor, marked and unmarked. Jansen (2007:12) is convinced that the greatest obstacle to transforming South Africa's education system is the lack of accountability by educators and managers. This seems to highlight that both the manager and the staff neglect their professional obligations to the client.

The starting point is to acknowledge the purpose of establishing the South African Council for Educators and to comprehend its role in professionalising education (Oosthuizen *et al.*, 2009:105). Registration with the South African Council for Educators (SACE) is compulsory; therefore, no person may be appointed or

employed as an educator in terms of the Employment of Educators Act (SA, 1998) unless such a person is appointed in a School Governing Body (SGB) post. The preamble to the Code of Conduct (SA, 2000) stipulates that the educators who are registered with SACE:

- Acknowledge the noble calling of their **profession** to educate and train the learners of our country;
- Acknowledge that the attitude, dedication, self-discipline, ideals, training and conduct of the teaching **profession** determine the quality of education in this country;
- Commit themselves to do all within their power, in the exercise of their **professional** duties, to act in accordance with the ideals of their **profession**, as expressed in this code, and to act in a proper and becoming way so that their behaviour does not bring the teaching **profession** into disrepute.

The Code of Conduct further stipulates how educators are expected to relate with learners, parents, colleagues, the employer, SACE, the community and the education profession itself. It is imperative that employees should make their services available to the employer and properly heed the employer's instructions in this regard (Oosthuizen *et al.*, 2009:106). As a preliminary measure and in order to proceed from a measurable standard, the definition of professionalism is the combination of all qualities that are connected with trained skilled people (Cambridge Advanced Learner's Dictionary, 2004:991).

1.3. PROBLEM STATEMENT: EDUCATORS' UNPROFESSIONAL CONDUCT

It is imperative to state that professionalism functions as an honorific concept to denote a set of valued qualities and dispositions (Sykes, 2009:227). According to Sykes (2009:227), the so-called true professions (medicine, engineering and law) rose to prominence in our societies due to their ability to uphold that set of valued qualities and dispositions referred to above. If education has to qualify as a profession, it has to compete with the so-called true professions. For instance; it is a serious offence and unprofessional for a medical practitioner to treat a patient whilst

lacking specialised knowledge regarding the disease. Sykes (2009:228) submits that medical doctors are compelled to engage in continuous research in order to push back boundaries in medicine. The implication here is that it is unprofessional for any practitioner in any field that calls itself a profession to be found lacking in the specific qualities which illustrate the essence of professionalism. According to Manuel (2011a), misconduct is a by-product of unprofessional conduct and unethical conduct. Sykes (2009:228) contends that, though the concepts are not synonymous, there cannot be a sound discussion of professionalism without simultaneously discussing ethics and competence. In a nutshell, unprofessional conduct is defined in the teaching profession and probably in other professions as meaning any or all of the following (www.quackwatch.org/04ConsumerEducation/News/wilson.html):

- Displaying a lack of knowledge or a lack of skill or judgement in the provision of professional services;
- Contravention of the SACE Act and the SACE Code of Conduct;
- Contravention of another enactment that applies to the profession;
- Conduct that harms the integrity of the profession.

Oosthuizen *et al.* (2009:105) declare that society has become increasingly aware of the distinct professional role educators are expected to play in the education field. Oosthuizen *et al.* (2009:107) contend that teaching is a profession by virtue of specific characteristics that illustrate the essence of professionalism, such as:

- Specialised knowledge;
- Continuous research;
- Professional authority of educators;
- Acknowledgement of authority by society;
- Developing and maintaining a professional ethical code;
- Service orientation.

Oosthuizen (2007:33) is of the opinion that, presently, many educators lack the essential characteristics of a professional. Taylor (2006:10) reports that approximately 80% of the public schools in the South African education system are

dysfunctional, and he therefore questions the commitment and professionalism of many educators in dysfunctional schools.

In his State of the Nation address, former president of South Africa, Thabo Mbeki (2006:5), stated that the economical and social success of South Africa depends largely on education. He urged educators to confront the current challenges as a labour force and to grant the child at school the opportunity to also enter the future with hope. One of the issues to which Mbeki alluded pertaining to education was absenteeism of educators due to union activities, resulting in inadequate preparations for lesson presentations (Mbeki, 2006:5). Oosthuizen (2007:33) concurs with Mbeki when he states that educators must have their fingers on the pulse of their classes. In support of these statements, the following examples of unprofessional conduct by educators are apparent.

1.3.1. Inadequate specialised knowledge

For the successful practice of any profession, specialised knowledge and certain skills are a prerequisite (Oosthuizen *et al.*, 2009:107). It is of paramount importance that educators must possess authority over the specialised knowledge they have acquired as it makes them experts in their field. However, based on a quantitative survey, Oosthuizen (2007:33) found that one of the key issues that would enhance discipline and learner performance is the importance of proper preparations for lessons by educators. Examples of ill-discipline as a result of poor preparations are truancy, disruption of lessons, disrespect and general chaos in the classroom. In an address, the former Member of the Executive Committee (MEC) for Education in the North-West Province, Tselapedi (2007), stated that preoccupation with union activities left educators with little or no time to prepare properly for lesson presentations. Due to their own poor education, the knowledge resources of most South African educators are not strong (Taylor, 2006:10).

1.3.2. Lack of involvement in continuous research/lifelong learning

According to the South African Council of Educators Act (SA, 2000), educators are expected to have a ceaseless quest for knowledge and to stay abreast of changes and new innovations in their field. This can only happen if they put more effort into upgrading their qualifications and engage in continuous research related to education. According to the Human Science Research Council (HSRC, 2006:26), approximately 30 000 educators were still unqualified in 2006, which proved that educators' qualifications on a national level were not up to standard (HSRC, 2006:26). The report further declared that there was little evidence that; that particular group was engaged in upgrading their qualifications. Statistics from the Human Resource (HR) directorate indicate that the Department of Education in the North-West Province managed to train 2908 educators, changing their status from unqualified to qualified, from 2005 to 2007. Following the stipulations of Resolution 1 of 2003 of the North-West Provincial Education Labour Relations Chamber (PELRC), the status of 662 educators who had been in possession of only a grade 12 or lower certificate and without educators' qualification was converted to that of ground assistants (non-teaching posts).

The Department of Education has embarked on initiatives to improve learners' literacy and numeracy skills in primary schools, but these could be hampered by the shortage of suitably qualified educators (Govender, 2008:6). This is how bad the situation is in South Africa.

1.3.3. Lack of professional authority and acknowledgement

The professional authority of educators stems from their specialised knowledge and skills (Oosthuizen *et al.*, 2009:107). Taylor (2006:10) confirms that educators are lacking not only in specialised knowledge (subject content) but also in pedagogical content knowledge, which is the knowledge required to teach a subject (skills) additional to being familiar with the subject content. It would be difficult for educators to attain professional authority and acknowledgement from the society as long as

they are found lacking in the area of their expertise. Professional authority is measured against the education profession itself and the educators' excellence; and this in turn determines how much professional authority is deserved and must be awarded (Oosthuizen *et al.*, 2009:108).

1.3.4. Lack of service orientation

According to Oosthuizen *et al.* (2009:109), it is a legitimate expectation that professional people should put their clients' interests first. In compliance with section 29 of the Constitution of the RSA (SA, 1996), it is regarded as one of the primary duties of all educators to protect the learners' rights to education (Rossouw, 2010:63). In a meeting to address the recovery process after the 2007 public servants' strike, the former MEC for Education in the North-West Province, Tselapedi (2007), stated that educators did not act in the interest of learners when they engaged in the prolonged industrial strikes.

1.3.5. No adherence to professional ethical code

Bertram *et al.* (2002:14) declare that the prescribed code of conduct in the SACE Act (SA, 2000) is designed to protect both the educators and the clients by excluding possible mutual malpractice and exploitation.

However, according to an address by the former MEC for Education in the North-West Province, Tselapedi (2007), very few educators still took pride in their profession by displaying acceptable professional conduct, adhering to a code of professional ethics and maintaining a strong moral fibre. The SACE Act was established in 1997 for the sole purpose of professionalising education and giving direction to educators as professionals.

Educators displayed unethical conduct during the public servants' strikes of 2007 and 2010. Malala (2007:9) reported intimidation, subversive conduct and violent actions inflicted on other educators who did not want to take part in the strike. There

was widespread intimidation and even physical attacks on educators and learners that led to many of South Africa's 25 500 public schools closing their doors despite the former Public Service and Administration Minister, Geraldine Fraser-Moleketi's continued reminders that schools should not be closed during the industrial strike (Musgrave, 2007:3). Not all the learners in the few schools that remained open were educated during the industrial strike, and in most cases no proper arrangements were made to cater fully or even partially for the client (Musgrave, 2007:4). The 2010 strike saw 1.3 million public servants deserting their workplaces and taking to the streets to pursue their personal demands (Khoabane, 2010:2).

As Khoabane (2010: 2) asserted, that particular strike was driven by political as well as personal agendas of some union leaders. According to Khoabane (2010:2), educators behaved as if there would be no end to the strike, and their conduct left a lot to be desired. It was illogical that the secretary of the Congress of South African Trade Unions (COSATU), Vavi, justified the unethical conduct of educators and other civil servants by arguing on national television (SABC, 2010) that such acts were symbolic of their resentment of the government's opulence. Khoabane (2010:2) further argued that all civil servants should have *toy-toyied* against Vavi who granted himself a 100% increase in 2009 and led a generally opulent lifestyle. During both occurrences of the aforementioned strikes, the conduct of the educators was contrary to the stipulations of the SACE Code.

From the foregoing paragraphs, it was apparent that distinctive trends of unprofessional conduct are often displayed by educators which obviously have adverse effects on productivity in the classroom. On the basis of the background given above, it was proposed that an investigation be undertaken into the nature and causes of educators' unprofessional conduct, misconduct as well as the impact that teacher unionism and the existing educational legislation and policies has on educator professionalism. It was proposed that a study be undertaken in the **Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH)** area that is situated in the Dr Kenneth Kaunda district of the North-West Province. The choice of the KOSH area was informed mainly by logistical reasons, proximity to the researcher and the

postulated representation of opinions and attitudes of educators who belong to different teacher unions in the North-West Province.

1.4. UNDERLYING CAUSES OF UNPROFESSIONAL CONDUCT

Jansen (2004:52) contends that trade unionism in education in South Africa is about two opposing positions: professionalism and de-professionalism. The implication is, as Jansen contends, that aspects of education might be professionalised while some aspects might be de-professionalised. The former editor of *The Voice*, Lewis (2008:3), concurred with Jansen when stating that the South African Democratic Teachers' Union (SADTU) was committed to restore, uphold and promote the status of educators by remunerating and perceiving them as professionals as well as by improving the conditions under which they worked. This was contrary to an article by Lewis (2007:6) in which he aligned himself with COSATU, stating that the 2007 prolonged industrial strike would benefit all "workers" in the long run. From Lewis' statements, the tension between the duties and attitudes expected from professionals and the attitudes workers displayed in making their demands clearly came to the fore.

However, during the 2007 and the 2010 civil servants' strikes, scores of educators in the public service, of which most were members of the largest teacher union, SADTU, participated in the prolonged strikes (HSRC, 2007:4; Khobaone, 2010:2). Though not all educators participated in those strikes, the strikes were marred by violence and intimidation inflicted against non-striking educators (HSRC, 2007:4; Radebe, 2010). Malala (2007:9) and the SABC (2010) reported widespread intimidation, violence, malicious damage to property, derogative slogans and physical attacks on educators and learners that caused many of the approximately 25 500 public schools to close during both strikes.

This seemed to be confirming that unionists want to be both professionals and ordinary workers at the same time. In defence of both unionism and professionalism,

an educational official based at Quality Assurance in the North-West Department of Education (2010) verbally argued that responsible educators could still be committed to both, provided that after a strike, for instance, they would go back to schools and make extra efforts to cover the work not done during a strike.

The Minister of National Planning, Manuel (2011b:2), submits in the chapter on “Building a Capable State” that education still has many challenges that need to be addressed in order for South African citizenry to experience a better country. Among others, he cites the poor quality of education available to the majority of the people of South Africa, namely blacks. Manuel (2011b:2) asserts that the South African government has built schools, but it has not been able to make children go to school and study hard; it will take the commitment of parents and educators to ensure that this happens.

Manuel (2011b:2) and Makhanya (2011:4) concur in proposing that only qualified educators should be appointed in schools and that there should be no undue political or union interference in public schools. It becomes evident from Manuel’s submissions that the country has a problem with low skills and poor professionalism as well as an absence of clarity between the political and administrative/professional functions of civil servants. Makhanya (2011:4) further contends that there is always a danger in societies that when the public service is insufficiently insulated (from political control), standards can be undermined as public servants, such as educators, are recruited on the basis of political connections rather than skills and expertise. One other daunting challenge to which Manuel (2011b:2) alludes is the country’s ability to come up with strategies to utilise test scores to enable parents to hold schools and educators accountable. In essence, schools may hold individual educators accountable for low test scores. The implication here is that, in the near future, parents may take educators to court for the poor academic performance of their children, as this is tantamount to a dereliction of duties. The plan compiled by the commission led by Manuel does not, however, clarify mechanisms that will be utilised to ensure the professionalisation of the public service and the depoliticisation thereof.

Therefore, the 2007 and 2010 industrial strikes indicated that the teacher unions have an important influence on educators' notions regarding professional and non-professional behaviour. It was remarkable that educators seemed to view professionalism as some abstract concept they could either associate or disassociate with as they see fit. This was an indication of a poor knowledge base of both the concept of unionism and the concept of professionalism.

1.5. INADEQUACY OF KNOWLEDGE

Little research has been done on the extent, causes and effect of educators' unprofessional conduct in schools. Statistics from SACE only indicate various types of misconduct committed by educators, the frequency of occurrence and the punitive or corrective measures taken in concluding cases. Knowledge of the role that Education Law plays to regulate educators' conduct is still deficient. There is no evidence that has shown, over the years, that SACE has taken punitive or corrective measures that help to sustain the reputation of the teaching profession.

1.6. RESEARCH QUESTIONS

Against the foregoing background, the following questions warranted thorough research:

- 1.6.1. What does educator professionalism entail?
- 1.6.2. To what extent does educators' unprofessional conduct occur in the North-West Province?
- 1.6.3. What could be the underlying causes of educators' unprofessional conduct, and what effect does teacher unionism have on education?
- 1.6.4. How can the existing legislation that is related to education be utilised effectively or reinforced to regulate unionism, thereby enhancing professionalism in education?

1.7. RESEARCH GOALS AND OBJECTIVES

The prime aim any research is to gather data regarding the focus area of the study, accordingly, the particular purpose of this research was to study the relationship between teacher unionism and educator professionalism from an Education Law perspective. Professionalism can be enhanced through the application (analysis) and development (criticism and synthesis) of Education Law. In view of the problem posed and within the frame of reference defined above, this research proposes to reach the following objectives:

- 1.7.1. To establish what educator professionalism entails.
- 1.7.2. To determine the extent to which educators' unprofessional conduct occurs in the North-West Province.
- 1.7.3. To identify the underlying causes of educators' unprofessional conduct and teacher unionism and the effect it has on education.
- 1.7.4. To determine the extent to which the existing legislation related to education can be utilised effectively or reinforced to regulate unionism and enhance professionalism.

1.8. RESEARCH QUESTIONS

1.8.1. Literature Review

A literature review is a description of theoretical perspectives and previous research findings related to the problem being investigated (Leedy & Ormrod, 2005:70). The purpose of a literature review is to establish an overview of the existing scholastic and theoretical background to the topic of educator professionalism in relation to teacher unionism (Leedy & Ormrod, 2005:70).

A literature study on the nature of educator professionalism and what it entails has been conducted for the purpose of defining educator professionalism as a concept and in order to determine the extent and purview of the concept. The literature study

sought to reveal the underlying causes and variables resulting from or influencing educators' unprofessional conduct as well as the effect teacher unionism has on this matter. This study is also intended to determine the extent to which Education Law is instrumental in reforming and regulating educators' union activities and enhancing professionalism. In this regard, the Constitution of the Republic of South Africa, various forms of legislation that impact of education and documents of various teacher unions, such as the South African Democratic Teachers' Union (SADTU), the Suid-Afrikaanse Onderwysersunie (SAOU) and the National Professional Teachers' Organisation of South Africa (NAPTOSA), have been investigated in terms of the issues relevant to this study.

Computer and internet searches have been conducted with the aid of the following key words: labour relations, Education Law, professionalism, code of ethics, fundamental rights, education policy, trade unionism, industrial strikes, education malpractices, unprofessional conduct and misconduct.

1.8.2. Empirical research

Predominantly, quantitative research has been used to validate this study. According to Leedy and Ormrod (2005:86), quantitative research methods are used to explore social and human problems as well as to integrate and measure data collected from surveys and questionnaires. Quantitative research, including surveys and questionnaires, can help organisations to improve their performance and services by enabling them to make informed decisions (Wallis, 2010:1). According to Wallis (2010:1), quantitative research is also about asking people for their opinions in a structured manner so that hard facts and statistics can be produced for future guidelines. Hunter and Leahey (2008:36) explain quantitative research as the systematic empirical investigation of social phenomena through statistical, mathematical or computational techniques. The objective, as Hunter and Leahey (2008:36) state, is to develop and employ theories or hypotheses pertaining to phenomena such as education or sociology. Quantitative research is generally

accomplished through the use of scientific methods which include, *inter alia*, the collection, collation and analysis of data.

This quantitative study has been designed as a non-experimental, cross-sectional study to determine the role of educator professionalism and teacher unionism from the Education Law perspective. The question could be asked; why not from the managerial or systems perspective? An Education Law perspective was deemed to have been a necessary inclusion in the study because legislation is perceived as a rigid and unbending instrument that can regulate educators' professional and labour activities. These activities have, over the years, been poorly managed by principals of schools, unionists and officials of the Department of Education nationwide. Education systems have also failed to harness teacher unions and have inadequately addressed professional issues relating to educators.

1.8.2.1. A survey: Public Secondary Schools

A survey has been conducted among educators and school principals in the **Klerksdorp, Orkney, Stilfontein and Hartebeesfontein area (KOSH)** in the Dr Kenneth Kaunda District of the North-West Province. The choice of this area has been influenced by factors like proximity, logistics, availability of time, availability of financial resources and convenience. The prior knowledge that the area encompasses all teacher unions would address representation. Historical incidences of educator unprofessionalism also informed the decision to choose the KOSH area. The decision to focus only on secondary schools was informed by the poor academic performance in grade 12. The purpose of the quantitative study was to obtain an overview from the population involved in public secondary schools regarding their opinions, attitudes and knowledge of educator professionalism and teacher unionism from an Education Law perspective. A sample of 10 educators from secondary schools in four circuits (see Table 1.1) was obtained. The ultimate goal, as Leedy and Ormrod (2005:183) state, was to learn more about a large population by surveying a sample of that population. The role of the researcher was to develop and distribute a questionnaire designed to compare the biographical data, knowledge

levels, attitudes and opinions towards teacher unionism, educator professionalism and legislation. The questionnaire was also intended to determine the political climate that prevailed in schools as it related to different respondents and how such climate contributed to unprofessional conduct. Thereafter, responses were summarised and analysed statistically in order to draw inferences from the results of the study.

1.8.2.2. The population: Schools' profile in the KOSH Area

The KOSH area is composed of the towns of Klerksdorp, Orkney, Stilfontein and Hartebeesfontein in the North-West Province. The KOSH area is organised administratively into four education circuits as displayed in Table 1.1. Within the KOSH area, there are 41 secondary schools, 34 of which are public schools and seven private schools. Out of the 34 public schools, three had been newly registered and did not yet have records of performance at matriculation level.

Although the Department of Education promotes multiculturalism and multiracialism, most of the township schools did not reflect this envisaged state. The quality and quantity of results in township, urban and suburban schools differ vastly, as does the infrastructure (Molale, 2007:11). The analysis of these schools in the KOSH area can be organised into different categories as follows: rural farm, rural mine, township, suburban and urban schools.

This research study has been undertaken in order to examine educators' professional and unprofessional conduct, professional productivity and union activities. The research is also expected to determine the impact of Education Law on these activities in schools since educators were selected randomly from the total staff lists obtained from the principals.

1.8.2.3. Random sample procedure

In order to answer questions relating to the aims of this study and to provide unbiased findings, a survey of the population in the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH) area has been conducted. All the public schools in the

four circuits of the KOSH area (Table 1.1) formed part of the survey. A sample of 10 educators in the secondary public schools in the four circuits of the KOSH area (see Table 1.1) was obtained. The random sampling within schools ensured that every member of the population in the range of school types had an equal opportunity of being selected. It was anticipated that the following types of different schools would be representative of educators who have different experiences and qualifications: educators from all language, racial and age groups; genders and teacher unions:

- Rural farm schools;
- Rural mine schools;
- Township schools; and
- Suburban and urban schools.

The population survey was appropriate because, economically, it was practicable and manageable in terms of time available to the researcher. The participants consisted of educators from all 34 schools. Educators at all the secondary schools of the KOSH area were handed a questionnaire and requested to participate voluntarily. The selection included educators at post level 1, heads of departments, deputy principals and principals. It was expected that there would be members of different unions in each school, and that there would also be educators who would not be affiliated to any teacher union. All independent schools in the area were excluded from the population. This demarcation was necessitated by the need to maintain the focus on the aim of the study, namely to research professionalism, unionism and the impact of legislation at micro-level within public school education in the KOSH area.

In order to obtain a statistically significant sample, all 34 different schools formed part of the study. However, it was presumed that voluntary, randomised sampling could possibly result in under-sampling as some of the educators could decline to participate. Therefore, in order to compensate for possible under-sampling as a result of voluntary participation, the researcher proposed to oversample by distributing more questionnaires to some schools.

1.8.3. Qualitative research

In addition to the prior quantitative method, a basic qualitative research was conducted to measure the extent of the attitudes of participants towards professionalism and unionism in education. This was done in order to arrive at a realistic, descriptive and exploratory representation of the phenomena. The decision to use a mixed-methods approach was intended to provide structure for the development (Creswell, 2009:77) of “more complete and full portraits of our social world through the use of multiple perspectives and lenses”, as espoused by Somekh and Lewin (2005:275).

Qualitative research is a method whereby researchers try to explore and understand the complexity of the phenomena being studied by immersing themselves into the subject matter (Leedy & Ormrod, 2005:148). However, the nature of the qualitative component of this study was very basic and limited to the two open-ended questions in the quantitative survey.

1.8.3.1. Data collection

The data for the qualitative research was collected through the same instrument (Appendix F) used extensively for the quantitative research. Two qualitative, open-ended questions were used intermittently within the questionnaire document to obtain comments regarding the phenomena being studied (see Appendix F, items B10 & B65.2).

1.8.3.2. Participants

The participants in the qualitative research (the open-ended questions in Section B10 and B65.2) were all the educators and respondents who participated in the quantitative study and were all from the schools within the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein area of the Dr Kenneth Kaunda District of the North-West Province (see Table 1.1). Accordingly, the principals, deputy principals, heads

of departments and educators at post level 1 participated in this research. These participants were varied in terms of teacher union affiliation, and among them were the educators not affiliated with any teacher union. Participants were requested to provide written comments on two open-ended questions included intermittently within Section B.

1.8.3.3. The role of the researcher

In order to compare and analyse the data, the researcher undertook to go through all the comments. According to Leedy and Ormrod (2005:141), it is imperative for the researcher to suspend any preconceived notions or personal experiences that could unduly influence him or her during the collation and analysis of the data. Data collected should reflect the thoughts, perspectives, attitudes and opinions of participants without the possibility of distortion. By remaining detached from her personal notions and experiences, the researcher was able to present the data with accuracy.

1.8.3.4. Aims of the qualitative part of the study

The aim of the qualitative research study was to determine the following:

- The extent to which the South African Council of Educators has succeeded or not succeeded to professionalise education as well as the role of the government in professionalising education;
- The prevailing perceptions and opinions regarding unionism;
- The extent to which unionism plays a role in educators' unprofessional conduct;
- The prevailing political control some unions may have in education as well as the undemocratic atmosphere teacher unionism creates in public schools.

1.8.3.5. Analysis of qualitative data

The process to analyse the qualitative data involved consolidation, deduction and interpretation of the participants' comments in the questionnaires. Leedy and Ormrod

(2005:150) state that the method of analysis and evaluation of data is largely through interpretation of what respondents say or write. Data was compared and analysed. Themes were identified and coded accordingly (Maree, Creswell, Ebersohn, Eloff, Ferreira, Ivankova, Jansen, Nieuwenhuis, Pietersen, Plano Clark and van der Westhuizen, 2009:109). The researcher, therefore, sought to identify common themes in participants' descriptions of their notions and experiences pertaining to the phenomena (Crano & Brewer, 2002:137). Themes, according to Maree *et al.* (2009:109) provide direction for what the researcher must look for in the data.

1.8.3.6. Synthesis of qualitative data

The implication of the findings of the qualitative data was evaluated and synthesised as well as integrated with the findings of the quantitative research. In the final chapter, all the qualitative and quantitative findings were synthesised into conclusions and recommendations pertaining to teacher unionism, educator professionalism and Education Law.

1.8.4. Credibility and Trustworthiness

Maree *et al.* (2009:80) state that in qualitative research; the researcher is the data gathering instrument, thus, validity and reliability refer to research that is credible and trustworthy. In order to enhance the internal validity and reliability of the study, the triangulation technique was applied. Triangulation, according to Maree *et al.* (2009:39) and Crano and Brewer (2002:161), is the process of verification whereby a comparison is made between the results of analysed and interpreted data obtained from different sources. Accordingly, conclusions were verified based on the convergence of similar points of agreement.

Table 1.1. Total number of educators in public schools within the KOSH area

CIRCUITS	PUBLIC SECONDARY SCHOOL	LOCATION	NO. EDUCATORS
MEEPONG	Borakanelo	Khuma	43
	Dirang Ka Natla	Khuma	26
	Stilfontein	Stilfontein	13
	Thutho-Thebe	Khuma	32
	Vuyanimawethu	Khuma	35
TSWELELOPELE	Alabama	Alabama	39
	Alabama Comb.	Alabama	12
	Gaenthone	Hartebeesfontein	38
	Metebong	Jouberton	17
	Chris Hani	Jouberton	19
	Cocekani	Jouberton	30
	Letlhasedi	Klerksdorp	13
J.C. MOTAUNG	Are-Fadimeheng	Jouberton	47
	Milner	Klerksdorp	32
	Mofatlhosi	Jouberton	22
	Tshedimoseetso	Jouberton	27
	Thuto-Tsebo	Kanana	24
	Vaal Reefs Tech.	Orkney	68
	Orkney H.S.	Orkney	16
	Kanana	Kanana	28
	Tshebedisano	Kanana	33
	Matthaleng	Kanana	21
	Mmonkeng	Kanana	28
REFENTSE	Klerksdorp Comb.	Manzilpark	20
	Klerksdorp HTS	Klerksdorp	32
	Schoonspruit	Klerksdorp	23
	New Vision	Klerksdorp	18
	Nkang-Mahlale	Jouberton	28
	Tsamma	Jouberton	28
	Wesvalia	Klerksdorp	30
	Matlosana	Jouberton	32
	Dominion Reefs	Dominionville	18
	Phakela Comb.	Hartebeesfontein	11
	Klerksdorp H.S.	Klerksdorp	36

Source: Department of Education – Matlosana Area Office – 2010.

For the purpose of this research, a sample with 95% significance has been calculated according to the following formula:

$$n \geq 1 + \frac{10000}{d^2} = 12$$

n: the sample size

d: 5% inaccuracy

1.8.4.1. Research instrument

Data for this study has been collected with the use of a questionnaire which was developed in the light of the literature study (Leedy & Ormrod, 2005:102). A structured questionnaire was designed and has been administered to the participants. The questionnaire sought to obtain the information needed to attain objectives 1.7.1 – 1.7.4. The questionnaire made use of a Likert-scale to obtain data on knowledge, experiences, opinions and attitudes of the participants on matters pertaining to professionalism, unionism, unprofessional conduct in education and the role of Education Law. According to Maree (2007:167), Likert scales are used to ascertain whether a participant agrees or disagrees with a statement. This scale usually provides the following options:

1	2	3	4
1= Never	2= Seldom	3= Usually	4= Always

In an effort to improve the questionnaire, the researcher undertook a pilot study. The initial draft questionnaires were distributed to 10 educators who did not form part of the eventual sample of respondents. The selected participants were one school principal, one deputy principal, two heads of departments and six educators at post level 1. Their responses were subsequently analysed for ambiguity, misinterpretation and mistakes. Based on the queries and responses, the ambiguities in the wording of certain questions in section B were identified and addressed.

During consultation, the measuring instrument was reviewed by Dr S M Ellis of the Statistical Consultation Services of the North-West University for elements containing possible bias and ambiguity (Ellis, 2010). The comments and suggestions from the Statistical Services Department of the North-West University were taken into account, and the wording of certain questions in Section B was amended to remove possible bias and ambiguity. On completion of the checking process, the format and content of the questionnaire was finalised.

1.8.4.2. Data collection and analysis

A structured questionnaire was distributed to 10 educators sampled from the 34 secondary schools. Data was processed, analysed and interpreted with the assistance of Statistical Consultation Services of the North-West University by means of the SAS programme (SAS, 2003). This was done after the questionnaires had been returned and controlled.

1.8.4.3. Statistical Techniques

Use was made of descriptive as well as inferential statistics in order to unpack the desired information.

The following techniques were used to analyse data:

- Determination of the frequencies and percentages of the biographical and demographical data of the sub-populations of the respondents (that is educators, including various union members, and school management teams);
- Determination of averages and standard deviation of all the questions and sub-population of respondents;
- Factor analysis;
- Determination of reliability of the appropriate sections of the questionnaire by means of the Cronbach alpha-value (Anastasi, 1988:124);

- Determination of the effect sizes between sub-populations of respondents' answers to individual questions by means of Tukey's *post hoc* tests and Levene's *t*-tests for equality means;
- One-way analysis of variance (ANOVA) and effect sizes between the means of the extracted factors for the sub-populations of respondents.

1.9. ETHICAL MEASURES

1.9.1. Obtaining permission to do research

The ethical clearance was obtained from North-West University (Appendix H). Permission was obtained from the Department of Education in the Dr Kenneth Kaunda District of the North-West Province for the research to be conducted in the schools located within the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH) area. Furthermore, permission for profiling schools and participants as well as for distributing questionnaires was obtained from the Area Office manager and the principals of the identified schools. The voluntary nature of the participation in the research was explained to the individual participants.

1.9.2. Confidentiality and anonymity

All participants were assured of full confidentiality and anonymity. No personal or geographically identifiable information has been revealed in the empirical chapter. All participants were requested to provide written and signed consent to fill in the questionnaire as a means to confirm their voluntarily agreement to participate in the study.

1.10. FORMAT OF THE STUDY

The proposed format of the study is as follows:

- Chapter 1

This chapter deals with the introduction, background and rationale to the study, problem statement, the purpose, research questions and research objectives, the

significance of the study and research methods. It also provides a brief outline of and conclusion to the study.

- Chapter 2, 3 and 4

These chapters deal with the review of the literature and the theoretical framework for the research. Key concepts, such as professionalism and unionism, are defined and conceptualised. The literature study encompasses identified variables, indicators and challenges in the education system. An analysis of the Constitution, National Education Policy Act (NEPA), South African Council of Educators (SACE) Act, Employment of Educators Act (EEA), general legislation and other education law determinants that impact on education is also provided.

- Chapter 5

This chapter describes the quantitative study method that has been utilised to determine the influence of the variables on unionism, professionalism and legislation. This is followed by an analysis of the empirical data. This chapter also outlines a report on the findings of the research and the conclusion regarding the impact of legislation in regulating teacher unions' and professional activities within the schooling system.

- Chapter 6

The results of the empirical study are compared to those stemming from the literature study. This chapter also includes recommendations regarding the reinforcement of Education Law and improving existing legislation to regulate teacher unions' activities and to enhance professional conduct and productivity in education. By way of concluding remarks, suggestions are made as to how education can be improved and the course future research should take.

1.11. CONTRIBUTION OF THE STUDY

This study is an endeavour to contribute to a deeper understanding of Education Law and how it can be utilised effectively as an instrument to regulate teacher unions' activities and enhance professional conduct and productivity in education.

Additional contributions include:

- Analysis and interpretation of legislation to clarify the roles of teacher unions, educators, managers and administrators in enhancing professionalism in education;
- An investigation into means to address the knowledge gap pertaining to Education Law, teacher unionism and educator professionalism.
- It is envisaged that the results of this study will assist the Department of Education to administer the schooling system more effectively.
- Furthermore, it is envisaged that the methods proposed in this study to professionalise education will assist the Department of Education and school managers to enhance productivity in schools.

CHAPTER 2

EDUCATOR PROFESSIONALISM: CONCEPTS, TENETS AND THEORIES

2.1. INTRODUCTION

This chapter conceptualises and defines professionalism and the role of educators as professionals from a legal perspective. Professionalism is viewed from a legal perspective in this chapter due to legislation that has been developed in South Africa and other countries regarding educators' employment conditions, workloads, qualifications and ethical conduct. Chapter 2 will also review literature that deals with the theme and the subtopics thereof. Furthermore, this chapter examines the effectiveness of legislation that has been promulgated specifically for education as well as general legislation and other Education Law determinants that impact on educators' professional activities. The last part of this chapter will focus on educators' unprofessional conduct.

2.2. DEFINITIONS OF PROFESSIONALISM

It is important to note that there are varying definitions of a profession. Despite the similarities, the body of knowledge still finds differences in the definitions. The differences may be indicative of varying perceptions of the same profession being defined or differences among various professions.

2.2.1. Professionalism in education

Below are some of the definitions:

- The *Cambridge Advanced Learner's Dictionary* (2004:990) defines a profession as any type of work which requires **special training** or a particular skill, often respected because it involves **a high level of education**.

- According to Wise (2005: 318), a profession is an occupation that seeks to regulate itself by **developing a consensus** concerning what its **practitioners must know** and be able to do and **developing an accreditation and licensing system** to ensure the transmission of that knowledge and skill. Accordingly, an occupation becomes a profession when organisations such as universities, states and the public accept that system.
- Starr (1982:15) defines a profession as an occupation that regulates itself through systematic, required training and collegial discipline that has a base in **technical, specialised knowledge** and that has a service rather than a **profit orientation**.
- Interviewed on SABC 2 (2009) after publishing his book *The Toxic Mix*, Bloch defined a profession by emphasising that **practice** in a profession rests upon some branch of **knowledge** to which professionals are privy by virtue of study and by initiation and apprenticeship under masters who are already members of the profession.
- The Holmes Group (2010) understands a profession as being able, over time, to have developed a **specialised body of knowledge**, codified and transmitted through professional education and clinical practice.

In analysing and comparing the definitions above, it is clear that the common characteristics of professions are the following: training, specialised knowledge, skills, a high level of education and licensing (through registration). Licensing emphasises the legal aspect that is attached to a profession. Different authors emphasise similar qualities that characterise the education profession. The Holmes Group (2010) further substantiates its understanding of a profession by asserting that the core foundation of a strong profession is a shared body of knowledge based on research and public confidence that professionals are fit to practise.

2.2.2. Professionalism in other professions

Remarkably, most major professions seem to have similar definitions, theories and tenets of professionalism. Specialised knowledge and high levels of qualifications

are viewed as the most important tenets. Kirsten (1995:63) contends that every professional must attach great importance to the word ***special***. To Kirsten (1995:63), ***special*** has ambiguous meaning. In the first instance, it means “to excel” in some way and, secondly, “to indicate particularity or exclusivity”. Nevertheless, Kirsten confirms that the relationship between the two meanings is associated with excellence.

Professions like lawyers, chartered accountants, medical practitioners, architects, pharmacists and engineers are characterised by prospective practitioners writing a board examination (Kirsten 1995:64). This stringent regulatory measure would, in a very significant way, help to maintain a minimum standard of specialised knowledge and limit entrance of practitioners who are likely to bring these major professions into disrepute. These professions, according to Kirsten, have grappled with the problem of specialisation, especially the legal and accountancy professions.

The circumstances surrounding different professions are changing and are becoming more competitive. Greater knowledge, skill and specialisation on the part of an individual and the surrounding team are required. In most professions, there is a dire need for specialisation and to extend these areas of specialisation. Though the need is acknowledged, there are ambiguities regarding specialisation as well as fears that are likely to fragment professions. To follow, professionalism in medicine will be discussed as a means to provide an overview of the similarities and differences that can be associated with professionalism in education.

According to McDonagh (2008:7), professionalism can be defined as the role and authority of the physician based on the more traditional concept of professionalism. Medical professionalism embodies the values and skills that the profession and society expect of doctors. Through adherence to medical professionalism, doctors fulfil their duties to patients and the wider public. Although individual doctors have their own personal beliefs and values, ***the medical profession upholds a core set of values***, including (but not limited to):

- Respect;

- Trust;
- Compassion;
- Altruism;
- Integrity;
- Justice;
- Accountability;
- Protection of confidentiality;
- Leadership;
- Collegiality.

Therefore, the values of the medical profession indicate that professionalism is a loaded concept which also demands a set of personal and ethical qualities that practitioners should naturally be endowed with. In essence, it is inadequate to boast certificates of high levels of qualifications alone; there is a high demand for the right personality as well.

Should education adopt and emphasise the same values espoused by the medical profession, professionalism amongst public servants may well be enhanced; likewise, the illogical notion that teaching is for everyone may well be dismissed. In short, the personality of an individual practitioner of a profession is of dire importance.

The medical profession upholds a commitment to:

- Teaching and mentoring;
- Participating in and promoting medical research;
- Collaborating with colleagues and other health professionals; and
- Advocating for social justice and public health.

The list above confirms that new entrants to the medical profession, despite being licensed to practise by noteworthy educational bodies, are developed and mentored on an ongoing basis. For one, ongoing research is viewed as a significant part of the medical profession. Knowledge evolves and, as is evidenced in the medical field; that necessitates continuous research (McDonagh, 2008:7). Collaboration with fellow practitioners and other professionals, as McDonagh (2008:7) states, also empowers and keep the practitioners motivated and competent. Even though professionals in the medical arena are subject to a number of regulations as far as union activities are concerned – rights which Rossouw (2010:101) refers to as resorting under “organisational rights” – professionals should look beyond their rights and rewards. Rather, they should advocate social justice and the public’s interest.

Doctors are also expected to commit to the highest ethical and professional standards of conduct and performance (McDonagh, 2008:7). This involves continuing self-appraisal, ongoing professional development, taking responsibility for one’s own health and wellbeing, supporting impaired colleagues and protecting patients’ safety.

It is imperative to note that other professions, such as medicine, law and psychology, have a legal standing and a public and self-image (Lombard, 2000:311). This means that in cases of malpractice, the members may have to appear in court to account. This is something that yet has to happen in education, provided labour unions will agree to this course of action.

On this score, it is of key importance that the opinion postulated by Lombard (2000:311) regarding the legal obligations of a profession be seriously considered for education. According to the latter, every occupation that aspires for professional status and acknowledgement must have legal obligations. Wise (2005:320) declares that despite the fact that teaching has yet to be acknowledged as the profession it claims to be, faculties in schools, colleges and departments of education must begin to perceive themselves as more analogous to faculties in medicine, law, psychology and architecture than to arts and sciences faculties.

2.3. EDUCATOR PROFESSIONALISM

In pursuit of the objectives of this study, it is of key importance to first discuss the notion of educators' professionalism and explore the debates around the notion as well as to examine the factors that attract educators to or repel them from the teaching profession. It is essential to note that those factors that push educators away from the profession are actually the current emerging trends internationally (Wits Education Policy Unit, 2005:11).

This study, therefore, endeavours to begin a process to interrogate and analyse the question as to whether or not teaching is a profession and whether it is acknowledged as such by all. Different authors have various, yet related, definitions of professionalism but agree that the generally accepted description of a profession includes statements that verge on being criteria or requirements. Hoyle (1995:22) describes a profession as an occupation with a crucial social function that requires a high degree of skill in addition to drawing on a body of systematic knowledge. While experience is regarded as being important, the acquisition of this body of knowledge and the development of specific skills requires a lengthy, compulsory period of higher education which also involves the process of socialisation in terms of professional values (NAPTOSA, 2005:2). Such values centre on the interests of the clients (learners) and are made explicit in the Code of Ethics for Educators (SACE, 2000).

In Latin America, as Villegas-Reimers (2003:33) submits, there has been a transition in the terms used to refer to educators: from teaching professionals to teaching workers. Villegas-Reimers (2003:33) further demonstrates that in Japan, the Japanese Educators Union defines educators as "workers" or "proletarians", and the union has exerted minimal effort to help educators achieve professional status since its primary concern has been to increase educators' salaries. In addition, Shimahara (in Villegas-Reimers, 2003:33) confirms that the Japanese government regards educators as servants of the state and not as professionals.

According to Villegas-Reimers (2003:33), the Organisation for Economic Cooperation and Development has presented an analysis of the factors that affect educators' professional status and discussed reasons that have led to educators being commonly identified as workers. These factors include:

Size: There are too many educators for a high status to be accorded in public;

Educational qualification levels: The levels have become higher and yet the professional status has remained low. This is a paradoxical situation that leaves educators frustrated by their low status despite the fact that their preparation is similar to that of many professionals who are accorded a much higher status.

Feminisation: It is commonly asserted that the status of educators is declining as the number of women grows and the teaching field is becoming predominantly a place for women. Villegas-Reimers (2003:34) cites an example in France where there was a campaign created to boost the image of the teaching profession by selecting only men to be portrayed as educators. The selection implies that masculinity in a profession renders it more attractive.

Villegas-Reimers (2003:39) asserts that, by definition, professionals can introduce highly specialised expertise to solve complex problems yet, historically; teaching has fallen short of the status of profession. This, according to Villegas-Reimers, is an international problem that has resulted from bureaucratic control by the state, unionisation of education and political interference.

2.3.1. Features of educator professionalism

The idea of educator professionalism has been characterised by contestations and disagreements as to what it means (Hoyle & John, 1995:54). The main contestation is whether the idea of a profession is merely an ideological construct or whether it is more than that. In other words, is it in fact based on knowledge, judgement, ethics and self-government (as claimed by some of its proponents) or is it just an ideological device used by members of the professions to create scarcity and,

hence, higher monetary benefits for their members (Hoyle & John, 1995:54), thus shielding members from accountability to the public their profession serves? In other words, whilst the proponents of the notion of professionalism advocate that professions play an important moral and intellectual role in the society, its critics perceive professions as self-serving. However, whether professionalism is a self-serving ideology depends on how one perceives it. Kriel (1995:13) defined professionalism as a process whereby an organised profession claims an esoteric quality and competence. It is this quality and competence that gives the group an exclusive right to execute certain duties (Kriel, 1995:13).

In order to determine if teaching is a profession or not, first and foremost, the characteristics of a profession must be examined. Hoyle and John (1995:43) define profession as “certain” occupations whose competence is based on theoretical or abstract knowledge obtained through higher education. Such occupations’ claim, as Hoyle and John (1995:47) pursue their argument, is that they value service to clients before their own material advantage and have gained some protection from ordinary market forces through licensing, certification or similar devices. Furthermore, Oosthuizen *et al.* (2009:106) indicate, through their list of characteristics which illustrate the essence of a profession, that a profession is an intellectual activity that requires professional accountability. Oosthuizen *et al.* (2009:107) substantiate this statement by asserting that members of a profession must possess specialised knowledge obtained through subjection to extensive and intensive training. For example, in South Africa, one has to study for a minimum period of three years to qualify as an educator. Apart from specialised knowledge, the essential characteristics, as Oosthuizen *et al.* (2009:107-109) submit, also include:

- Continuous research;
- Professional authority of the practitioner;
- Acknowledgement of authority by society;
- Development and maintenance of a professional ethical code;
- Service orientation.

From the list of essential characteristics above, it is evident that a professional status is hard-earned (Bloch, 2009:39). Bloch (2011:39) postulates that if a professional is not involved in lifelong learning through research studies and conferences, it becomes difficult to be updated on current and modern trends that direct the profession. Bloch (2009:39) concurs with Oosthuizen *et al.* (2009:107) when he states that the authority of practitioners (in this case; educators) should stem from the specialised knowledge that makes them experts in the first place. Makhanya (2011:4) argues that South African educators have a long way to go and substantial damage control to do before their authority can be acknowledged by the society. Makhanya (2011:4), however, acknowledges the fact that there are still many South African educators who, because of their professional demeanour, have earned respect, and their authority is acknowledged by the communities they serve. Makhanya (2011:4) further suggests that the Public Service Commission (PSC) needs to be strengthened and be granted independence from politics so that educators can, once more, be reminded of their initial status. In his address, Manuel (National Teachers Awards, 2011a) too, urged unions to take responsibility for developing their members, maintaining professional conduct (ethics) and rendering quality service.

In the 1970's and earlier, the dominant concept of educator professionalism was the so-called "traits model" (Hoyle & John, 1995:47). The model emphasised the important intellectual role that education plays in the society. It also identified various traits that are necessary for a profession. These traits include:

- A unique, definite and essential service;
- An emphasis on intellectual techniques in performing this service;
- A long period of specialised training;
- A broad range of autonomy for both the individual practitioner and for the occupational group as a whole;
- An acceptance by the practitioner of broad personal responsibilities for judgement made and acts performed within the scope of professional autonomy;

- Emphasis on service rather than economic gain;
- Self-governing organisation.

It is apparent that Oosthuizen *et al.* (2009:107-109) and Hoyle and John (1995:47) hold the same views regarding characteristics/traits of an education profession, though they advocate their views differently. Based on Oosthuizen *et al.* as well as Hoyle and John's submissions, one may reason that education is indeed a profession because it has the characteristics of a profession as outlined above. This study is going to reveal if these traits are evident in the profession itself as well as in the practitioners.

2.3.2. The voice of the profession

Another defining characteristic of a profession is the existence of an institution that serves as the voice and agent of the profession (Oosthuizen *et al.*, 2009:109). The South African Council of Educators (SACE) was established in 1997, and the SACE Act was enacted in parliament in 2000 with the sole aim of professionalising education, and this is **the voice of the profession**. SACE's Code of Professional Ethics sustains the notion of education as a vocation, expecting educators to act as role models. It pledges educators (2000:18), among others, to acknowledge the noble calling of their profession and to acknowledge and promote basic human rights as embodied in the Constitution of the Republic of South Africa, Act 108 of 1996, henceforth referred to as the Constitution. As its mission statement states, SACE aims to enhance the status of the teaching profession and to promote the development of educators and their professional conduct. The notion that educators are the key agents in the quality of the education system (Department of Education (DoE), 2005:3) has been crucial in the efforts to professionalise education in South Africa. The DoE (2005:3) further advocates that educators need to be treated and viewed as members of a profession as opposed to service workers.

Mokgalane (2001:3), in a paper prepared for an SACE conference, declares that any discussion about educator professionalism raises questions about issues of ethical

conduct, something which the general public is concerned about. Professional ethics relates to knowledge about and performance in accordance with standards of the profession (Bertram *et al.*, 2002:15). SACE has gone a step further, through its Ethics and Values project (EVE project) and Ethical and Legal Training project (ELT project), to ensure that educators have both a theoretical and practical understanding of the ethical issues and the Code. Bertram *et al.* (2002:14) emphasise the importance of ethical conduct in professionalism by asserting that a sense of professionalism must be fostered in order to ensure that ethics leaves the realm of theory and becomes characteristic of everyday activities in the teaching profession. The objective of SACE, therefore, is to achieve this through the EVE and ELT projects. However, queries made in 2011 indicated that these projects had become extinct.

2.3.3. Challenges that face professionalisation of education

According to Cochran-Smith (2004:43), the view that educators be treated as professionals is echoed internationally as there is a growing acknowledgement that the educator is the most important factor in the teaching and learning sphere. However, Sachs (2001a:24) argues that the teaching profession has been plagued by numerous problems such as dissatisfactory work conditions that are characterised by heavy workloads and low salaries, attempts by government to control educators' work in the wake of globalisation and the increasing negative public image of the teaching profession (Oosthuizen, 2007:33).

It is apparent that professionalisation of education has not been easy in South Africa as the media has perpetuated the negative public image of teaching by engaging in educator criticism and by generalising educators whenever a few educators behave in an unacceptable manner (www.sadtu.org.za). Jansen (2004:52) argues that the negative public image of teaching is manifested in the failure of the profession to attract enough educator trainees and the fact that those who are already in the profession desperately want to leave. Wits' Education Policy Unit, in a paper prepared for SACE in 2005, contends that it has become uncertain whether there is a move towards professionalisation or de-professionalisation of education in South

Africa. The paper argues that there is a multiplicity of factors at play around the professionalisation or de-professionalisation of education. These factors are, at times, in conflict with each other and within themselves. This means that varying forces are pulling the profession in different directions. Thus, the discussions that follow will examine such factors perceived as pull and push agents.

2.3.4. Pull factors towards educator professionalism

Different authors concur with Hoyle and John (1995:97) that there are certain factors that lure educators towards professionalism. This study will briefly evaluate four factors that are not only central features of educator professionalism but are the significant pull factors towards the teaching profession, and they are:

- Professional accountability;
- Educator autonomy;
- Specialised knowledge; and
- Professional ethics.

It is important to note that the factors listed above positively influence the educators' decisions to stay in the education profession because these are the elements that entrench pride in the profession as they form the traditional ethos of professionalism. It is evident from Darling-Hammond's (2001:49) argument that educators would feel respected if they were accorded professional accountability and autonomy. There are educators who still take pride in planting an intellectual seed (Kriel, 1995:12; Bloch, 2009:24) as they are equipped with specialised knowledge and exercise professional ethics. Hoyle and John (1995:97), supported by Bloch (2009:102), hold a strong view that the above factors would attract quality educators back to the teaching profession. Remarkably, though, there is notable bureaucratic interference by the Department of Education that has been unrelenting over the years, making it difficult for the professional educators to exercise their professional powers (Colditz, 2011). However, this does not change the fact that the above factors remain the attracting elements towards the teaching profession.

2.3.4.1. *Professional accountability*

Professional accountability, according to Darling-Hammond (2001:47), is based on three principles, namely:

- Knowledge is the basis for permission and for decisions that are made with respect to the unique needs of clients;
- The practitioner pledges his/her first concern to be the welfare of the clients;
- The profession assumes collective responsibility for the definition, transmission and enforcement of professional standards of practice and ethics.

This concept of accountability emphasises that knowledge should be the basis for making autonomous decisions that are in the interest of those served by the profession (Darling-Hammond, 2001:49). It also places responsibility on the members of the profession to ensure that professional standards are set and adhered to. Darling-Hammond (2001:49) further contends that professional accountability should be driven by the profession itself rather than external forces.

2.3.4.2. *Professional autonomy*

Various authors (Hoyle & John, 1995:4; Carrim, 2003:306; Govender, 2004:267) bring forth different submissions pertaining to educator professionalism. Whatever the disagreements on what it means to be a professional educator, there is an agreement that autonomy is one of the tenets of professionalism. In fact, Robinson (2002:289), who rejects the notion of educator professionalism, reasons that talk about status and all other elements considered to be important for a profession is misleading and, instead, the issue should be about maintaining and extending educator autonomy.

Autonomy in this study is used in the sense of Hoyle and John (1995:70) who state that an autonomous educator is not anomic and not ungoverned. To claim to be autonomous, Hoyle and John (1995:70) pursue their argument, is to claim to be governed in a special kind of way, as an autonomous educator does not ignore the wishes and interests of others: parents, learners, government and employers.

Educators who then contend to be autonomous reserve the right to consider wishes and interests of other stakeholders in the light of appropriate criteria.

This notion of autonomy seems to be in line with Darling-Hammond's (2001:49) notion of professional accountability. Hoyle and John's (1995:70) concept of autonomy encompasses accountability in the sense that it does not conceptualise an autonomous professional as a loose cannon. The conception makes a distinction between submitting everything from outside the profession to a critical scrutiny using the ideals of the profession as a yardstick. Thus, being a professional means balancing two significant notions: accountability and autonomy (Wits Education Policy Unit, 2005:10).

Various studies conducted in South Africa and in different foreign countries, such as the United States of America, New Zealand, Australia and some European countries, have shown that educator autonomy is important for job satisfaction (Hoyle & John, 1995:98; Robertson, 1996:29). This implies that educator professionalism is not just about salaries; it is also about intrinsic benefits of teaching: the satisfaction derived from seeing learners developing. However, Villegas-Reimers (2003:35) contends that in many countries, collective autonomy is so poor that educators are more likely to be organised into labour organisations rather than into professional organisations. This has an adverse effect on the perception of teaching as a profession.

2.3.4.3. *Specialised knowledge*

The other notion that runs through all conceptions of educator professionalism is knowledge (Wits Education Policy Unit, 2005:11). Specialised knowledge and certain skills which, according to Oosthuizen *et al.* (2009:107), are a prerequisite for the successful practice of any profession afford the educators professional authority. Due to the degree of difficulty of specialised knowledge, society accords an elevated position to a profession (Oosthuizen *et al.*, 2009:107). This brings forth an argument that the basis for professional action is not only autonomy and accountability, but knowledge plays an important role in professionalism (Darling-Hammond, 2001:52).

Jackson (in Villegas-Reimers, 2003:34) confirms that it is important to note that the knowledge base of educators is a cause for debate as some emphasise content and others pedagogy. This knowledge is crucial for teaching to be considered as a profession and, as Oosthuizen *et al.* (2009:107) state; it can be acquired through specific training and education. However, it should not be assumed that just about anyone can acquire this knowledge through experience lest teaching is reduced to craft-oriented occupations like mechanics, gardening, *et cetera*. Villegas-Reimers (2003:34) asserts that educators in general have shown that practice does make a difference in the preparation of educators, but only practice that is founded on theoretical models and reflective ideas.

According to Kriel (1995:12), teaching entails planting an intellectual seed as it is a process that transforms the learner in totality. However, Kriel (1995:12) argued that it is impossible for the seed to germinate if the planters (educators) are not adequately equipped with knowledge.

2.3.4.4. *Professional ethics*

Professionals are expected to act in an ethical way defined by a democratically agreed upon code of conduct (Wits Education Policy Unit, 2005:11). Professional ethics is so crucial that there cannot be any talk of a profession if it has no code of ethics (Hoyle & John, 1995:99). Professionalism, in essence, is about entrenching ethical conduct (Hoyle & John, 1995:99). Bertram *et al.* (2002:15) point out that an ethically competent educator can:

- Demonstrate the ability, in an authentic context, to consider a range of **ethical** possibilities for action, make considered decisions about what is **the right action to follow** and perform the chosen action (**practical competence**);
- Demonstrate an understanding of **ethical** knowledge and thinking that underpins the action taken (**foundational competence**);
- Demonstrate the ability to integrate or connect **ethical** performances and decision making with **ethical** understanding and with an ability to adapt to

change and unforeseen circumstances and to explain the reason behind these adaptations (*reflexive competence*).

Educators' level of understanding of ethical competence grows as they become more ethical in their practice and take pride in education as a profession (Bertram *et al.*, 2002:15). Bloch (2009:61) contends that educators' conduct and competence must be demonstrative of their ethical knowledge as subject knowledge alone is insufficient. Bloch (2009:61) further substantiates his argument when he declares that certificates cannot give a description of the personality of the graduate or about the citizenship and social responsibility, yet they are used to symbolise success. McDonagh (2008:7) concurs with Bertram *et al.* (2002:15) when he confirms that ethical performances must be visible at any workplace where there are professionals and should be integrated into decision making and transformation strategies.

2.4.4.5. Perception of ethics and morals

The perception of ethics and morals in education is in line with the *Oxford English Dictionary's* meaning. According to the *Oxford English Dictionary* (2008:415 & 805), ethics describe the department of study concerned with the principles of human duty and the moral principles by which a person is guided. The same dictionary defines morals/morality as anything that pertains to the distinction between right and wrong, or good and evil, in relation to the actions, volitions or character of responsible beings.

These dictionary definitions confirm that ethics and morality are about "making distinctions" between right and wrong, good and evil. Educators have to make ethical decisions and distinctions all the time, failing which they could harm learners as well as themselves.

The pull factors discussed earlier (par: 2.3.4) attract thousands of educators and would give the Department of Education a boost if it were not for the push factors that threaten to strangle life out of the education profession. The prevailing South

African political climate seems to undermine the significance of education and the significant role of educators. Important decisions that pertain to curriculum implementation and delivery are made by politicians who have no training in education sciences (NAPTOSA, 2008:19). The researcher, therefore, avers that South Africa has ignored the fact that the affluence of any country depends greatly on the education level as well as the education quality of its people. Teacher unions and education authorities jointly have to exert an equal effort to reinforce these pull factors and revive the education profession (Govender, 2004:275).

2.3.5. Push factors from educator professionalism

Substantive evidence exists that certain factors within the bureaucratic education system push the educators away from professionalism (Wits Education Policy Unit, 2005:9). Darling-Hammond (2001:50) affirms this point of view by citing the following repellent factors, which debates in international literature also correspond with:

- Bureaucratic accountability;
- Bureaucratic control of educators' work;
- Intensification of educators' work;
- Deskilling of educators;
- The restructuring process in South Africa, ELRC Resolution 2 of 2003, according to Carrel *et al.* (2000:451), adds to the above.

The list above is further evidence of a bureaucracy that is refusing to relent. Educators have not been granted the opportunity to exercise their professional authority as everything is of bureaucratic design (Bloch, 2009:103). Sometimes, as Bloch (2009:103) asserts, there are good imperatives that come from personal growth plans of educators, staff development teams and school improvement plans that end up just being added to bureaucratic procedures and paperwork. This is evidenced in schools by templates and forms that have to be filled out to account to the employer in a manner in which the employer chooses. This makes it difficult for educators to be creative and to integrate their personal values into their work. Below is a brief discussion of each of the push factors listed above:

2.3.5.1. *Bureaucratic accountability*

This is the kind of accountability that is not necessarily geared towards the needs of the educators, learners and parents but more towards the needs of the bureaucracy (Darling-Hammond, 2001:49). This form of accountability, as Darling-Hammond (2001:49) argues, seems to reduce accountability to the mere following of standard procedures and the implementation of policies. Bureaucracy equates accountability with monitoring and compliance with rules rather than as a means to ensure that the needs of those served by the profession are fulfilled (Wits Education Policy Unit, 2005:9). Darling-Hammond (2001:49), in pursuit of his argument, declares that bureaucratic accountability does not view the basis of making professional decisions as knowledge and the interest of those served by the profession. This implies that it views the basis for professional decision making as compliance with bureaucratic standards.

Sachs (2001a:3-7 and 2001b:149), based on research studies he conducted in Australia, and Apple (2001:152) assert that bureaucratic accountability undermines the notion of professionalism as the freedom for making autonomous decisions could be severely curtailed. The authors above also confirm that bureaucratic accountability is on the increase with the discourse of managerialism becoming more dominant in education globally.

2.3.5.2. *Bureaucratic control of educators' work*

In South Africa, the fifties, sixties and seventies were characterised by authoritarianism and oppression whereby educators were seen as civil servants who had to comply with the apartheid intentions entrenched in the curriculum, with little autonomy and very little claim to professional status (Jacklin, 2001:24). This is contrary to the sixties and seventies in Europe and in the United States of America (USA), the period which Ozga (in Hoyle & John, 1995:98) describes as the “zenith” of educators’ professional autonomy. The eighties in South Africa, according to Hoyle and John (1995:98), saw educator professionalism declining more and more

as trade unionism emerged in the education arena. Hoyle and John (1995:98) cite that the international decline in educator professionalism is attributed to the ascendancy of right wing governments globally and the decline of the welfare state in the eighties. Bottery and Wright (2000:42) concur with Hoyle and John (1995:98) when stating that the right wing governments introduced policy initiatives that were not only conservative but undermined educator autonomy.

As Ozga (in Hoyle & John, 1995:98) cites, the cumulative effect of these right wing policy initiatives was to increase the central government's control over educators. The governments demanded more accountability which was defined bureaucratically and with the emphasis more on learners' grades than on the quality of teaching and learning (Hoyle, 1995:39). Poor learner grades were interpreted as necessarily reflecting a low level of performance by educators (Bottery & Wright, 2000:45).

It is unfortunate that South African education is now stuck in this quagmire having started so well after the installation of democratic government in 1994 (Wits Education Policy Unit, 2005:19). At the inception of a democratic government in 1994, the policy framework became friendlier to educator professionalism as evident in the establishment of SACE in 1997 and promulgation of the SACE Act in 2000. Educators were afforded participation in policy making (Wits Education Policy Unit, 2005:19; Govender, 2004:267). The Education Labour Relations Council (ELRC) was formed specifically for the purpose of policies related to the conditions of educators' work as its mandate is to negotiate resolutions that determine educators' working conditions.

The court case of *Simela v MEC for Education, Eastern Cape Province (2001)9 BLLR 1085 (LC)* was a good example illustrating that bureaucratic control in South Africa does not end with educators' work but encroaches into their rights too. The applicants in this case, who were educators from Ebenezer Majombozi High School, were transferred forcefully to other schools following the task team's report which concluded, *inter alia*, that they were guilty of various acts of misconduct. The

applicants launched an urgent application in the High Court for an order preventing their illegal transfers. Such transfers were illegal in terms of administrative law:

- *Audi alteram partem* principle – educators/any officials have the right to be heard before being summarily transferred from posts;
- Duty to exhaust domestic remedies – in this case, the rule requiring the litigant to exhaust domestic remedies before approaching court was not applicable as the respondents' actions had undermined domestic remedies.

The action of the respondents also infringed upon the constitutional rights of the applicants, namely:

- Labour relations – Section 23 which provides that educators are entitled to fair labour practice; thus, it is unfair labour practice on the part of the respondents to transfer the entire staff of the school on the basis of unfounded and not properly investigated allegations of misconduct;
- Just administrative action – Section 33 which provides that the respondents had violated the applicants' right to administrative action that is lawful, reasonable and procedurally fair.

The respondents had also contravened the Employment of Educators Act, 76 of 1998 (SA, 1998), as amended in 2000, which categorically stipulates that:

- Transfers can only be recommended for purposes laid down in the Act and in accordance with the Act. It becomes clear in this case that the respondents were using their power of transfer to circumvent disciplinary procedures, so these transfers would be *ultra vires*;
- The school governing bodies have to make recommendations for transfers out and into public schools. The respondents conveniently ignored the provisions of the Employment of Educators Act Section 8(2) as no school governing body members were consulted regarding these transfers.

No proper investigations were made into the allegations contained in the task team's report. The respondents' actions portrayed a belief that they could be above the rule

of law, and all of this amounts to bureaucracy. This was clear evidence that the employer's interference in public schools often undermines any other authority there, that is: principals' authority or that of the SGBs. The CEO of the Federation of South African Schools (FEDSAS), Colditz (2011), in his address at an international South African Education Law Association (SAELA) conference alluded to this practice and cited the following examples of cases in which the provincial department of education took bureaucratic steps to compel the enforcement of policy in contravention of the principle of legality:

- *Settlers Agricultural High School Governing Body v the Head of Department, Limpopo Province. Case no. 16395/02 (T).* (Affirmative action; SGB's authority to recommend appointment);
- *Minister of Education, Western-Cape and others v Governing Body of Laerskool Mikro, 2005(3) All SA 436 (SCA)* (Authority of the School Governing Body to determine a school's language policy, right to basic education);
- *Ermelo High School and another v the Head of Department, Mpumalanga, CCT40/2009* (The head of department had insisted on determining the language policy of the school).

The examples of cases cited above attest to the bureaucratic interference that schools are subjected to. The issues that were addressed in these cases indeed involved legal questions but the manner in which the provincial departments of education compelled the changes were bureaucratic in purport. The bone of contention in some cases was due to different interpretation of the law. The Provincial and the National Departments of Education, through their officials, frequently intrude on the functions of the School Governing Bodies and contravene the South African Schools Act (SASA). Cases involving the School Governing Bodies have been cited here because issues regarding appointments and the language of teaching and learning ultimately affect the professional productivity of educators. It should be emphasised that bureaucratic control cannot be completely evaded or wished away; however, legislation should supersede the bureaucratic powers.

2.3.5.3. *Introduction of standardised tests*

When standardised tests were introduced in the United States of America in recent years, educators ended up teaching to the tests rather than being creative and utilising their professional judgement (Hargreaves & Goodson, 1996:14). This had implications for education in that it sent the message to the learners that to be educated is to be able to pass a test. In this case, educators were treated as mere passive deliverers of the official curriculum which was geared towards producing learners for the labour market rather than producing learners who could engage with issues critically (Wits Education Policy Unit, 2005:20). According to Hoyle (1995:41), the emphasis on narrow outputs contradicts professionalism which is predicated upon providing the best service to society. South Africa's outcomes-based education (OBE), which envisaged change of this stance, further intensified educators' workloads. This is indicated in a study conducted by Chisholm, Hoadley and Kivulu (2005:12). In Australia, for instance, Sachs (2001a:7, 2001b:158) points out that the state has become more concerned with outputs, and the implication of this is that educators' approach to teaching has become narrow and focused on stated outputs to the exclusion of creativity.

According to Jansen (2004:64), this is also true in South Africa; consequently educators have chosen to prioritise those activities that are rewarded by the bureaucracy like the integrated quality management systems (IQMS). What is interesting, according to Jansen, is how popular this policy is with teacher unions, yet whole school evaluation (WSE), which is another component of the IQMS, was initially rejected by the same teacher unions. IQMS is plagued by implementation problems, but it remains favoured by the teacher unions as it is rewarding.

The other important policy that impacts on educator professionalism in South Africa is the National Curriculum Statements (NCS) (Bloch, 2009:103). According to Bloch (2009:103), the poor training that educators have received on NCS has taken their confidence in the classroom away and has put pressure on and increased the educators' workloads. The issue of the curriculum, according to the Wits Education Policy Unit (2005:24), raises quite a number of issues around educator autonomy in

the conception and execution of educators' duties. The NCS is very clear in terms of its expectation of educators to be able to develop materials and to make professional decisions regarding the presentation of the curriculum. Educators, as Carrim (2003:311) argue, are de-professionalised because NCS treats them as mere implementers of ideas decided by the bureaucracy. Generally, critics like Baxen and Soudien (1998:136) and Morrow (2001:91) argue that OBE undermines educators' professional judgement as judgement is confined by pre-determined outcomes. The Minister of the Department of Basic Education announced (2010) that the problematic OBE would be scrapped and replaced with curriculum and assessment policy statements (CAPS). CAPS' training has already been conducted nationally in preparation for commencement in specific grades in 2012 (Grades 3, 6 and 10). Generally, it is viewed by educators as an improvement on OBE.

2.3.5.4. Intensification of educators' work

Hargreaves and Goodson (1996:20-21) cite that the workload of educators has been intensified in all countries as a result of cost-cutting and diversification of the nature of educators' work. In South Africa, educators find themselves having to do more and more with limited resources (Wits Education Policy Unit, 2005:13). Educators, the unit found, are expected to perform duties beyond the classroom. For example, they have to deal with socio-economic and health issues which they often do not have the required skills to deal with. Hargreaves and Goodson (1996:21) confirm that the accountability systems have also increased educators' administrative responsibilities and increased paperwork which, in turn, causes intensification. Wits Education Policy Unit (2005:13) submits that intensification of educators' work is associated with de-professionalisation because educators' heavy workloads deter them from developing their skills and keeping up with developments in their fields. The educators' international conference, organised by the United Nations Educational, Science and Cultural Organisation (UNESCO), found that increasing workloads and lack of career advancement were driving educators away from the profession (De Villiers, 2008:22).

South Africa's OBE has resulted in the intensification of educators' work, and this has had an impact on the extent to which educators can keep up with developments in their field. The implication here is that the curriculum had become an element that has also de-professionalised education. Compelling educators to teach subjects in which they have no specialised knowledge is de-professionalising education. It is critical to note that specialised knowledge is one of the major tenets of professionalism. Implementation was further complicated by the fact that some educators have to teach new learning areas (subjects) in which they have not been trained to teach at tertiary institutions (Wits Education Policy Unit, 2005:13). The bureaucratic de-emphasis of the requirement of knowledge and expertise indicate a significant shift in the requirement of specialised knowledge in the teaching of learning areas (subjects). However, with the introduction of Curriculum and Assessment Policy Statements, it is envisaged that education could again get back on track. Curriculum and Assessment Policy Statements is a standard-based curriculum which moves back to the teaching of content knowledge (www.basiceducation.gov.za). This would grant back the educators their confidence as curriculum delivery relates to what and how they were trained (Motshega, 2010).

2.3.5.5. Deskillling of educators

The increasing use of curriculum packages and technology in education is contributing to the deskillling of educators (Carrim, 2003:310; Sachs, 2001a:5), thereby de-professionalising education. Due to the utilisation of technology and the separation of conception and execution of educators' duties, control over their work is reduced. The separation of conception of educators' work from its implementation is manifested in curriculum development being separate from the actual teaching (Carrim, 2003:310).

Teacher unions, in particular the South African Democratic Teachers' Union (SADTU), complained in 2002 that curriculum development is done by bureaucracies, at times without involving educators (sadtu.www.org.za). Apple (2001:67) and other authors have termed the reduction of educators' control over

their work as proletarianisation (reduced to unskilled labour) of the education profession. This is contrary to the Norms and Standards for Educators (NSE) which were gazetted as policy in February 2000 and envisaged educators who are not only competent and qualified but also curriculum developers (Wits Education Policy Unit, 2005:20).

2.3.5.6. *Restructuring process (Education Labour Relations Council, Resolution 2 of 2003)*

Collective agreement 2 of 2003 provides for transfers of serving educators in terms of operational requirements (Zengele, 2009:56). Operational requirements are based on, but not limited to, the following factors:

- Change in learner enrolment;
- Curriculum changes or a change in learners' involvement in curriculum;
- Change to the grading or classification of an institution;
- Merging or closing of institutions;
- Financial constraints;
- National Policy Act;
- Employment of Educators Act.

Subject to regulations on post provisioning, a head of department of the provincial department of education must, from time to time, inform each institution of its new educator post establishment as determined by the factors above. The new educator post establishment may provide for fewer posts than the existing educator post establishment, or the skills requirements of the new educator post establishment may not match the profile of the incumbent educators. The resolution stipulates that some serving educators may be in excess to a new educator post establishment.

The weighting of subjects counts quite a lot in the actual process of declaration of educators in excess, as well as the "last in - first out" (LIFO) principle (DOE, 2005). The process of declaring educators in excess has often resulted in insecurity among the affected educators and unpleasantness between the institution managers and such educators (SADTU, 2005:9). Carrel *et al.* (2004:456) hold a strong opinion that

the uncertainty and insecurity have often led many educators to rely more on teacher unions to take up their plight. This has also affected educators' performance and commitment as those offering subjects with less weighting have always been marginalised and were ready to be declared in excess time and time again when changes occur. Carrel *et al.* (2004:456) contend that this has demoralised educators in South Africa and it nullifies efforts towards educator professionalisation. Once educators are declared in excess, they often feel that they are on the margins of their current institutions. This, according to Carrel *et al.* (2004:456), diminishes their commitment and loyalty to the institutions and adversely affects their professional productivity. There has been litigation related to the restructuring process in education.

It is important to cite the case between *Grove Primary School v Minister of Education and Others 1997 (4) SA 982 (C)* as one such example. The applicants were aggrieved by the right-sizing process by way of redeployment of educators which was dealt with in Resolution 3 of 1993. The schools and the School Governing Bodies were excluded in the implementation of the Resolution, yet as the Educators Employment Act 138 of 1994 Section 4(2) stated, the schools – through their School Governing Bodies – were part of the employment process. The action of the first respondent, the state, was not in accordance with the National Education Policy Act 27 of 1996 (NEPA) which prescribes procedures to be followed regarding the extension of Resolution 3 to all employers and employees as defined in the Labour Relations Act (146 of 1993) (enacted to enhance the influence of national education policy). The court held that the failure of the first respondent to adhere to the legal procedures stipulated in NEPA rendered the extension of the Resolution *ultra vires*, nugatory and of no force and effect. Thus, the application was granted.

From the information regarding the push factors above, it could be deduced that educators not only find themselves uncertain of their future in the education field but are continuously deskilled due to emerging curriculum packages and advanced technology. Their workload is also intensified to cut costs. This implies that, despite teacher unions' and School Governing Bodies' efforts to have more educators in

schools, education departments would rather intensify workloads of existing educators than employ more (www.rethinkingschoolsonline.com). This applies to all countries (Hargreaves & Goodson, 1996:20) but is more evident in South Africa where educators are expected to execute more duties with limited resources and are also expected to perform duties beyond the classroom (Wits Education Policy Unit, 2005:13). The findings of the international conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) to celebrate world teachers' day attest to the fact that the factors discussed above have become national trends, with educators in countries such as Togo, Haiti, Morocco, France and Malaysia resorting to taking other private jobs at night to either supplement their salaries or to create areas of divergence in cases of retrenchment (De Villiers, 2008:22).

2.4. INCIDENCES OF EDUCATORS' UNPROFESSIONAL CONDUCT

Following the background of the problem posed in the first chapter, it is important that the study actually focuses on the extent to which educators' unprofessional conduct occurs in schools. Unprofessional conduct certainly leads to misconduct. Unprofessional conduct is defined in the teaching profession and probably in other professions as meaning any or all of the following (www.quackwatch.org/04ConsumerEducation/News/wilson.html):

- Displaying a lack of knowledge or a lack of skill or judgement in the provision of professional services;
- Contravention of the SACE Act and the SACE Code of Conduct;
- Contravention of another enactment that applies to the profession;
- Conduct that harms the integrity of the profession.

Unprofessional conduct encompasses any conduct that demonstrates a lack of knowledge and skill or an ethical concern. Ethical concerns, according to Bertram *et al.* (2002:15), include issues like whether the impugned conduct is harmful to the public or the profession and whether it is disgraceful or dishonourable. In deciding if certain conduct amounts to unprofessional conduct, members of the profession are

uniquely and best qualified to establish the objective standards of professional conduct and to determine whether professional conduct of a fellow member has fallen below the requisite standard. Any licensed profession should have rules that are intended to protect clients and the public from incompetent, unethical, illegal and immoral conduct of practitioners whether it is in education, engineering, business, clinical psychology, social-work, law or medicine (www.quackwatch.org/04ConsumerEducation/News/wilson.html).

The following examples will be discussed and analysed in the subsequent paragraphs:

- Inadequate specialised knowledge
- Lack of involvement in continuous research;
- Lack of professional authority and acknowledgement;
- No adherence to professional ethical code;
- Lack of service orientation;
- Knowledge gap.

2.4.1. Inadequate specialised knowledge

As Hoyle and John (1995:47) contend, education is indeed an intellectual labour that requires a prolonged period of specialisation. Oosthuizen *et al.* (2009:107) concur with Hoyle and John when stating that specialised knowledge and certain skills are a prerequisite for the successful practice of any profession. The implication here is that educators must possess authority over the specialised knowledge they have acquired as it makes them experts in their field. Oosthuizen's quantitative survey (2007:33) indicates how crucial it is to be prepared for lesson presentation as this enhances not only learner performance but discipline as well. Educators, who participated in Oosthuizen's (2007:33) survey in different provinces, confirmed that the most profound method of maintaining effective discipline in the classroom is proper and thorough lesson preparations. The participants in the survey, surprisingly,

listed content knowledge second in terms of importance. This is contrary to what Taylor (2006), head of the Joint Education Trust; and many authors believe. The important question to ask here is: How prepared can an educator who lacks adequate specialised knowledge be for lesson presentation?

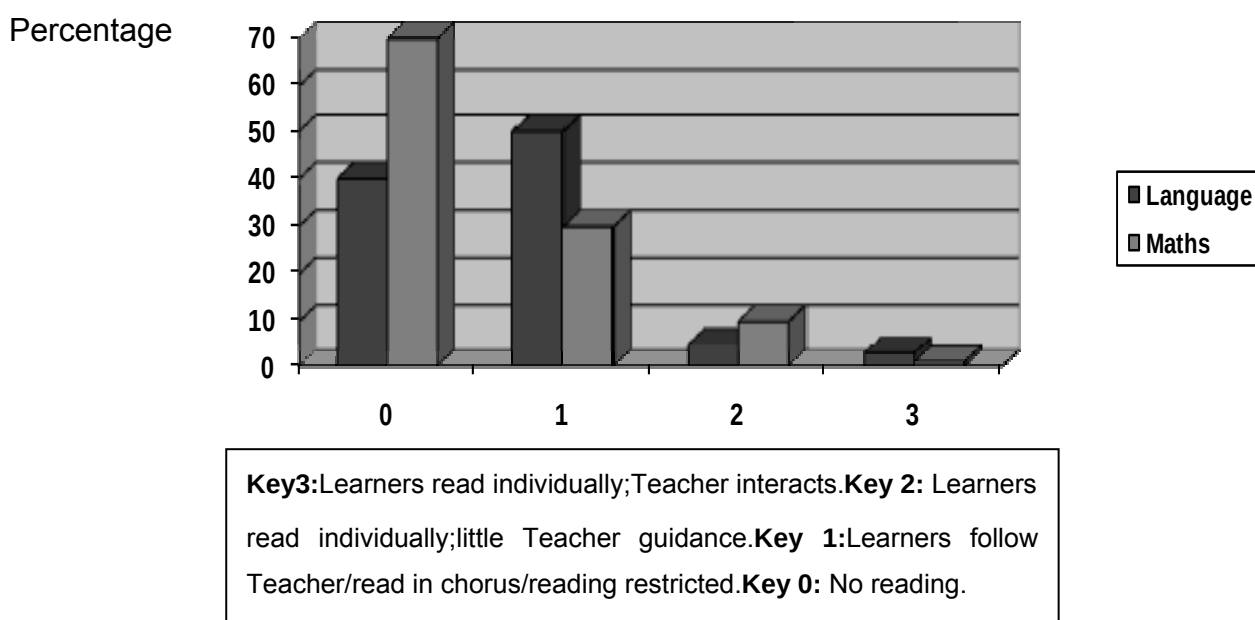
Inadequate knowledge has varying adverse effects, namely poor preparations that, in turn, result in ill-discipline, lack of confidence by the educator and in the educator by the learners and general poor performance (Oosthuizen, 2007:33). It follows that experience has taught many educators that if they possess no authority on the subjects they teach, they have little authority over the learners they teach in their classrooms and thus struggle to maintain discipline.

Taylor (2006:9) submits that educators are found lacking not only in specialised knowledge (subject content) but also in pedagogical content knowledge, which is the knowledge required to teach the subject (skills). Knowing one's subject matter content is imperative for effective teaching. It has become evident in South Africa that, as Taylor (2006:9) states, an urgent priority must be to improve the content knowledge of educators. During a principals' conference (2011), the suspended Head of Department of the North-West Province, Raseala, confirmed the need to improve the content knowledge of educators and also confirmed that his department had budgeted for doing so. The current national outcry about the primary learners' inabilities in literacy and numeracy prove that educators indeed lack both subject content and pedagogical content knowledge. Figure 2.1 below illustrates the reality of this problem (Taylor, 2006:9).

The figure below depicts that in 2006, the majority of South African primary school learners fell within **key 0**: 70% had no basic numerical skills, and 40% had no literacy skills at all. In **key 1**, another 30% of learners could not count, multiply, divide, subtract or add without the assistance of the educator. Fifty percent of the learners in that category had very restricted literacy skills; they could only read in chorus following the educator. **Key 2** illustrates that approximately 8% of learners had the ability to perform numerical tasks with little guidance from the educator, and

10% of learners in that group could read individually, also with little assistance from the educator. Only a minimal 5% and 2% of learners could read individually and perform numerical tasks respectively. Those learners were able to work unaided by the educator; the educator only interacted with them.

Figure 2.1. Teaching practices in rural grade 3 educators



The relevance of **Fig 2.1** to this study is underpinned by the indisputable fact that educators truly have inadequate specialised knowledge. However, a significant portion of educators has remained committed to the teaching profession and has ascertained that their knowledge is enhanced through a variety of ways (Bloch, 2009:102). Bloch (2009:102) confirms that there are educators who do a sterling job out there, and there is evidence of pockets of excellence in many former model-C and a few black schools which continue to produce quality results. Taylor contends that if educators had sufficient pedagogical content knowledge, which refers to the skills required to teach the subject, there would not be this startling evidence of thousands of learners who are lacking in numerical and literacy skills. The same grade 3 educators who teach literacy and numeracy skills to the learners depicted in **Fig 2.1** could not provide correct answers to a Mathematics and Literacy test administered to grade 6 learners (Taylor, 2006:9). The picture painted in **Fig 2.1** answers the questions regarding poor grade 12 results which are due to poor knowledge background in basic skills. Jansen (2008:14) concurs with Taylor when

he states that educators' presentation skills (pedagogical content knowledge) are as hopeless as their content knowledge of the subjects they teach. However, Bloch (2009:105) above holds an alternative view as he confirms that some educators are committed and focused on their professional duties.

Interviewed on SABC2's Morning Live (2010), the Minister of the Department of Basic Education, Motshega, confirmed that the Department of Basic Education was then; trying to rectify the problem of primary school learners who lack literacy and numeracy skills. According to Govender (2008:6), the education department's initiative to improve learners' literacy and numeracy skills in primary schools could be hampered by the shortage of suitably qualified educators.

2.4.1.1. Challenges and limitations of initial educator preparation programmes

Regardless of the length of a programme or the level of preparation, pre-service educator education continues to receive strong criticism internationally. Villegas-Reimers (2003:52) confirms that a number of problems exist in educator preparation, and these include:

- The less-than-ideal characteristics of most candidates who enter the profession;
- Curricula of poor quality;
- Too much emphasis on theory and too little on practice;
- Programmes that are too short;
- A weak relationship between programmes and school practices;
- Lack of attractive characteristics of teaching profession (such as low status and low salaries) which, in turn, affect who enters the profession, who stays and for how long.

Villegas-Reimers (2003:52) concurs with Taylor (2006:9) when she submits that most candidates leave education training institutions lacking in basic knowledge of subject matter, deficient in pedagogical training and ill-equipped to work in schools

and communities. Villegas-Reimers' submission is based on the research study she conducted in countries such as Latin America, Brazil, the United States of America, United Kingdom, Australia, New Zealand and Canada.

2.4.2. Lack of involvement in continuous research

Educators are expected to possess a ceaseless quest for knowledge and to stay abreast of changes and new innovations in their field (SACE, 2000). This can only happen if they exert more effort in upgrading their qualifications and engage in continuous research in education-related matters. An educator may have acquired specialised knowledge and skills which are a prerequisite for the successful practice of any profession (Oosthuizen *et al.*, 2009:107), but knowledge evolves and skills need to be improved continuously (Jansen, 2004:63). The expertise of an educator who is frequently outside the classroom certainly diminishes, and with it the service orientation diminishes as well (Jansen, 2008:14).

Approximately 30 000 educators in 2006 were unqualified, which is evidence that educators' qualifications on a national level are not up to standard (HSRC, 2006:26), and there is insufficient evidence that this particular group is engaged in upgrading their qualifications. Lees, a member of parliament of the Democratic Alliance (DA), also declared on News 24 (2010) that 9003 educators in KwaZulu-Natal (KZN) are unqualified, and 200 of these educators do not even have grade 12 certificates. The remaining 8803 have no other qualifications except grade 12. Lees (2010) further stated that there was no evidence that this group of educators is registered with any institution to improve their qualifications.

2.4.2.1. Poor academic and holistic development of learners

Jansen (2008:14) contends that educators are entrusted with the academic and holistic development of learners who are the future citizens of South Africa (SA) and, accordingly, it is betrayal of this trust not to strive to attain expertise in the education

field. In terms of section 28 (2) of the Constitution (SA, 1996a), ***a child's best interests*** are of paramount importance in all issues regarding the child under the age of 18. Education is one of those issues. The implication here is that if educators neglect improving their qualifications, they are doing disservice to their clients and do not act in ***a child's best interests*** as the Constitution demands. In support of Jansen, Taylor (2006:8) declares that 85% of South African schools lose a large number of teaching days throughout the year due to educators' absenteeism. This implies that educators neglect their professional obligation to develop learners academically and holistically.

A panel of education experts (McGregor, 2010:3), including Sujee (school principal), responded to a parent's query regarding the rate of educators' absenteeism by stating how important it is for educators to realise that teaching is more a calling than a job. The education experts further recommended that principals and the School Governing Bodies (SGBs) should be tough in dealing with such culprits.

According to the findings of a research conducted by the HSRC on leave taken by educators at public schools (2010:6), on any given day, between 10% and 12% of educators – 40 000 in total – are away from school on leave, ostensibly because of sickness (the most abused leave), urgent private matters, family responsibilities or official duties. The report estimates that between 20 to 24 days of teaching and learning time is lost per educator per year, with a quarter of leave being taken for official duties such as meetings and training. Mondays and Fridays, according to the HSRC report, are the most popular days for educators to take "sick leave". The report indicates that South Africa has a much higher educators' leave ratio than high-income countries such as Australia, the United Kingdom (UK), Canada and the United States (US), which have leave ratios ranging between 3% and 6%. It is important to note that South African educators still take more leave than educators in low-income countries such as Kenya, Uganda, India, Zambia and Ecuador.

Jansen (2008:14), emphasising the importance of continuous research, cites an example of educators in the government's Dinaledi Schools (schools that focus on

Mathematics, Science and Technology) who often abandon their classroom duties to attend training workshops dealing with problematic areas in Mathematics and Science. According to Jansen (2008:14), at the end of the training, educators are assessed on what they were being developed on, and the majority of these educators greatly underperform. Taylor and Vinjevold (2008:33) confirm the underperformance of educators in South African schools which has contributed significantly to the poor grade 12 learners' results over the past decade. Jansen concludes this matter by stating how ambitious the state is in assuming that quarterly trainings would improve subject knowledge of thousands of under-qualified educators.

In a press statement (2008), Balt, the former president of the National Professional Educators Organisations of South Africa (NAPTOSA), stated that there is growing pressure from the society that drastic actions should be taken to improve teaching. According to Balt, improving educators' knowledge and qualifications is a factor that can bring about a major difference in achieving education goals.

2.4.2.2. Poor collective inquiry approach

Sharing of knowledge and collective learning is an integral part of continuous research. Darling-Hammond (2001:52) emphasises the importance of sharing in every profession. According to her, an occupation becomes a profession when it assumes responsibility for developing a shared knowledge base for all its members and for transmitting knowledge through professional education and peer review. This implies that educators can also serve the profession by contributing to the knowledge base instead of relying on academics and professors to do so. De Clercq (2008:10) asserts that South African educators have not yet developed the culture of conducting research and publishing it. As professionals, educators need to write research papers, publish such research and also presented papers in educational conferences.

Continuous research should not be limited to experiential collective approach whereby educators share and reflect on their own practices with colleagues working in similar contexts without engaging in academic research (De Clercq, 2008:10).

2.4.3. Lack of professional authority and acknowledgement

The professional authority of educators stems from their specialised knowledge and skills (Oosthuizen *et al*, 2009:107). Research has shown that educators are found lacking not only in specialised knowledge (subject content) but also in pedagogical content knowledge which, as Taylor (2006:9) explains, is the knowledge required to teach the subject (skills) in addition to the subject content knowledge. Jackson (in Villegas-Reimers, 2003:34) submits that the knowledge base of educators is a cause for debate and asserts that for as long as this debate continues, educators' professional authority and acknowledgement will remain questionable. Van Vuuren (in Oosthuizen *et al.*, 2009:109) contends that professional authority is measured against the profession and the educators' excellence and this, in turn, determines how much professional authority is deserved and must be awarded.

Kriel (1995:12) contended that educators, due to a lack of professional authority, have failed to transform the minds and change the hearts of many South African children. Consequently, Kriel pursued his argument by stating that educators had failed to make such an impact that communities regard their presence as a privilege. Thus, educators had less positive influence on learners, and their professional role is not significantly portrayed and acknowledged (Boyd *et al.*, 1998:2).

2.4.4. No adherence to professional ethical code

There are educators who still take pride in their profession by displaying acceptable professional conduct, adhering to a code of professional ethics and maintaining a strong moral fibre (Jansen, 2004:52). However, Jansen further contends that because of mechanisms of enforcing state control, even such educators are often lost in the midst of entrenched resistance to state surveillance. Bertram *et al.*

(2002:14) assert that ethical conduct is the cornerstone of every profession that takes pride in itself. It is within this context that the SACE Code of Conduct stipulates how educators ought to behave in their working lives as professional educators. The “ought to” indicates that the Code is providing moral prescriptions and, thus, telling them what to do as educators in their relations with other people, from an ethical perspective. According to Bertram *et al.* (2002:15), it is impossible to discuss professional ethics without discussing misconduct. Misconduct is a legal term meaning a wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one’s actions (www.quackwatch.org/04ConsumerEducation/News/wilson.html).

The Chief Executive Officer (CEO) of SACE, Brijraj (2011b), submitted on SABC Morning Live that they had received about 413 complaints from the public from April 2009 to March 2010. Cases ranged as follows:

- Insubordination - 54;
- Corporal punishment - 80;
- Drunkenness on duty - 56;
- Sexual offenses - 85.

This, according to Brijraj (2011b), was clear evidence of unethical conduct that requires stern intervention by SACE as well as provincial authorities. Table 2.1 is an extract from the list of cases that have been handled by the SACE Ethics Committee:

Table 2.1. SACE Legal Departmental Action: 2006 & 2007

ITEM	MISCONDUCT	PROVINCE	FREQUENCY		VERDICT	SANCTION	
			2006	2007		2006	2007
1.	Absenteeism	Western Cape	√	√ √ √ √	Found guilty Found guilty Found guilty Found guilty	R2 500 fine	R6 000 fine R2 500 fine R2 000 fine Dismissed
2.	Sexual assault	Western Cape		√ √	Found guilty Weekend – outside DoE jurisdiction		Dismissed
		Gauteng	√	√	Found guilty	Dismissed	Suspended from service
		KwaZulu-Natal		√	Found guilty		Suspended
		North- West		√	Found guilty		Suspended
		Mpu-malanga		√	Found guilty		Dismissed
3.	Learner assault	KwaZulu-Natal		√ √	Found guilty Found guilty		Three months' suspension without pay
		Gauteng	√	√	Found guilty Found guilty Found guilty	Three months' suspension without pay	Educator to pay learner's medical bills
		Western Cape	√	√	Found guilty	One month's salary deducted	One month's salary deducted
4.	Assault – Educators	KwaZulu-Natal		√ √	Found guilty Found guilty		R4 000 fine imposed
		Gauteng		√	Found guilty		Written warning
		Mpu-malanga	√	√	Found guilty	Verbal warning coupled with a fine of R3 000	

Table 2.1. SACE Legal Departmental Action: 2006 & 2007

5.	Fraud – social grant	Western Cape		√	Found guilty		Written warning and fine of one month's salary payable over 18 months in both cases
	Housing allowance	KwaZulu-Natal	√	√	Found guilty	Fined one month's salary	
6.	Theft	Western Cape	√	√	Found guilty	Dismissal	
					Found guilty		Fine R 3 000
7.	Alcohol abuse	KwaZulu-Natal	√		Found guilty	Fined R10 000 and to undergo counselling	
		Western Cape		√	Found guilty		Written warning and fined R2 500 payable over 3 months
8.	Insubordination	Mpu-malanga		√			
9.	Abuse of power - school manager	Western Cape	√		Found guilty	Leave without pay revoked	
10.	Intimidation	KwaZulu-Natal		√	Mediation		
11.	Contravening the school HIV policy – during Life Orientation lessons	KwaZulu-Natal		√	Departmental intervention		Verbal warning
12.	Contravened the SASA – withholding learners' results	Gauteng		√			SACE reprimanded the principal telephonically
13.	Segregation in school hostels	Gauteng				Allegations unfounded	
14.	Unlawful suspension of learners	Western Cape		√			Principal and SGB reprimanded
15.	Defamation of character	Western Cape		√	Found guilty		R6 000 fine to the educator

Source: SACE Legal Department – 2007 (extract).

2.4.4.1. Teacher unions' contribution to unprofessional conduct

Although teacher unionism will be discussed in the next chapter, it is fitting to include it as one of the contributory factors to unprofessional conduct. Boyd et al. (1998:1) submit that teacher unions always want to win rapid and substantial gains for their members and, in pursuit of this goal, do not hesitate to send educators out on strike, leaving classrooms deserted. Boyd et al. (1998:2) further contend that teacher unions have, since the late 90's, been more absorbed in defending themselves and their members against what they view as an unjustified attack from the public. Consequently, they have failed to identify themselves with positive commitment towards educational reform and responsible teacher unionism. Khoabane, a political analyst (2010:2), alleges that millions of children have dropped out of school and many have failed their grade 12 examinations because educators today are allowed to run amok and obstruct children from acquiring an education.

The scholarly submissions above imply that educators' involvement in union activities and meetings removes them from the classroom, thereby alienating them from their professional obligations, reducing their conduct to being unethical and eroding the fabric of the profession. The fabric of the education profession is vested in the learning and teaching programmes in the classrooms.

2.4.4.2. Unethical conduct during the public servants' strikes of 2007 and 2010

Scores of educators nationally, as reflected in the Human Sciences Research Council's special report (HSRC) (2007:4), behaved in a shocking manner. Though not all educators participated in the strike, the HSRC special report indicates that violence and intimidation that marred the 2007 industrial strike further damaged the image of the teaching profession. Malala (2007:9) reported intimidation, subversion and violent actions inflicted on other educators who did not want to take part in the strike. There was widespread intimidation and even physical attacks on educators and learners that led to many of South Africa's 25500 public schools closing their doors despite the former Public Service and Administration Minister Geraldine

Fraser-Moleketi's continued reminders that schools should not be closed (HSRC, 2007:3). Not all learners in the few schools that remained open were educated during the industrial strike, and in most cases no proper arrangements were made to cater fully or even partially for the client (HSRC 2007:4).

The 2010 strike saw 1.3 million public servants deserting their posts and taking to the streets in pursuit of their salary increase demands. According to Khoabane (2010:2), that particular strike was used to propel the political and personal agendas of some union leaders. Educators behaved as if there would be no end to the strike, and their conduct during the strikes was not worthy of respect (Khoabane, 2010:2). The secretary of the Congress of South African Trade Unions (COSATU), Vavi, justified the unethical conduct of the nurses and educators by stating on national television (SABC, 2010) that their conduct was symbolic of their resentment of the government's opulence. However, society expected them to review their stance because if it were correct, the strikers would have demonstrated in front of government offices and not at schools, disrupting teaching and learning programmes, and in hospitals, disrupting surgical operations. Khoabane (2010:2) argued that the educators and all the other workers should have toyi-toyed against Vavi who granted himself a 100% salary increase in 2009. Actually, they should have been outraged by his generally opulent lifestyle, Khoabane (2010:2) further contended, citing Vavi's wedding ceremony in 2008, but they were not. Instead, they were outraged by their colleagues who exercised their rights and went to work and children who fought for their right to learn. This is the kind of mentality that Bloch (2009:89) describes as typical of the "sacred cows" such as union leaders and asserts that it needs thorough analysis.

However, not all educators got away with misconduct during the 2010 strike. Four educators were arrested for crimes relating to the public servants' strike at Inanda in KwaZulu-Natal (Radebe, 2010). Their charges ranged from intimidation, *crimen injuria* and malicious damage to property.

In both instances (2007 and 2010 strikes), the conduct of the educators was contrary to the stipulations of the SACE Code that expects them to:

- Act in a proper and becoming way such that their behaviour does not bring the teaching profession into disrepute;
- Acknowledge, uphold and promote basic human rights, as embodied in the Constitution of the Republic of South Africa.

It is clear that a national strike has adverse effects on education. As Jansen (2011:57) confirms, from the perspective of rural and township schoolchildren, the strike is an unmitigated disaster because their education is the most affected. During strike; children and parents watch news on television religiously; probably with the hope to learn that it has been called off. In South Africa, however, strikes are prolonged. According to Jansen (2011:58), thousands of South African children get exposed to the anarchy, violence, intimidation and disrespect by their educators on television. Jansen (2011:58) further argues that amongst these children there could be some who had aspired to be educators and could be turned away by such display of unprofessional conduct. This, inter alia, is one of what Jansen (2011:58) calls the invisible effects of the strike on the teaching profession.

It is important to realise that the provisions of the SACE Code of Conduct have been afforded moral and legal authority by parliament in 2000. Accordingly, they are binding to educators as all educators in the teaching service in South Africa are members of the South African Council for Educators.

2.5. CONCLUSION

The overwhelming evidence from scholarly research and classroom results indicates that professionalism in South African education is in danger of collapsing even before it really takes off the ground. There is a national outcry in South Africa as well as in America ([http://www.nrrf.org//essay Illiteracy html.](http://www.nrrf.org//essay%20Illiteracy%20html)) regarding teaching as a

profession and how the profession is producing illiterates. This is a serious challenge to educators' teaching skills and methods.

Education, according to Lorimer of the Democratic Alliance (2010:12), is not being prioritised by the state. There are still shortcomings in South African schools that are not being addressed, such as critical educator shortages, late or no delivery of stationery and educators who arrive at work long after schools started, educator absenteeism and union meetings/workshops that are held during school hours. The ambitious goals set by the Minister of the Department Basic Education (DBE), Motshekga, for improving literacy and numeracy as well as the grade 12 pass rates will remain a pipedream as long as problems are not addressed. Lorimer found it careless of President Zuma (etv, 2011) not to elaborate on how his government intends to improve the ailing education system drastically in his state of the nation address.

Education is one of the most important factors advancing affluence and the general standard of living in any country (Bloch, 2009:42). Accordingly, as Manuel (2011b:2) asserts, the time has come for stakeholders in education to take educators to court for dereliction of duties and poor academic performance of the children they have entrusted to educators. Educators must be made to legally account for learners' poor performance in their subjects, and should they be found guilty of malpractice, they should be ordered to pay the costs incurred. However, questions that arise are: Is the state ready to defend the education of the nation against educator malpractice? Does good teaching and good management guarantee good learning? Are educators ready to account and advance their profession as well as save it from disrepute?

Educators are regarded as professionals and not ordinary workers. Therefore, there are expectations that the service, motive and professional commitment to clients (learners) should be the primary motivation for professional educators (Smit, 2010:1).

CHAPTER 3

UNDERLYING CAUSES OF UNPROFESSIONAL CONDUCT

3.1. INTRODUCTION

For this study to be effective, it has been of utmost importance that it examines some factors that may well be the underlying causes for educators' unprofessional conduct. There is overwhelming evidence from scholarly research and education stakeholders in the previous chapter that South African education system is ailing (Taylor, 2006:8, Jansen, 2004:52, Lorimer, 2010:12, Bloch, 2009:103 and Manuel, 2011b:2). In the same chapter, unionism is cited by Boyd *at al.* (1988:1), Malala (2007:9), Khoabane, (2010:2) and the HSRC (2007:4) as largely contributory to unprofessional conduct and misconduct. The study will now focus on the following areas:

- Teacher unionism;
- Lack of discipline and self-respect;
- Poor education management.

The literature study has concluded by providing a brief summary of the above factors, each of which can be regarded as crucial issues generally serving as barriers to delivery of quality education in South Africa.

3.2. TRADE UNIONISM IN EDUCATION

It is interesting to note that trade unionism has become a phenomenon in education just like in any other industry (Proebstl, 2007:20). Teacher unions in South Africa have become very strong organisations, with the South African Democratic Teachers' Union (SADTU) having registered the majority of educators as members. The South African Democratic Teachers' Union is sheltered under the umbrella of the Congress of South African Trade Unions (COSATU) (Kriel, 1995:30). Trade

unionism is generally viewed by many stakeholders in education as the main underlying cause of educators' unprofessional conduct and also as a drawback to the efforts to professionalise education in South Africa (Jansen, 2008:14). According to Govender (2004:269), quality learner attainment will remain an unrealistic dream of the Department of Basic Education (as it is currently known) if union activities are not regulated properly. Govender (2004:269) pursues her argument by asserting that during this post-apartheid era, teacher unions have to change their strategies and begin to address issues of school productivity and efficiency. Torres *et al.* (in Govender, 2004:269) add that mechanisms for performance management, discipline and dealing with incompetence must be employed.

In an attempt to facilitate understanding, this study has conceptualised unionism by examining the different factors below:

- Historical overview of trade unionism in South Africa;
- Definition and characteristics of trade unionism;
- Aims and objectives of organised labour;
- The development of labour relations in South Africa;
- The political edge to the activities of teacher unions;
- Debates relating to educators as professionals or workers;
- Union mechanisms and professional adjustment;
- Educators' status;
- Teacher unions and critics;
- The effect of current political climate on teacher unionism in South Africa.

The factors listed above are significant in the sense that they influence the manner in which teacher unions operate, how schools function and how educators conduct themselves. They also have a determining effect on the progress of the professionalisation of education. Even though, according to Bloch (2009:106), the education authorities in the higher echelons are silent about “this worm” that is gradually eating up the moral fibre of the education profession, unionism has had

adverse effects on education. Even though it may have entered the education arena for some very plausible reasons during the 1980's, its perpetual radical stance has eroded the professional status of educators (Bloch, 2009:106). Union office bearers are so confused about the professional status of educators that they admit that morals are not what they would term 'politically effective' or 'acceptable' (Urban, 2008:8). Below are discussions pertaining to each of the above factors.

3.2.1. Historical overview of trade unionism in South Africa

Unionism is the principle of forming a union, especially a trade union (www.thefreedictionary.com/unionism). According to Rossouw (2010:1), even before the implementation of the Constitution of the Republic of South Africa in 1996, labour legislation in South Africa could be found in a number of different acts. The Labour Relations Act, that is the current labour law which regulates labour relations, was enacted in 1995. After the transition into the new political system, it became necessary for labour laws to be rewritten in order to comply with the human rights culture (Rossouw 2010:1). This subsequently led to certain agents of the state to be established in terms of such labour laws, such as the Department of Labour; the Commission for Conciliation, Mediation and Arbitration (CCMA) and the labour court. These, Rossouw (2010:1) confirms, help ensure that labour relations develop progressively and positively within the parameters of labour legislation.

The background to the current major teacher unions is viewed as an important inclusion within this research study since unionism in education forms part of the major focus of the study.

3.2.1.1. *The South African Democratic Teachers' union*

According to the website of the South African Democratic Teachers' Union (SADTU) (www.sadtu.org.za), the Congress of South African Trade Unions (COSATU) came about as the brainchild of educators who attended a conference in Harare in April 1988. Despite the fact that the union could be regarded as a vanguard at that point in time, it soon emerged, according Zengele (2009:31), that educators wanted a

national union whose objective would be to fight racism in the South African education system. The conference was attended by various organisations, such as the African Teachers' Association of South Africa (ATASA), the United Teachers' Association of South Africa (UTASA), the Teachers' Association of South Africa (TASA), the National Teachers' Union of South Africa (NEUSA), the Democratic Educators Teachers' Union (DETU), the Western Cape Teachers' Union (WCTU) and the Professional Teachers' Union (PTU). Collectively, these organisations were later referred to as the Harare Accord which, in time to come, formed the National Teachers' Unity Forum (NTUF) under the auspices and leadership of the Congress of South African Trade Unions (COSATU). COSATU was, even then, the largest labour federation in South Africa and an alliance partner of the African National Congress (ANC) which later (in April 1994) became the government. By 1994, SADTU had already admitted to its ranks the Eastern Cape Teachers' Union (ECTU) and the Eastern Cape Professional Teachers' Union (ECPTU) as affiliates. SADTU was formally launched in Johannesburg on 5 October 1990, coinciding with World Teachers' Day.

SADTU identifies itself on its website (www.sadtu.org.za) as a truly non-racial union whose prime objective is to eradicate all forms of discrimination in education and emphasises its concerted effort towards creating a free and democratic education system. Even today, SADTU still maintains its original stance, which confirms that its true intent is to pursue working conditions and remuneration which will ensure that professionalism within the industry is fully realised. In essence, the union is not prepared to advance its members towards professionalism progressively; hence there is no distinct commitment in its website and its constitution that binds it to professionalism. SADTU's stance (www.sadtu.org.za) is contrary to what Starr (1982:15) in Chapter 2 (par. 2.2.1) expect of professionals. SADTU is more intent on pursuing better working conditions and profit from the profession than providing service. Though service in the teaching field should not be profit orientated; it would be difficult to lay the blame for this stance entirely at the union's door since issues that relate to educators' remuneration are officially accepted in the chambers of the Education Labour Relations Council (ELRC), and implementation is delayed.

Collective Agreement Number 1 of 2008, which dealt with a Framework for the Establishment of an Occupation-Specific Dispensation (OSD) for educators in public education, yet has to be concluded even as we near the end of 2011.

3.2.1.2. The National Professional Teachers' Organisation of South Africa

In 1991, the National Professional Teachers' Organisation of South Africa (NAPTOSA) was established, and it consisted of the African Teachers' Association of South Africa (ATASA), the Teachers' Federal Council (TFC) and the United Teachers' Association of South Africa (UTASA). The majority of the white educators withdrew from the alliance in 1996, citing the poor treatment of Afrikaans as their indigenous language (Govender, 2004:267). Subsequently, the Suid-Afrikaanse Onderwysersunie (SAOU) was established comprising Afrikaans-speaking educators. NAPTOSA asserts on its website (www.naptosa.org.za) that the union is a voluntary association of members and that its objective is to promote and protect the professional status of its members. As NAPTOSA grew in strength, it also grew in numbers and became a federation of smaller unions; the likes of SAOU, the Professional Teachers' Union (PEU) and the Natal Association of Teachers' Unions (NATU). It was this amalgamation that enabled NAPTOSA to cross the requisite threshold for representation in the Education Labour Relations Chamber and, accordingly, to be registered as a trade union on 1 November 2006.

3.2.1.3. The Suid-Afrikaanse Onderwysersunie

According to Govender (2004: 273), NAPTOSA's structure had to change also as its affiliates were confronted with challenges emanating from new legislation, cultural tensions and politics of non-racialism. Eventually, NAPTOSA fragmented and restructured. The association was dealt a major blow by the withdrawal of some of its white, Afrikaans-speaking organisations in 1996. According to Govender (2004:273) and Zengele (2009:12), the reasons cited for withdrawal included inferior treatment of Afrikaans and its mother-tongue status, engagement in resistance politics by affiliates and reservations concerning affirmative action. Consequently, a third teacher union, the Suid-Afrikaanse Onderwysersunie (SAOU), was established and

duly recognised by the Education Labour Relations Council. As reflected in table 3.2, NAPTOSA which was one of the largest unions in South Africa, had its numbers diminishing due to the split.

As clarified above, SAOU was formed by a break-away group from NAPTOSA. However, it is important to confirm that, currently, SAOU has experienced such growth that it is acknowledged on its own and qualifies for representation at the Education Labour Relations Council. Subsequently, SAOU and SADTU were admitted at national level to the ELRC and were referred to as CTU-SAOU and CTU-SADTU (Rossouw, 2010:100). CTU is an abbreviation for Combined Teachers' Unions, and the two unions mentioned above qualified to add this prefix because they had huge numbers already. At the time (February 2006), as Rossouw (2010:99) submits, the constitution of the Education Labour Relations Council had been amended to make allowance for unions who had 50 000 members or more to obtain seats in the ELRC's chambers.

With the passing of Resolution Agreement no. 1 of 2010 (www.sadtu.org.za), though, unions were yet again required to bargain for seats in the Education Labour Relations Council (ELRC). It needs to be noted that SADTU consistently makes a concerted effort to oust other teacher unions from the ELRC by trying to increase the admittance threshold for unions (www.worldpress.org/Africa/2430.cfm) through a closed-shop agreement.

3.2.2. Definition and characteristics of a trade union

According to Carrel *et al.* (2004:454), in the United States of America (USA) and in many European countries, a union is an organisation of workers formed to further the economic and social interests of its members. This view also applies to the South African perception of trade unions. Kriel (1995:30) submitted that trade unionism is about labour-related issues, such as workers' grievances, labour disputes, conditions of service, working hours, remuneration and collective bargaining. Carrel *et al.* concur with Kriel and list the following characteristics which, *inter alia*, apply to all

organising efforts, though the weighting of these differs from one labour organisation to another:

- Job security;
- Salaries and benefits;
- Promotion of educators' professional aspirations;
- Working conditions;
- Fair and just supervision;
- The need to belong and a mechanism to be heard.

In South Africa, consistent with section 23 of the Constitution, the Labour Relations Act (LRA) of 1995 provides for the establishment of trade unions and employer organisations. The Employment of Educators Act 76 of 1998 (SA, 1998), as Rossouw (2008:61) states, does not provide for teacher unions, which implies that the provisions contained within in the Labour Relations Act should be taken as a guide to all matters pertaining to educators' involvement in union activities. It is also of key importance to note that in South Africa, the origin of teacher unionism was marked by two kinds: unions that are apolitical and professionally inclined, such as the National Professional Teachers' Organisation of South Africa (NAPTOSA), and unions which had aligned themselves with vanguard organisations of the liberation struggle and which are politically inclined, the likes of which would be the South African Democratic Teachers' Union (SADTU). An understanding of these inherent characteristics of teacher unions is crucial to comprehending how they conduct themselves today.

According to Govender (2004:270), the Suid-Afrikaanse Onderwysersunie (SAOU) stemmed from NAPTOSA, which means the union's inclination is towards professionalism. Govender (2004:270) confirms that white teacher unions struggled to find identities in the new South African dispensation. Some aligned themselves with the new non-racial order while others sought solace in the existing racial structures. Eventually, Govender (2004:272) declares, most white educators broke away from NAPTOSA, and SAOU was formed along racial, political, ideological and

organisational lines as well as around the issues of language. As solid as SAOU's professional practices are, apparently, it has left no room for yet another race (Govender, 2004:272).

It should be noted that this study only dealt briefly with three unions' historical backgrounds, as informed by the Education Labour Relations Council's weighting of each (www.sadtu.org.za).

3.2.3. Aims and objectives of organised labour

Organised labour has common objectives, namely to improve the material, cultural and social status of its members (Finnemore, 1999:41). At international level, what distinguishes one organisation from another is the particular aspect of that broad objective organised labour is endeavouring to pursue and the particular method it employs (Carrel *et al.*, 2004:455).

According to the list submitted by Rossouw (2008:62), the aims and claims of the largest teacher unions in South Africa (the South African Democratic Teachers' Union (SADTU) and the Suid-Afrikaanse Onderwysersunie (SAOU), do match the reasons for organising labour as cited by Carrel *et al.* (2004:454) and Kriel (1995:30). The goals and objectives of these two largest teacher unions in South Africa are tabulated in table 3.1.

3.2.4. The development of labour relations in South Africa

The significant development of labour relations in South Africa indicated a commitment by both individual (employees and employers) and collective (trade unions and employer organisations) labour to interrelate in order to promote their respective interests. It is important to depict the journey of labour relations development in South Africa, and figure 3.1 illustrates this journey.

Table 3.1.Goals and objectives of teacher unions

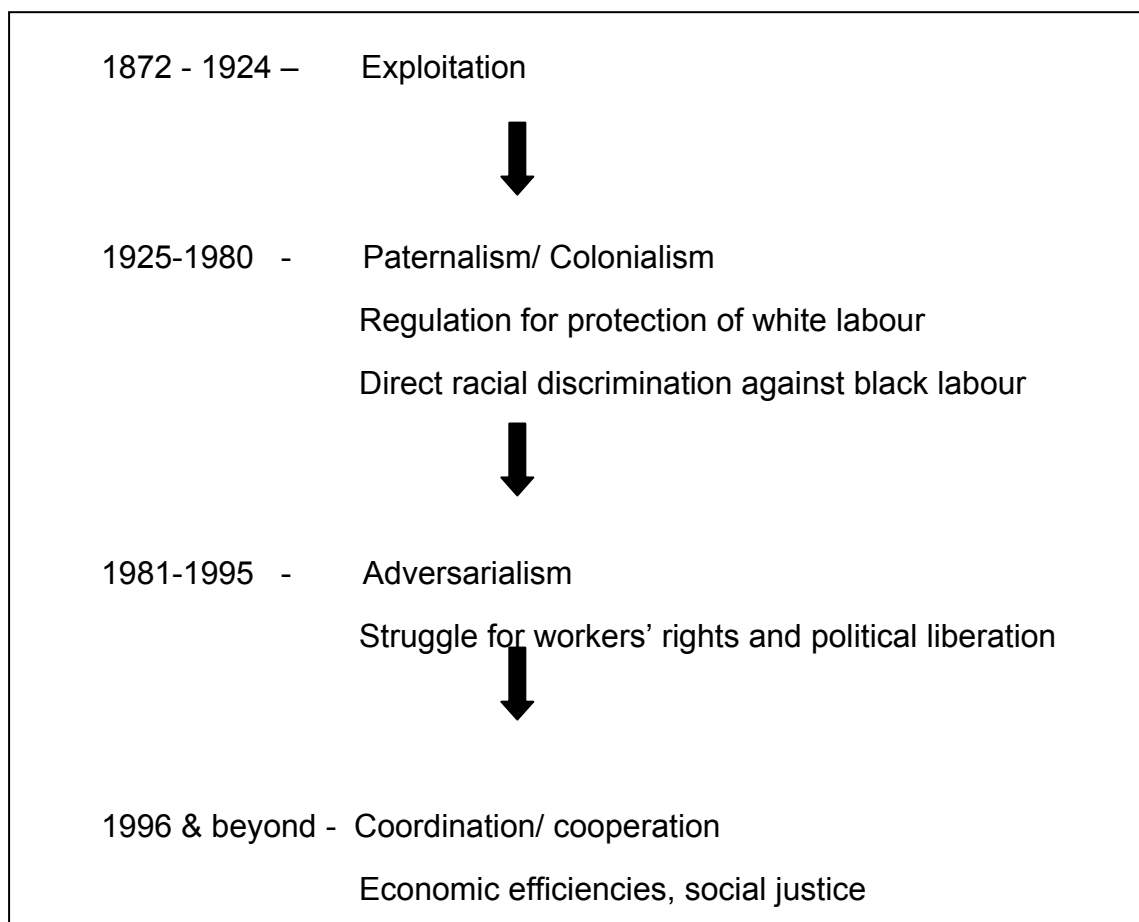
SADTU	SAOU
To fight for better remuneration and working conditions for educational workers. To represent and promote the professional aspirations of educators. To play a leading role in the struggle for education transformation to deliver free and equal quality public education for all. To participate in the struggle to deepen the national democratic rule and the struggle for socialism. To constantly improve the organisation and to conscientise and mobilise members.	To remain bound, as a professional teacher union, to the highest Christian values and norms in service to members, the profession and clients. To negotiate remuneration and terms and conditions of service with the employer and to represent members in all grievances or disputes. To maintain good relationships with the employer and other teacher unions. To offer valuable financial and other services to members. To stay in contact with and constantly inform members of important issues that might affect them.

(Adapted from Rossouw, 2008:62)

3.2.4.1. *The era of exploitation*

The different eras in the development of labour relations are a true indication of just how long this journey took. Rossouw (2010:8) avers that; from 1870-1924, labour rights were almost non-existent, and the government and employers, especially the mining industry, were guilty of serious exploitation and resorting to power and force. Rossouw (2010:8) further submits that this is the era that laid the foundation for paternalism and racial discrimination, a protracted era (stretching over five decades) of industrial turmoil, racial discrimination and political unrest.

Figure 3.1. Phases in labour relations development in South Africa (Rossouw, 2010:7).



(Adapted from Rossouw, 2004:4)

3.2.4.2. *The era of paternalism/colonialism*

During the era of paternalism and racial discrimination (1925-1986), amendments to labour legislation were implemented on a regular basis. Statutes were introduced and implemented between 1956 and 1994, all of which have been repealed by Section 212 of Labour Relations Act (66 of 1995).

Rossouw (2010:9) portrays this era as characterised by a division into groups (polarisation) of unions representing opposing views regarding black inclusion in collective labour relations. Political developments in the 1940's, according to Rossouw (2010:9), gave rise to further polarisation between racial groups due to legislation that advanced white interests. As Appendix A illustrates, this resulted in more strike actions and increasing black awareness in terms of becoming better organised as trade unions.

3.2.4.3. *The era of adversarialism*

During this era, and subsequent to the Industrial Conciliation Amendment Act (94 of 1979), an industrial court was established according to Rossouw (2010:10). Labour relations, during the era of adversarialism, featured the court being used as an arena of struggle by both employees and employers (De Waal, Currie & Erasmus, 2001:391). However, presiding judges in this era were empowered by the 1956 Labour Relations Act to give substantive meaning to the principle of fair and unfair practices. De Waal *et al.* (2001:392) submit that the struggle in court led to a conception of a body of "jurisprudence" regulating both individual employment relations and collective labour relations.

3.2.4.4. *The era of co-determination and cooperation*

This is the current era under the new Constitution of the Republic of South Africa and, according to Rossouw (2010:11), it is characterised by cooperation since the government of the day has become more sympathetic towards labour, yet there are

signs, lately, that cooperation is diminishing. Unfortunately, this era also features quite a number of job losses as the economy worsens (Finnemore, 1999:23). Rossouw (2010:11) believes that this era is characterised by consultation and co-determination far more than has previously been the case. It is essential to observe, Rossouw (2010:11) states, that the changed society and the dictates of global competitiveness make co-operative labour relations a necessity for survival and economic growth.

According to Pons and Deale (2001:6), labour relations came of age and developed rapidly in the eighties, notwithstanding the fact that current development seems to be lagging behind in terms of pace. The current slow pace, Pons and Deale (2001:6) assert, can be attributed to the economic realities that render the requisite positive development impossible. Finnemore (1999:22) concurs with Pons and Deale (2001:6) and adds that the current political climate is polarising major unions, resulting in uncertainty that hampers the effective growth of trade unionism. Both Pons and Deale (2001:6) and Finnemore (1999:22) agree that the building of long-term co-operative relationships between individuals and collective labour has always been governed by an array of disagreements, which they attribute to the prevailing economic and political climates.

3.2.4.5. Development of education labour relations in South Africa

Rossouw (2010:11) declares that public schools in South Africa were one of the battle arenas in the struggle for political liberation. However, it should be noted that the development of labour relations in the education sector did not raise as much controversy as it did in the mining and commercial industries. Despite the struggle during the 1980's and 1990's, Rossouw (2010:12) confirms that educators did not frequently embark on large-scale strikes and when they did, the reasons were not directly linked to labour matters but to political issues because some of the teacher unions were very actively involved in the numerous campaigns to bring about the abolishment of apartheid (Rossouw, 2010:12). According to Rossouw (2010:12) and Finnemore (1999:23), the culture of teaching and learning in schools was severely and adversely affected by the struggle slogan of the 1980's and 1990's, namely

“Liberation before Education”, which had a negative impact on national education. It is important to note that, according to Smit (2009:443), the political stance trade unions maintained against apartheid during the struggle was understandable. Based on the televised chants and slogans uttered at the time of the public servants’ strike of 2010, it is evident that, currently, unions that played a major role in the liberation struggle are lost to their inherent ideologies and have turned into ladders for promotional posts and political gains.

3.2.4.6. *Unfair labour practice jurisdiction*

The changes in legislation over the years serve as an indicator to determine the development of labour relations in education. Rossouw (2010:12) submits that prior to the enactment of the Public Service Labour Relations Act (105 of 1994) and the Education Labour Relations Act (146 of 1994), all civil servants did not have access to the labour or industrial court or, as Grogan (2009:352) asserts, statutory bargaining mechanisms. This implies that the introduction of the acts stated above extended unfair labour practice jurisdiction to public servants, inclusive of educators, and gave them access to the industrial and labour appeal courts, as well as the freedom to strike (Rossouw, 2010:12). However, it should be noted that the lifespan of the Education Labour Relations Act (146 of 1994) was cut short by the promulgation of the Labour Relations Act (66 of 1995) which repealed it.

The year 1994 also marked the implementation of the Educators’ Employment Act (138 of 1994) which was subsequently repealed by the Employment of Educators Act 76 of 1998 (SA, 1998). The Employment of Educators Act plays a major role in regulating educators’ activities and their norms and standards (Education Labour Relations Council, 2003). Amendments on a regular basis of the Employment of Educators Act indicate, as Rossouw (2010:12) submits, the dynamic development of general labour legislation as well as the changes in education labour relations. For instance, chapter six of the Employment of Educators Act (76 of 1998) consisted of the provisions regulating the South African Council for Educators, and this was amended in 2000 when the South African Council for Educators Act 31 of 2000 (SA, 2000) was promulgated.

Rossouw (2010:15) adds two other important documents which have a fundamental bearing on the development of labour relations in education. These are:

- The Personnel Administrative Measures (PAM), published in Government Gazette 19767 (Notice No: 222) on 18 February 1999. It specifies the conditions of service of educators and outlines the grievance procedure for educators. This document, however, is found lacking due to its silence on important issues such as conditions of service during strikes.
- The Education Labour Relations Council (ELRC), which is the bargaining council for all employees to whom the Employment of Educators Act applies. The ultimate aim of the council is the promotion of labour peace.

With the above history in mind, it is correct to state that labour relations in South Africa developed so rapidly towards the end of the twentieth century that legal maturity was attained. What has become clear from the background given above is that South Africa has a long history of teacher unionism. At an organisational level, as Govender (2004:267) submits, the face of teacher unions has changed considerably, reflecting the changed socio-political landscape of South Africa in the 1990's. According to Govender (2004:267), due to the changed nature of the state, educator-state relations have changed tremendously for the better. Govender (2004:267) further argues that South African teacher unions currently enjoy a much closer relationship with government than they did before 1994. Govender cites examples such as unions being represented in joint policy-making forums such as the ELRC, SACE and Public Service Coordinating and Bargaining Council (PSCBC). Each teacher union, Govender (2004:267) further contends; has two representatives in the Department of Basic Education who are employed to ensure collaboration and sharing of ideas pertaining mainly to curriculum and its implementation. However, it is noticeable that the current political and economic realities hamper the progressive development of long-term cooperative labour relationships (Pons & Deale, 2000:6).

3.3. THE ROLE OF POLITICS IN THE BIRTH OF UNIONISM IN SOUTH AFRICA

It was in 1980 in Harare that COSATU started organising a teacher union for blacks which would later be known as SADTU. COSATU's view that educators had a role to play is supported by Bascia (1999:91) when she states that no one is better qualified to address the problems of educators than the teacher unions. Irrespective of the nature of teacher unionism in South Africa and the different views of various authors, the history of South African education, especially education for Blacks, should reflect the origins of militancy as opposed to professionalism within teacher unionism. SADTU constituted itself as non-racial and allied itself with vanguard organisations of the liberation struggle: the African National Congress (ANC), the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP).

Since SADTU was born through COSATU, it remains an affiliate of COSATU which forms a tripartite alliance with the African National Congress and the South African Communist Party. It stands to reason that COSATU has a leftist influence in government policy formulation.

3.3.1. The political edge to the activities of teacher unions

Govender (2004:268) contends that the development and history of teacher unions in South Africa are closely related to their political relationship with the government of the day, hence the political edge to their activities. The teacher unions, however, do not run parallel to one another, and they have continued to be divided along political and racial lines. Govender (2004:272) believes that teacher unions in South Africa failed to reach consensus on the question of political alignment of which a strong undercurrent was the differences over the political role of educators, both within and outside the classroom. SADTU maintained its stance as a unified body based on unionism and insisted on the educators' right to strike as opposed to the National Professional Teachers' Organisations of South Africa's (NAPTOSA) emphasis on learners' entitlement to uninterrupted learning. The Suid-Afrikaanse Onderwysersunie (SAOU) concurred with NAPTOSA; consequently, teacher

organisations became further fragmented along political, ideological and organisational lines (Govender, 2004:272).

Govender (2004:270) submits that during the transition to democracy, SADTU could no longer confine itself to unionism, and its agency power became constrained due to its loyalty to the new ANC government. Many of the former SADTU leaders had become part of the establishment of the new government. SADTU's former president, Mdladlana, and former general secretary, Van der Heever, became ANC Members of Parliament. White teacher unions, according to Govender (2004:270), struggled to find identities: Some aligned themselves with the new non-racial order while others sought solace in existing racial structures. It, therefore, is correct to declare that the impetus for SADTU's meteoric rise during this period was largely political.

Over the years, SADTU has continued to play a political role, and according to the qualitative evidence in Smit (2009:441), SADTU is responsible for the politicised climate in many dysfunctional schools in South Africa. Smit (2009:442) contends that the department of education nationally seems to be reluctant to address the unlawful activities of teacher unions and poor professional productivity due to its lack of understanding of the principle of the rule of law and democratic liberty. The implication here is that teacher unions, SADTU in particular, have become "untouchable" as departmental officials overestimate the political role unions should be permitted to assume (Smit, 2009:442). McDonnell and Pascal (1988:8) confirm that internationally, teacher unions operate as political interest groups working to obtain benefits from the external environment. SADTU's unrestrained political power has caused it to invade management, administration and governance, yet all these activities are outside its jurisdiction. According to a labour law expert, Andrew Levy (2010:1), during the 2010 civil servants' strike, SADTU, in its anger with the government, held the country's schools to ransom just like the National Education and Health Association of Workers Union (NEHAWU) held the country's hospitals to ransom infringing on the patients' right to healthcare. He concluded his article by

questioning the integrity of COSATU as a federation and questioned its allegiance to the African National Congress (ANC).

3.3.2. Political climates affecting unionism in South Africa

Pencavel (2005:67) contends that trade unionism, internationally, is adversely affected by the prevailing national political climates. What is characteristic about unionism in all countries studied (United States, South Africa, New Zealand, France, Britain and Australia), Pencavel (2005:67) submits, is that the welfare of union members is often affected materially by the legislative, executive and judicial activities of government. This seems to be the reason why unions form alliances with influential political parties even though it puts constraints on the autonomy of unions. Pencavel (2005:68) cites the example of SADTU that is affiliated with COSATU which, in turn, is an affiliate of the country's ruling party, the African National Congress (ANC). According to Pencavel (2005:68), such an alliance does not only erode the union's autonomy but frequently binds the union to unethical decisions that compromise the majority of its members. Affiliations with union federations such as the Congress of South African Trade Unions lead to an inclination towards politicising the membership and aligning them with the aims of the ANC (Jansen, 2008:14). Jansen (2008:14), however, supports Kriel (1995:37) in that NAPTOSA and SAOU have remained professionally progressive as they are not linked to political parties. This, Jansen (2008:14) concludes, does not necessarily mean that they are not affected by whatever the prevailing political climate may be and cannot completely distance themselves from politics.

Although Kriel (1995:32) stated that the main purpose of the unions is to concern themselves with work-related issues, he acknowledges that there is a political connotation or side to the coin. However, Finnemore (1999:16) cites that labour relations systems are undergoing major changes in response to the opening up of global markets and the political transformation that has occurred in many countries. Finnemore (1999:16) declares that the systems that are emerging are based more on economic and political pragmatism rather than ideology alone.

Prior to the ANC Conference held in Polokwane in December 2007, it had become clear that COSATU and her affiliates were intent on pursuing a political agenda to destabilise learning and teaching. Qualitative evidence (Smit, 2009:441) confirmed that members of SADTU, an affiliate to COSATU, were deserting classrooms. Some evidence in the study by Smit (2009:441) indicates that the union had a political mandate from the ruling party or their union federation, COSATU.

After the ANC Polokwane Conference at the end of 2007, a state of euphoria prevailed for days within certain ranks of the ruling party but more so within COSATU and its affiliates (Malala, 2008:4). Following that political climate, SADTU, in its news edition, *Educators' Voice* (Lewis, 2008:3), came up with a very positive stance towards enhancing educator professionalism. It is significant to observe that, according to Finnemore (1999:17), the factors that impact on educator professionalism range from political and socio-economic to pedagogical issues.

3.3.3. The teacher unions' involvement in policy development

As stated earlier, Govender (2004:267) contends that the face of the teacher unions has changed considerably, reflecting the changed socio-political landscape of South Africa in the 1990's. South African teacher unions are not only engaging with government on labour relations issues, they are represented in joint policy-making forums such as Education Labour Relations Council (ELRC), the South African Council for Educators (SACE) and the Public Service Coordinating Bargaining Council (PSCBC). All three recognised teacher unions in South Africa (SADTU, SAOU and NAPTOSA) have two representatives each in the Department of Basic Education whose duty is to ensure collaboration and sharing of ideas pertaining to curriculum and its implementation.

According to Govender (2004:268), teacher unions have a powerful presence in the policy domain. However, it is crucial to note that particular strategies are necessary in negotiating the difficult terrain of "policy politics", especially where the contest is about ownership and control of policy (Govender 2004: 468). Unions, SADTU

specifically, started engaging in negotiations with the Education Labour Relations Council for a closed-shop in 2007. This meant that unions would qualify for seats in the ELRC bargaining chamber depending on their weighting in numerical terms. Since then, unions have had to work hard over the years to ensure that their numbers give them seats in the ELRC. ELRC Collective Agreement No. 1 of 2012 consists of tabulated vote-weights for the trade unions that are parties to the Council. Many smaller unions formed a federation under NAPTOSA. The table that will follow indicates the current power of the teacher unions.

Table 3.2. is evidence that the “closed-shop” negotiations were still being advanced by SADTU, thus keeping membership records. Smaller unions do not qualify for seats in the Education Labour Relations Council; their voices can only be heard through larger unions like CTU SADTU, ITU NAPTOSA. The tabulated voting weights were prepared towards the end of 2011 specifically for 2012 salary and fringe benefits negotiations. The Combined Teacher Unions (CTU) concept is used for bargaining purposes only. SADTU has formed CTU with CTPA and NAPTOSA has formed Independent Teacher Unions (ITU) with SAOU, PEU and NATU. Despite SAOU’s and NATU’s remarkable growths, to gain more power in the ELRC bargaining chambers, these unions had to form a coalition into NAPTOSA in order to thwart SADTU’s dominance. Coalition is usually limited to a short period of salary negotiations (www.naptosa.org.za).

3.3.4. The influential history of unions in the policy domain

Zengele (2009:60) confirms that, internationally, teacher unions have influenced education policy and social change throughout their history. What is regrettable in South Africa, according to Zengele (2009:60), is that COSATU, through SADTU, has been rearing its leftist head in education policy making. Zengele reasons that the fact that COSATU represents workers generally makes it impossible to view and encourage its affiliate SADTU members towards professionalism. With slogans of the past struggle such as “injury to one is injury to all”, COSATU expects educators

to join industrial strikes that directly affect their own members yet are far-fetched or irrelevant for educators (Zengele 2009: 61). It is in the light of the above that SADTU,

Table 3.2. Consolidated national voting weights per persal as at 31 October 2011

Organisation	Total Membership	Total Inter-coalition Membership	Net Member-ship	Net Member-ship %	Representatives
1. SADTU (CTU)	246,560	605	245,955	67,61%	17
1.1 CPTA	4,470				
1.2 SADTU	242,089				
2. NAPTOSA (ITU)	106544	2,940	103604	32,39%	8
2.1 NATU	25,865				
2.3 PEU	16,046				
2.3 NAPTOSA	41,531				
2.4 SAOU	23,102	-	23,102		
GRAND TOTAL	353104	3,545	349559	100,00%	25

as Govender (2004:268) confirms, adopted a strong unionist approach in dealing with educational change and policy. Consequently, policy implementation at school level often fails to completely take off the ground due to interference and suspicious resistance from SADTU in the main (Zengele, 2009:61). Jansen (2004:51) rhetorically questions SADTU's resistance to whole school evaluation (WSE) and its insistence on a moratorium on the entire process despite the policy claim to improve the performance of educators and the functionality of schools.

Zengele (2009:63) further avers that SAOU is able to respond to the challenge of contributing to policy development far more effectively than SADTU. He cites SAOU's historical background, which is related to that of NAPTOSA on professional matters, as the reason why it remained in good stead. The union is able to draw on technical and policy expertise from its own ranks which include university academics. Zengele (2009:63) and Govender (2004:281) confirm SADTU's strength in keen awareness of and responsiveness to the political dynamics in education. SADTU, according to Govender (2004:281), gradually realised that its neglect of professional matters rendered the organisation weak and decided to correct the imbalance. SADTU has since established an education and research department and, recently, a legal department.

Jansen, in Sayed and Jansen (2001:12), holds an alternative view to that of Zengele (2009:60) and digs into the archives of education policy formulation in order to clarify the unions' contest for education policy. Jansen (2001:12) declares that the first major competitor in the race for policy position was the trade union movement in the 1980's. By 1994, unionists were ready as they had started preparing policy change by the late 1980's led by Erwin (Sayed & Jansen, 2001:14). As South Africa entered into the 1990's, COSATU adopted the National Union of Metalworkers of South Africa (NUMSA) model which originated from the Australian Metalworkers Union (AMU) offering block training for workers through Participation Research Projects (PRP). PRPs also served as policy deliberation forums for education and training (Jansen, 2001:15).

Jansen, in Sayed and Jansen (2001:15), submits that COSATU (radical unionists) and the National Training Board (NTB), a conservative white Afrikaner-dominated organisation, had to forge relations in order to work together effectively on policy deliberations and political negotiations. Jansen (2001:15) further contends that policy development through the model that COSATU had led did not augur well with the then ANC leadership. It is important to clarify that the same ANC leadership, according to Nzimande, in Sayed and Jansen (2001:30-41), did not have any alternative model to offer as they spent more time fighting policy contestations from

the National Party. Consequently, the government had no choice but to endorse the integrated education system which was the brainchild of the National Training Board and COSATU. It seems that the integrated education system has not turned out as successfully as it was envisaged due to the ANC-led government's lack of strong commitment to it. This is because the ANC had alienated itself from the significant union history which informed the process.

Jansen and Nzimande, in Sayed and Jansen (2001:17-24 & 41), concur that COSATU did manage to establish a broad framework within which all education policy leading to and flowing from 1994 was to operate despite the bureaucratisation of the process by the ANC leadership. The ANC, Nzimande states in Sayed and Jansen (2001:41), envisaged a triumphant document that would not only formally collapse the apartheid edifice in education but also celebrate, in formal policy terms, the victory of education struggles.

Though COSATU delivered the desired document, accepting that COSATU, a union federation produced it was a bitter pill to swallow within the ANC's ranks. However, this explains COSATU's claim to and hold on the policy formulation arena.

3.3.5. The altered structure and strength of teacher unions

Inevitably, the shape of teacher unions has been influenced by new education and labour legislation. The National Education Policy Act provided for the management of education along national and provincial boundaries, which necessitated unions to restructure to ensure a presence in every province. The National Education Policy Act also provides for government consultation with the organised teaching profession and their stakeholders in the area of policy development. It is important to note that the structure and the strength of the teacher unions were changed mainly by the ground-breaking labour legislation: the Labour Relations Act (66 of 1995). Though the Constitution acknowledges workers' rights, educators' rights to collective bargaining and strike action are only guaranteed in the Labour Relations Act. Following the enactment of the Labour Relations Act, a formal mechanism for

collective bargaining and determination of labour policies, the Education Labour Relations Council was instituted (Govender, 2004:272). This marked the teacher trade unionism institutionalisation in South Africa.

3.3.6. The prevailing comradeship system of government appointments

According to Barbeau (2009:15), nobody really wants to make an official statement about what she calls the “cadre-system” that links the ANC, COSATU and SADTU, yet it does exist. Barbeau (2009:15) claims that the advancement of party loyalists and appointments to leadership positions of undeserving people are eroding the already ailing education system. In an interview with *The Saturday Star* (Barbeau, 2009:15), Jansen, a renowned scholar, asked a rhetorical question regarding who exactly has the nation’s children and their rights at heart? Jansen confirms that there is no evidence that the country’s leadership and unions care about the children who are South Africa’s future. Teacher unions, according to Barbeau (2009:15), have damaged the image of the teaching profession through their role in politics.

The public perception, as Barbeau (2009:15) declares, is that unions are a problem and, thus, it is hard to attract young people with potential into the profession as unions are too busy advancing their own members into positions of power they do not deserve. However, despite criticism from the public, media and opposition parties, SADTU’s website lists reasons for educators to vote for the ANC as, obviously, there would be gains in terms of appointments into leadership positions (Barbeau, 2009:15).

According to a *Progress in International Reading Literacy Study* published in 2007, South Africa has one of the world’s worst performing education systems in terms of literacy, yet as Blaser (2009:15) of the SA Institute of Race Relations argues, SADTU is indifferent to the problems in the education system. Blaser (2009:15) further contends that the union is undermining education by subjecting it to the political agenda of its leaders and intervening in the power squabbles. In the same

interview with *The Saturday Star*, an education analyst, Maree (2009:15), submits that in an ideal world, teacher unions should be apolitical.

COSATU, according to Zengele (2009:2), has a history of “thanking” their members for active participation in union affairs. It is believed that COSATU used its influence to give positions of power to its affiliates and members. Consequently, educators become deeply engrossed in union activities with expectations for promotions. Zengele (2009:2) avers that expectations for promotions, brought about by the increasing instances of the promotion of past unions officials since 1994, have increased. Examples that are cited by Zengele (2009:2) are those of:

- Hindle, a former educator and a former SADTU president, became the Director General of the Department of Education;
- Mdladlana, also a former educator and a former SADTU president, with the support of SADTU and COSATU, became Minister of Labour when the ANC was voted into government in April 1994; and
- Thulas Nxesi, the long serving secretary general of SADTU, was sworn in as a Member of Parliament in April 2009.

There are scores of senior positions that have been filled by strong SADTU activists. This, as Zengele (2009:3) and Bascia (1999:44) contend, results in unionists occupying high positions which they have no experience, qualifications and skills to manage, compromising delivery of quality education. Evidence of what Zengele and Bascia have alluded to above became clear during the 2010 strike, as striking educators openly enticed reluctant educators with promotional posts and intimidated those who did not want to join the strike.

Govender (2004:267) attributes the appointment of union officials to senior governmental positions to the notion in Mexico where the National Union of Education Workers was established with the strong backing of the Institutional Revolutionary Party which won the elections. In return for their loyalty, union leaders were rewarded with management positions and were appointed to key government positions. Govender (2004:267) argues that this is a resemblance of the relationship

shared between SADTU and the ANC prior to the first democratic elections in South Africa. SADTU, as an affiliate of COSATU, played a significant role in helping the ANC with the 1994 elections.

Sayed (2002:30) states that such appointments were problematic in the sense that the new political appointees were with the “old technocrats” of the apartheid era in some structures. Sayed (2002:30) asserts that the new appointees were not well versed in relation to system management. This conclusion may be attributed to Jansen in Sayed and Jansen (2001:243), when he maintains that how educators see themselves professionally and how they see themselves politically are two different realities in education. However, it is crucial to note that such appointments have contributed to the shaky situations experienced by educators at school levels. The South African government has played a very passive role in professionalising education and discouraging lawlessness. Conspicuous acts of education malpractice have remained unquestioned either because of a lack of knowledge to address such or through the need to protect cadres (Barbeau, 2009:15).

This study has also looked into other characteristics that prominently feature in teacher unionism, and the study has discovered that teacher unions have become too dominant in the state and party politics, resulting in their role and the professional status of educators being greatly compromised.

3.3.7. Debates relating to educators as professionals or workers

From the definition of a union Carrel *et al.* (2004:454) have given, it is apparent that trade unionism is for “workers”. The debate that stems from this is whether educators are professionals or workers. Kriel (1995:14) contended that professionalism sparks a debate among unionists as it is perceived as prescriptive pertaining to educators’ behaviour and dress code. In the past, according to La Morte (in Kriel, 1995:16), educators’ dress code was decided upon by the school board. For example, in 1915, the code of conduct and the dress code for educators were published in the West Virginia Board of Education and were not to be contravened during the contract

period. The chairperson of the board, as Kriel (1995:16) further submits, regulated the movement of educators (especially females) and the length of their dresses, and there were strict instructions not to dye their hair. All this led to an inclination towards trade unionism in education.

In 2008, SADTU concurred with Kriel (1995) on its website (www.sadtu.org.za) when it argued that the current debate in South Africa at that time about educators' dress code fuelled educators to reinforce unionism as it seemed to suggest that educators are not capable of making independent decisions pertaining to their appearance. Accordingly, this implied that they cannot be autonomous and accountable to uphold the reputation of their profession. In an SABC 3 Morning Live interview (2008), Nxesi, the former national secretary of SADTU, showed disbelief that the South African Council for Educators (SACE) Board and the Department of Basic Education perceived educators as people who needed a bureaucratic prescription of their professional dress code. That, as Nxesi contended, showed lack of respect for educators as intellectuals who by virtue of being educators should be autonomous and undermined efforts made by unions to professionalise education.

It, therefore, is correct to say that the autonomy of the education profession was challenged by the SACE Board and the Department of Basic Education. How then can these stakeholders play a significant role in the professionalisation of education when they still want to make decisions for educators? Teacher unions form part of the SACE executive committee which is indicative of their desire to professionalise education, though bureaucracy lingers and fuels radical opposition from unions (Nxesi, 2008). The impression created by the South African Democratic Teachers' Union is that the organisation is keen to promote professionalism in education. However, it is notable that the SACE Board had since abandoned the notion of prescribing educators' dress code as it attracted wide-spread criticism from unions and the media. The Board was then perceived as admitting to have neglected its obligation to develop educators professionally. Thus, they wanted to employ drastic measures to force educators to look a specific way (www.sadtu.org.za).

3.3.8. Union mechanisms and professional adjustment

Jansen (2004:52) submits that trade unionism in South African education is about two opposing positions; professionalism and de-professionalism. The implication is, as Jansen contends, that certain aspects of education may be professionalised while some aspects may be de-professionalised. Beckmann (in Kriel, 1995:36) also declares that in South Africa, there is an argument that the teaching profession is not in line with the methods and techniques of unions.

Beckmann (in Kriel, 1995:33) cites an example of the General Teaching Council (GTC) for Scotland which is comprised of teacher organisations that want to be characterised as unions and also advocate for professionalism. According to Weir (2001:42), many teacher unions accepted this, albeit with varying degrees of enthusiasm. Beckmann (in Kriel, 1995:36) further argues that an idea of linking union mechanisms with professional adjustment is not far-fetched, and he substantiates his argument by postulating a scenario whereby a number of teacher organisations that established the GTC for Scotland characterised the idea of professionalism into unionism. Whitty (2006:9) submits that; despite the efforts the GTC for Scotland exerted towards professional productivity, it was viewed with suspicion by many educators on the grounds that it was influenced by the teacher unions that advocated its establishment. According to Whitty (2006:10), in the face of government labour reforms that undermined key elements of educators' autonomy and organising positions, the GTC for Scotland found it difficult to pursue its intentions to adapt professionalism into unionism. Eventually the GTC for Scotland abandoned the idea and relentlessly inclined towards unionism as the bureaucratic labour reforms advocated prescriptive professionalism (Whitty, 2006:12).

This idea is also being promoted in South Africa, hence the relationship between the South African Council of Educators and trade unions. The National Professional Teachers Organisations of South Africa, for instance, is known for advocating professionalism (Kriel, 1995:37; Govender, 2004:272; www.naptosa.org.za). Jansen (2008:14) believes that individuals within the South African Democratic Teachers'

Union would be keen to advocate professionalism if it were not for the union's affiliation to the Congress of South African Trade Unions which perceives educators as workers. However, Mseleku (in Kriel, 1995:39) contends that the South African Democratic Teachers' Union does not reject professionalism but honours that concrete expression of professionalism must be provided. Educators, according to Nxesi (in Kriel, 1995:39), can function as real professionals if there were maximum support from the Department of Basic Education.

Lewis, the former South African Democratic Teachers' Union's news editor (2008:3), claimed that the organisation had committed to restore, uphold and promote the status of educators by fighting for better remuneration and acknowledgement of educators as professionals as well as improving the conditions in which they work. This is contrary to the same Lewis (2007:6) who in his article aligned himself with the Congress of South African Trade Unions (COSATU) by stating that the 2007 prolonged industrial action would benefit all "workers" in the long run. This seemed to be confirming that educators want to be both professionals and ordinary workers too. In defence of both unionism and professionalism, Mseleku (in Kriel, 1995:40) submits that responsible educators can be committed to both; provided that after a strike, for instance, they would go back to the schools and exert extra efforts to recover the work not done during a strike.

Zengele (2009:59) evokes the speech of the current SADTU president, Ntola, captured in *The Voice* (2008:6), in which the president indicated that SADTU is committed towards building a union of professionals. SADTU president also declared that the union would remain committed to act against unprofessional conduct displayed by educators as such conduct tarnishes the image of the union. Ntola further asserted that SADTU has to be perceived as an additional voice for the profession, not as a trade union. Conversely, the former president of SADTU, Madisha, had frequently asserted that educators are workers and not professionals.

This contradiction raises questions whether the generally radical and militant SADTU is prepared to respond to the blowing international winds of change regarding trade

unionism in education. Is it the organisation itself or the individual SADTU members that are reluctant to transform? Could it be a possibility that SADTU indeed is willing to professionalise education, but bureaucratic control by the employer is hampering such progress? Comparing the utterances of Ntola during the 2010 civil servants strike (SABC 3, 2010), it is remarkable that despite the anger with the employer, the SADTU president still reproached educators who behaved in a manner that undermined the integrity of the strike. When the strike was suspended for 21 days, Ntola (SABC 3, 2010) urged educators to go back to their posts and resume work.

3.3.9. The educators' status

The current era has been characterised by a debate informed by the tension between whether educators are workers or professionals (Carrim, 2003:306-322; Govender, 2004:267; Zengele, 2009:57). Supporters of trade unions argue that educators are workers because as state employees, they are subjected to insecurities and processes of proletarianisation (Carrel *et al.* 2000:456). This means that labour processes in the capitalist society are eroding the professional status of educators. As Oosthuizen *et al.* (2009:107) assert, teaching is an intellectual or mental labour. Hoyle and John (1995:47) concur with Oosthuizen *et al.* and emphasise that teaching deserves professional status. However, Carrim (2003:308) highlights the contradictory position of educators in society: whether they are workers or professionals belonging to a better social group due to their education. The debate on whether educators are workers or professionals has informed the debate on unionism and professionalism. In Govender's view (2004:267-291), unionism and professionalism are necessarily opposed to each other. It is for this reason that teachers' trade unionisation has been seen by some sectors of the South African public as amounting to de-professionalisation of education. This view is also supported by the criticism of teacher unions in the media.

It is important to note the sound argument of Govender (2004:269) and Heystek and Lethoko (2001:222-228) that, in the context of South Africa, the dichotomy between teacher unionism and educator professionalism is being eroded among union and professional bodies and the public as well. The emerging talk is now about

“professional unionism” (Lewis, 2008:3) which sees the notions of professionalism and trade unionism as not only compatible but as different sides of the same coin. Govender (2004:269) attributes the erosion of the dichotomy to the nature of educators’ work which at times requires professional activities and at times develops into labour issues.

It seems, therefore, that the diverse notions depend on whether one sees the education system as being de-professionalised or professionalised, and that is a function of one’s conception of professionalism. For instance, if one associates professionalism with educators’ autonomy and accountability, one will find the current erosion of these tenets by bureaucratic governments and revolutionary unionism to have the effect of de-professionalisation.

3.3.10. Teacher unions and critics

Trade unionism is legal, and as Rossouw (2010:99) states, the Constitution as well as the Labour Relations Act (LRA) 66 of 1995 (SA, 1995) stipulate that employees have the right to participate in forming a trade union or federation of unions and to join a trade union of their own choice. Chapter two of the Constitution, the Bill of Rights, also grants the right to strike on which the LRA elaborates. The implication here is that employees may choose to join any trade union they like or may choose not to join a trade union at all. The LRA also grants employees the right to strike and employers’ organisations the right to lock-out employees (Rossouw, 2010:16-17).

However, Jansen (2008:14) contends that although trade unionism has been advocated and established for all the good reasons in the past, it has now become a problem in education as the largest union, SADTU, has a hold on schools and impedes progress and implementation of policies that could cure the ailing South African education system. Jansen claims that the union focuses more on being superior and convincing majorities of its superiority rather than on playing a distinguished role in education itself and in schools. Jansen (2008:14) views this attitude as a political and cultural problem. According to Jansen (2008:14), the

fundamental problem in education is not necessarily educators' knowledge with regard to what their job entails, but it is whether they ever find time to render services as they are pulled from different directions by two kinds of commitments: trade unionism and professionalism. Due to the hold SADTU has on school educators, professionalism always suffers (Jansen, 2008:14).

Jansen (2008:14), who visited about 300 schools during the course of 2007 and 2008 in preparation for a conference on educators' training at the University of the Witwatersrand, is convinced that it will be difficult to change schools from outside because of SADTU's relentless resistance to change as well as its belief that schools are its personal properties.

Government, the media and the general public are also the greatest critiques of unionism in education (Pencavel, 2005:64). Fraser-Moleketi, former government minister (in HSRC, 2007:4), asserted that the government's interest is not to encroach on educators' labour rights, but that it has an interest in the millions of South African children's education which is at stake every time educators decide to embark on a strike. According to Fraser-Moleketi (in HSRC, 2007:4), educators lack professional accountability, and this is a challenge that the employer has to examine closely. Addressing guests at the National Teachers Awards (NTA) function, the Minister of National Planning in the Presidency, Manuel (2011a), asserted that teacher unions have become a problem in the education system in South Africa. He cited problems of misconduct and failure to honour the teaching profession as educators desert the classrooms without fail when salary negotiations deadlock. Manuel, who is least opposed to teacher unions, avers that by now, teacher unions should have come up with a better mechanism of protest than to desert the classrooms. In a Quality Education Indaba Conference, a co-founder member of COSATU, Salim (2011), criticised the manner in which educators conducted themselves during the 2010 strike. Salim confirmed that the issues that led to the strike were genuine, but the conduct of the educators alienated support from the South African citizenry. Like Manuel, Salim argued that different mechanisms should

have been employed to garner support throughout the strike but, apparently, educators' misconduct outweighed that need.

3.4. SUMMARY ON TEACHER UNIONISM

From the above discussions, it is clear that teacher unionism has politicised the education system and has become a very prominent feature in government sectors such as education as well as in business and industry. It follows then that both employees and employers must be well acquainted with the basic framework and knowledge of the new labour dispensation in South Africa as trade unionism places a great pressure on employees and employers to manage and maintain healthy labour relations in order to enhance productivity. It is vitally important for the development of this study also to analyse and acknowledge the challenge that educator trade unionism poses for educator professionalism. Unchecked, teacher unionism could nullify all the efforts exerted in professionalising education, and this would impact very negatively on learners and societal development (Boyd *et al.*, 1998:4).

In concluding this matter, it is important to take heed of Oosthuizen *et al.*'s (2009:170) submission that educators and their employers must know their labour rights and understand the legal consequences of their actions. Internationally, Boyd *et al.* (1998:1) confirm that teacher unions play a dominant role in school politics and state politics. Govender (2004:272) concurs with Boyd *et al.* when she states that teacher organisations in South Africa are fragmented along political, ideological and organisational lines with the South African Democratic Teachers' Union claiming more political alignment to the ruling party.

3.5. LACK OF DISCIPLINE WITHIN THE EDUCATION FRATERNITY

Kriel (1995:10) states that the key aspect of teaching is that it is a calling. There should be an emphasis on competence and knowledge as the execution of educators' duties has become a critical problem. Stone, as quoted in Oosthuizen *et al.* (2003:98), argues that every profession's success depends on the practitioners' pride and self-esteem, but this is lacking in the majority of educators. The fact that

educators lack self-discipline to observe punctuality for school, as well as for lesson presentations makes it difficult for them to maintain discipline in schools (Jansen, 2007:12). Jansen (2007:12) cites gross incompetence by the management and staff in some of the schools he visited as a lack of self-respect. A self-respecting individual would not want to be associated with poor productivity, poor classroom attendance and late coming.

The report from the North-West Education Research Unit cites (2008:31), among others, performance gaps such as ill-discipline in terms of educators' preparedness for curriculum delivery. It also cites lack of professional pride in some educators. This shortcoming contributes to an organisational climate that is not conducive to discipline and a formal school atmosphere. Examples that indicate lack of discipline and self-respect in the report include educators' informal dress code, lack of professional distance between educators and learners, lack of consciousness and poor role modelling.

According to Oosthuizen (2007:56), officials of the department of education, in general, also lack self-respect as well as respect for educators. They often talk down with arrogance to educators instead of being supportive (Oosthuizen 2007:56). Oosthuizen (2007:56) further contends that the arrogance with which departmental officials behave is in contrast with section 8 of the Constitution of the Republic of South Africa which makes provision for civilians to be protected against the abuse of powers by the state and the organs of the state. A self-respecting official would know that arrogant behaviour demoralises educators and exacerbates disciplinary problems in schools. When educators are demoralised, they would normally fail to do justice to curriculum delivery to the best of their abilities, thereby short-changing the education of the South African child.

Oosthuizen (2007:56) further argues that the ruling norm, **a child's best interests**, is ignored as the behaviour of educators and departmental officials is not always in favour of the beneficiaries, namely the learners.

3.6. POOR EDUCATION MANAGEMENT

During the past few years, education management in schools has undergone a radical change in the sense that an educational leader (*i.e.* the school principal) is no longer required to be only professionally trained and experienced to manage a school, but the additional abilities needed are managerial and administrative skills (De Wet, in Van der Westhuizen *et al.*, 2002:1). By virtue of being the school principal, his/her leadership skills have to be honed as he/she is expected to provide leadership to the school population.

According to Taylor (2006:2), the above is a desirable situation, but the reality is that the prevailing organisational climates in most South African schools point to a tragedy which is a lack of intellectual skills required for provision of leadership. Jansen (2007:12), who holds the same opinion as Taylor (2006:2), visited about 300 schools between 2007 and 2008 and concluded that the learners are not the problem, but that the educators are the problem. Jansen (2007:12) found that in most township schools and in some rural schools, the culture of learning and teaching had long collapsed due to poor management. Taylor (2006:8) asserts that as long as the simple things like educator professionalism and time management by school principals are still inhibiting factors towards effective teaching and learning, schools will continue to perform poorly.

Van der Westhuizen *et al.* (2002:49) concur with Taylor (2006:8) when they submit that it is unprofessional for a principal not to acquire the necessary specialised knowledge needed to manage a school effectively, and they further submit that different areas in the life of a school, as a juristic person, require a special type of management.

The following sections will examine poor management of education by the state as well as poor management of educators' activities in schools:

3.6.1. Government changes and their impact on professionalism

Scholarly views maintain that some of the changes made by the government since 1994 have greatly contributed to educators' unprofessional conduct. Among others, Jansen (2004:62) is convinced that the following changes have impacted negatively on education as a profession:

- Outcomes-based education (OBE);
- Closing of educators' training colleges;
- Abandonment of the inspection system.

Bloch (2009:83), who also formed part of the team that worked on the design of OBE, admits to the failure of OBE though he still maintains that some educators adapted well to it (Bloch, 2009:103). It is generally believed that the introduction of OBE was another set-back to education professionalisation as it stripped educators of their confidence in the classroom (Jansen, 2004:62). Regarding the closing of educators' training colleges which Jansen (2004:41) criticises, Bloch (2009:103) holds an alternative view as he declares that these were institutions associated with Bantu Education in which some "quick-and-dirty" training was done. Accordingly, Bloch (2009:103) asserts, it is not surprising that products of such colleges suffer from all the deficits that the second-class education was to achieve. However, it is of key importance to clarify that Bloch's notion on this is not necessarily true as there are quite a number of very professionally productive educators who were well trained in educators' training colleges. Jansen (2004:53) maintains that the inspection system needs to be restored in the education system, though he does acknowledge that SADTU would challenge this.

3.6.1.1. Outcomes-based education

As De Clercq (2008:15) states, in 1997, the introduction of OBE by the democratic government signalled a paradigm shift from the apartheid curriculum. Initially, OBE seemed good as it allowed educators to exercise some judgement which was seen as a move towards greater professionalisation rather than de-professionalisation of

educators (Wits Education Policy Unit, 2005:25). However, according to Jansen (2004:62), there were contradictions as Curriculum 2005 resulted in more work for educators, educators operating within parameters of pre-specified outcomes, and educators being forced to diversify their skills because of the principle of integration. Though diversification of skills is positive, it becomes problematic if it is imposed on educators (Wits Education Policy Unit, 2005:25).

Among many dissatisfactions about OBE is the intensification of educators' work, and this has impacted negatively on the extent to which educators can keep up with developments in their fields (Wits Education Policy Unit, 2005:25). The HSRC's (Hall, 2005:87) study on educators' workloads also supports the thesis that educators' work has been intensified as a result of the OBE assessment requirements. De Clercq (2008:15) argues that OBE in South Africa has been prematurely implemented, and this is the reason for its failure. According to De Clercq (2005:15), in many Anglophone countries which introduced some form of outcome-based education, the change in terms of work, professional identity and status was incremental over decades, and there were strong support systems and reasonable material and human resources. Instead of witnessing incremental professional identity and status, South Africa has endured the legacy of OBE (Jansen, 2011:69). Consequently, as a nation, South Africa has sunk even deeper into mediocrity as the standards and expectations from learners have become far too low.

3.6.1.2. Closing of Educators' Training Colleges

Jansen (2004:41) is of the opinion that the educators' training colleges were closed for feeble political reasons that were never transparently disclosed to the nation. The perception that they were mainly meant for Africans fuelled the decision to close them as another mechanism to enhance transformation in education. The country's dire need for educators currently has sent a strong message to politicians that it is time for them to stop meddling in education affairs (Jansen, 2004:42).

Metcalfe (2009:9) aligns herself with Jansen when she asserts that South Africa can and will cure the ailing education system only when the politicians give up their stake in education and leave it to the experts. Had they done that earlier, Metcalfe (2009:9) contends, the once prolific educators' training colleges would not have closed. However, it is important to note that Jansen (2004:45) has an alternative opinion regarding the politicians' "stake" in education as he believes it is ambiguous and politically oriented. This is an issue that even the South African teacher unions have unanimously condemned.

3.6.1.3. *Abandonment of the inspection system*

Jansen (2004:53) declares that in the 1970's, a system of inspection was expanded throughout the education system with goals of enforcing compliance in the face of growing resentment against the apartheid education policy. Inspectors were used by the government of that era to enforce state policy with respect to the curriculum and administration of public schools (Jansen, 2004: 53). According to SADTU (2000:24), it was inspectors who played a central role in subduing educators and holding them accountable. According to Jansen (2004:53), it was in the light of this that the entire state apparatus responsible for the administration of apartheid schooling generated antagonism among African students and educators. In an interview with SABC 2 (2009), Pandor, the former Minister of Education, stated that even though there were virtuous elements to the inspection system, it would be difficult to reverse the decision taken by the department to withdraw the system. She further explained that inspectors visiting township schools in the 1980's were confronted with hostility, driven away or attacked. This, as Jansen (2004:54) asserts, is the legacy of violence and lawlessness that would haunt the post-apartheid government long after the democratic transition of 1994 and the subsequent pronouncement of a new education and training system.

This withdrawal of governmental authority from the professional life of schools resulted in the demise of developmental inputs in the work of educators and a lack of effective interventional authority in the disciplining of educators (Jansen, 2004:53). When interviewed on SABC 2 Morning Live, Bloch (2009), the author of *The Toxic*

Mix, asserted that if the post-apartheid government had chosen the good from the apartheid government, South Africa's education system would not be in such turmoil. Amongst other issues that Bloch touched on was the inspection system that he believes would help restore the dignity of schools as centres of learning.

3.6.2. Flaws in curriculum leadership and management

Curriculum leadership, in Taylor's (2006:8) opinion, should be characterised by at least three distinct activities on the part of the principal and the departmental heads namely: ensuring that all topics specified in the curriculum are dealt with efficiently and effectively by educators, assuring quality and monitoring the assessment activities of learner performance and managing prescribed textbooks and stationary effectively.

Taylor (2006:8) contends that it is habitual in many schools that educators treat less than half of the curriculum topics during the course of any school year. Mvula (2010), the Chief Director of the Department of Basic Education in the Dr Kenneth Kaunda District, in his verbal address during an educators' award ceremony confirmed what Taylor (2006:8) states and added that the pattern has continued to have a strong inhibiting impact on professional productivity in schools. Unfortunately, according to Mvula (2010), this pattern goes unchecked by the principals or the departmental heads because monitoring as a management task is neglected. Managing curriculum delivery is a challenge that is exacerbated by the confusing ideology that surrounds outcome-based education and the poor quality of training associated with this new curriculum both in primary and secondary schools (Taylor, 2006:8). The failure by educators to cover the whole syllabus, especially challenging topics, was confirmed by the Quality Assurance Directorate in its presentation during the principals' conference (2011). This sends a strong message to the Department of Basic Education that educators need to be thoroughly retrained on specific curriculum topics.

In non-functional schools, class tests set by educators are not moderated by departmental heads to ensure that they are pitched at the correct standard (North-West Department of Education Research Unit, 2008:4). As Taylor (2006:9) asserts, it is necessary to utilise learner performance results to assess progress made by both educators and learners as this is the key to managing effective curriculum delivery.

Textbooks written for outcome-based education are very confusing, and educators should not depend on them but should create their own materials from a variety of sources as it is professionally expected of them (Taylor, 2006:9). Taylor (2006:10) further argues that in schools where the curriculum is not well managed, unnecessary expenses are incurred yearly in photocopying dozens of learners' worksheets that educators themselves can hardly comprehend. Though the provincial departments of education spend millions of rand annually on purchasing textbooks, retrieval of these at the end of the year is not managed effectively by educators. In an era characterised by confusion, according to Taylor (2006:8), principals should cultivate a climate that is conducive to teaching and learning and enhance professional productivity and growth by providing supportive leadership, something that cannot be found in weak managers.

Metcalf, the former dean of education at the University of Witwatersrand (2009:9), after viewing the Grade 12 results of 2008, held an alternative view to that of Taylor (2006:9) as she attributed poor performance to inadequate educator support by the education officials who were less knowledgeable about the very changes they kept implementing. Makhanya (2009:12), the chief editor of *The Sunday Times*, in support of Metcalf, revisited the 2004 maiden speech of the then Minister of Education, Pandor, who assured the nation that education under her supervision would be life-changing if handled properly and would also be destructive if abused by careless experimentation. Four years later, the nation found Pandor (former Minister of Education), her predecessors and the politicians who endorsed the creation of outcome-based education guilty of "careless experimentation" and, according to Makhanya, they all have to answer for the guinea pigs of 2008

3.6.3. Poor behavioural modification

Van der Westhuizen *et al.* (2002:297) state that a principal who works closely with many types of people ought to have a deeper insight into the origin and manifestation of the whole range of human emotions and needs. If the principal lacks such insight, Van der Westhuizen *et al.* (2002:298) assert, he/she will fail to satisfy these needs in acceptable ways, to control and modify personnel behaviour to attain the organisational goals, to manage group dynamics and to manage conflict and enhance professional productivity effectively.

3.6.3.1. *Consistent disciplinary measures and acknowledgement of good conduct*

According to Van der Westhuizen *et al.* (2002:297), behaviour modification refers to techniques and methods that can be used to control and change behaviour. According to Mweli, the former Head of Department in the North-West Department of Education (2008:2), staff motivation strengthens desirable organisational behaviour whereas undesirable behaviour may be cured by working against its further affirmation or neutralising the factors which cause such behaviour. In certain instances of undesirable conduct, it becomes necessary to institute disciplinary procedures, Mweli (2008:2) contends, yet principals who are not worth their salt are often afraid to take that route because they either are incompetent to do so or are not modelling the desired behaviour themselves. In spite of the fact that there may always be undesirable behaviour in every organisation, Van der Westhuizen *et al.* (2002:298) emphasise that the strengthening of desirable behaviour and discouraging unfavourable behaviour should be applied consistently.

Mweli (2008:3) and Van der Westhuizen *et al.* (2002:298) agree that praise and rewards further strengthen favourable behaviour. However, according to Metcalfe (2009:9), some hardworking educators in schools are de-motivated because the efforts they exert in teaching and learning programmes are never acknowledged as principals have become uncaring shepherds. Principals have to learn techniques to

acquire a more acceptable pattern of behaviour in their organisations (Van der Westhuizen *et al.*, 2002:298).

3.6.3.2. *Managing group dynamics*

Managing group dynamics is also a great challenge, especially in bigger schools where a principal should plan a large part of his/her daily managerial and administrative tasks within a group context under divergent circumstances and for different organisational goals (Newstrom & Davis, 2004:6). Educational leaders who lose sight of the fact that knowledge of group dynamics is necessary for successful educational leadership are doing so to their own detriment (Van der Westhuizen *et al.*, 2002:300). Newstrom and Davis (2004:6) caution that regardless of group sizes, it is important to acknowledge its contribution and influence towards the organisational success, and an ongoing effort should be made to infuse the group with organisational ethos and vision. Leading various groups of people such as those that exist in schools requires a seasoned educational leader who, as Mweli (2008:4) submits, is capable of varying his/her leadership styles by, for example, adopting an autocratic and dominating role on certain occasions while in some situations he/she should act as a member of the group rather than acting as the dominating leader in control of the group. Mweli (2008:4) despondently concludes this matter as he declares that managers of such stern stuff are a rare commodity in education today.

3.6.3.3. *Managing conflict*

Conflict is a normal phenomenon in any workplace as management tasks are people-oriented, and the fulfilment of the educational leader's comprehensive range of tasks is dependent upon and facilitated by people (Van der Westhuizen *et al.*, 2002:302). Whether different types of conflict are managed effectively or not depends on the methods used by the manager and his/her personality. Unfortunately, according to Newstrom and Davis (2004:312), many organisational leaders avoid conflict resolution as they have not been trained in conflict management. Despite clear guidelines in the new legislation, most managers still cannot resolve disputes successfully by using the rule of law. Consequently, conflict

left unresolved breeds hatred that, in turn, hinders professional productivity. Yet a conflict well managed could be a valuable exercise for the organisation as people tend to understand one another better after a conflict situation.

3.6.3.4. *Managing leave*

Leave, according to Reddy (2010:6), is one of the most poorly managed areas within the school. Reddy (2010:6) argues that there are always complaints about learners bunking classes, yet the reality is that educators are the ones who bunk classes. Provincial statistics (Brijraj, 2011a) indicate a major decline in the culture of obligatory school attendance among educators. Principals, according to SACE's CEO, Brijraj (2011a), need to address absenteeism seriously at an administrative level. The South African Council for Educators' legal department, as Brijraj (2011a) avers, sits with cases that cannot be concluded due to a lack of recorded evidence of educators' whereabouts. Brijraj (2011a) concurs with Reddy (2010:6) as he confirms that there is a vast degree of under-recording by principals.

3.7. SUMMARY ON POOR EDUCATION MANAGEMENT

From the information above, it is clear that poor management of different areas of a school hampers professional productivity as well as professional growth. It is also apparent that an educational leader of today has to be made of sterner stuff in order to overcome the challenges he/she is bound to meet in the execution of daily managerial and administrative tasks (Mweli, 2008:4). As Van der Westhuizen *et al.* (2002:1) confirm, gone are the traditional days when a principal was merely the head educator and the task of the school was of limited complexity.

This section has examined the grey areas in the management of education both in schools and within the state organs. Poor management of South African education has elicited criticism from all stakeholders in education. It is important to take into consideration the views of scholars and researchers such as Jansen, Metcalfe and Taylor as well as critics outside the education arena, as this could bring about vital improvements within the education system.

Interestingly, Section 195 of the Constitution of the Republic of South Africa (SA, 1996) deals with the basic values and principles governing public administration. One of the principles included is section (1)(h) which states that good human resource management and career development practices must be cultivated in order to maximise human potential. Poor educator training on outcome-based education and failure to empower principals for education management today are contrary to the stipulations of Section 195 of the Constitution. The white paper on the management of human resources in the public service states the importance of the public service in achieving national goals; it also points out the need to transform human resource management practices.

3.8. CONCLUSION

It is important to acknowledge that the education system in South Africa has always been highly bureaucratic but the ANC-led government seemed to have relented a little (Governder, 2004:267) after 1994. However, bureaucracy has crept back into the education system of South Africa today and is even stronger. The qualitative evidence in Smit (2009:441) confirms that political motives and policies that are designed to promote transformation are applied in a bureaucratic manner. Consequently, tensions exist between bureaucrats, teacher unions and school governing bodies due to conflicts arising from school policy matters (Smit, 2009:441). The state's tendency to overlook educators' contributions in policy matters that affect them is viewed as despising educators' inherent professional accountability and autonomy (SADTU, 2008:16). This spells out concretely that bureaucracy reigns in South Africa, and it is becoming more and more difficult to reach consensus with the employer during negotiations about salaries, policies and work conditions, forcing teacher unions to take their issues to the streets (SADTU, 2007). It is important to note that in 2007 as well as in 2010, the negotiations mentioned above deadlocked due to the employer's arrogant stance. Such actions by the state indicate bureaucratic control as issues pertaining to education, according to qualitative evidence in Smit (2009:366), are governed, managed and enforced from the top.

This bureaucratic stance by the state fuelled political activism, and it is believed, as confirmed by the qualitative evidence in Smit (2009:441), that there were political motives or a political mandate from either the ruling party or union federation (COSATU) that led to thousands of educators deserting their classrooms and taking to the streets during the 2007 industrial strike. In 2010, approximately 1.3 million public servants again took to the streets. Generally in South Africa today, education is so politically driven that matters are always translated into the broader political agenda (Smit, 2009:378). Evidence by Smit (2009:442) also confirms what Jansen (2008:14) alluded to, which is the politicisation of schools by the dominant union (SADTU). The continuation of the revolutionary political culture and failure to depoliticise schools have resulted in unprofessional actions by SADTU such as interference in appointment of educators, manipulation of power structures, abuse of time-off for union matters, *et cetera*. (Smit, 2009: 442).

CHAPTER 4

LEGISLATION'S DETERMINING IMPACT ON EDUCATION IN SA

4.1. INTRODUCTION

As with any other public policy endeavour, education is guided by the framework established by law. Accordingly, there is legislation in place that is designed to regulate the vast and diversified labour and professional activities of educators. Education falls within ordinary parliamentary legislation, and the latter is promulgated specifically for education purposes. Examples are the Employment of Educators Act (EEA) 76 of 1998 (SA, 1998), the South African Council of Educators Act 31 of 2000 (SA, 2000) and the South African Schools Act (SASA) 84 of 1996 (SA, 1996c).

General legislation is promulgated for all citizens of the Republic of South Africa and is non-educational. However, Oosthuizen, Botha, Rossouw and Smit (2009:62) caution that education managers must view general legislation in a very serious light as it does impact education. Such legislation includes the Promotion of Administrative Justice Act (3 of 2000) (PAJA), Promotion of Access to Information Act (2 of 2000), Public Finance Management Act (1 of 1999) (PFMA), Child Care Act (74 of 1983) and the Children's Act 33 of 2005 and the Labour Relations Act (LRA) 66 of 1995 (SA, 1995). However, the supreme law of the country, the Constitution, is superior to all forms of legislation and cannot be contravened.

This study has briefly discussed, examined, analysed and criticised legislation and its impact on regulating educators' professional and labour activities as well as the employment relationship of educators teaching in public schools.

4.2. BACKGROUND

It is common knowledge that the South African education system was characterised, in the past, by a gross violation of human rights, inequality and discrimination

(Dlamini, 2006:55). This is the reason why in the Constitution, particularly in the Bill of Rights, equality is a resonant and recurrent theme. According to De Groof (2006:4), previously there had been no written legal or official statutes for educators, learners and parents as major stakeholders in education. The implication here is that educators, learners and parents were merely mentioned and acknowledged as stakeholders in education but they all had no legal status within the schools and no access to the courts of law. The relationships between the various sections of the school community were based on mutual trust, confirms Zengele (2009:52). This means that the question of clearly establishing the learner's legal status seemed a superfluous exercise then.

De Groof (2006:3) avers that education legislation emanated from the conflicts that existed within the then education system. De Groof (2003:3) concurs with Fischer, Schimmel and Kelly (1999:44) when he declares that a judicial approach to acknowledge educators' rights, learners' rights and parental responsibility had to emerge in order to pave the way for transformation in the education system. The law, as De Groof (2006:2) declares, had to establish a legitimate basis for a refurbished educational system and also to provide a framework for lending support to democratisation as the nation reached a turning point in its history. Fischer *et al.* (1999:44) emphasise that legislation plays an instrumental role in the democratic development of the state and its ethical implications. In South Africa, for instance, legislation had to be formulated to enhance transition from the apartheid era to the democratic dispensation where the promotion of the basic individual values had to be considered (De Groof, 2006:3).

De Groof (2006:3) further argues that legislation has the social dimension of law-making which has to invest relations in society with objectivity, legal security, stability and predictability and eradicate arbitrariness, bureaucracy, the unrestrained use of power, subjectivity and irrationality. He maintains that irrespective of whether the arbitrariness stems from political, administrative or economic bureaucracy, legislation has to be applied to curb it. De Groof (2006:3) affirms Fischer *et al.* (1999:44) above when he asserts that the rule of man needs to be governed by the rule of law.

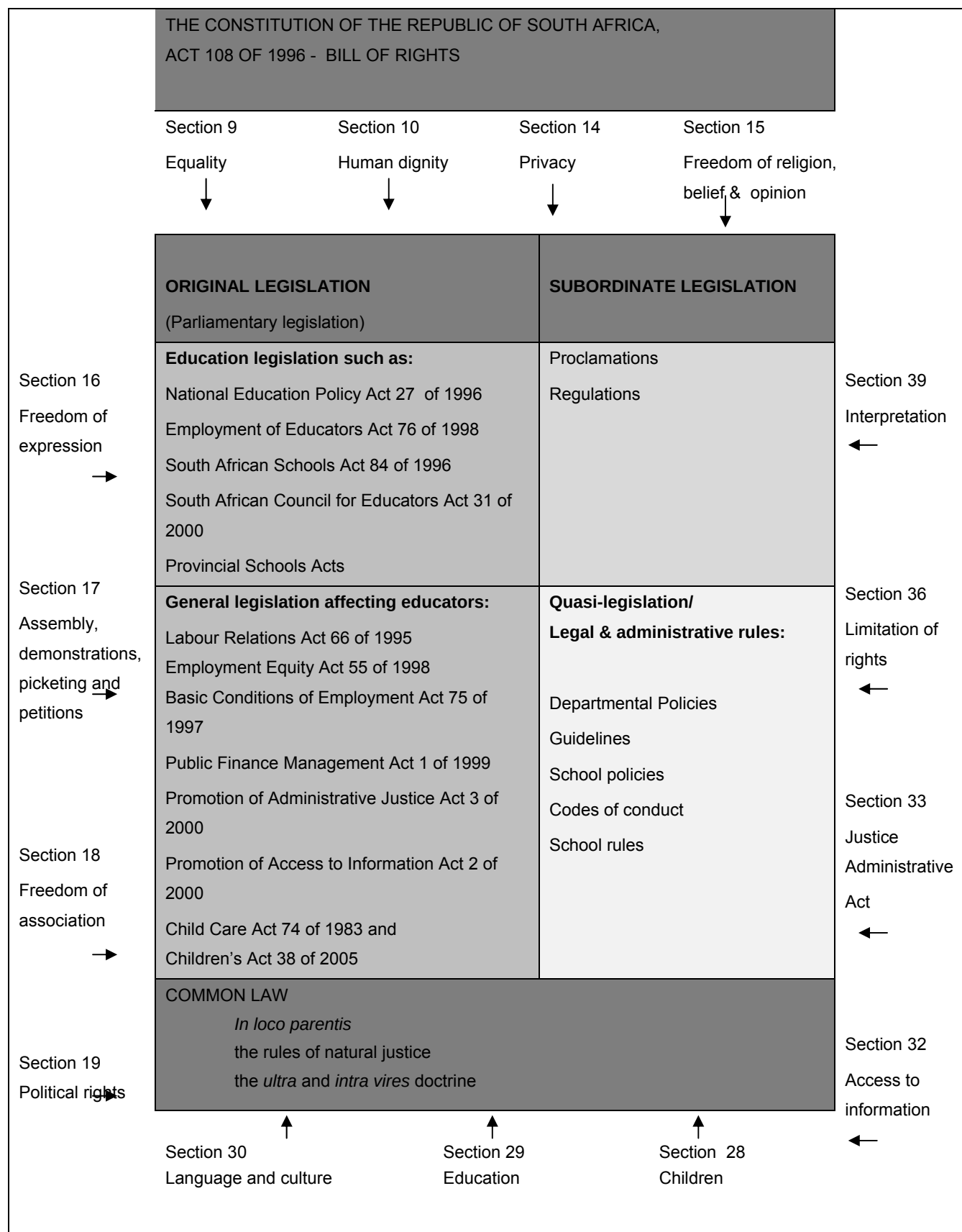
Accordingly, it is deduced that the reform of educational policy has to be considered as the touchstone for monitoring social developments. Implicit is that education cannot function outside the socio-economic, cultural and political context of the society it serves, and this further implies that communities, learners, parents, educators and the state are regarded as equal partners in the new democratic education system of South Africa. Thus, legislation becomes an indispensable instrument to regulate the activities of all these stakeholders including educators' labour and professional activities.

4.2 1. Forms of legislation in South Africa

Oosthuizen *et al.* (2009:58) aver that all forms of legislation in South Africa are subject to the Constitution due to its supremacy, but from these forms of legislation, other subordinate laws can be drawn. Table 4.1 below illustrates the forms of legislation that impact education, particularly the labour law context for educators, and also reminds us to acknowledge the supremacy of the Constitution. The accompanying illustration indicates how the provisions of the Bill of Rights in the Constitution pervade all legislation that primarily or subordinately determines the professional and labour activities of educators.

Table 4.1 also clearly illustrates the interrelationship that exists in legislation and how intertwined all legislation and legal sections thereof are. The most prominent source of legislation in South Africa is the Constitution. Though educators' conduct and activities are mainly regulated by primary legislation (original), subordinate legislation should also be taken into consideration when dealing with education matters. However, it is crucial to acknowledge that subordinate legislation carries less weight than the primary legislation when legal decisions are made. General legislation may influence and affect the actions and decisions of educators, but educators appointed in terms of the Employment of Educators Act will remain obligated to the provisions of that act. Common law cannot be ignored, but it should not contravene the Constitution. The role of common law is noticeably illustrated in the Table 4.1:

Table 4.1 South African Legislation (Adapted from Oosthuizen et al. (2009) and Fischer et al. (1999))



4.2.2. Legislation as a democratising instrument for the education system

According to the CEO of SACE, Brijraj (2010), if legislation could be utilised correctly and reinforced, it can be instrumental in democratising education. The values entrenched in the Bill of Rights must be evident in all education institutions and offices (Asmal & Wilmot, 2002:5). To paraphrase De Groof (2006:2-7), education seems to be a highly contested arena: Politicians, society and unionists all demand to have a say. Education legislation, therefore, is a convenient system to provide a regulatory framework for lending support to the democratisation of the education system. De Groof (2006:5) further states that educational conflicts are inevitable due to various stakeholders in education who have differing views. However, education legislation has developed rapidly to address and allow for educational conflicts; learners', educators' and employers' rights, parental responsibility and the intervention of the courts.

However, Jansen (2004:53) declares that the deeply entrenched resistance to the state's surveillance and control of teaching renders all attempts to regulate the profession subject to suspicion or outright rejection. According to Zengele (2009:67), the Department of Basic Education is not succeeding in addressing the failure of policy implementation at school level because it cannot deal effectively with educators' unprofessional conduct despite the provisions for disciplinary procedures in the Employment of Educators Act and the South African Council of Educators Act. The department has its own procedures, such as recommending leave without pay, if the educator's whereabouts are unknown and dismissing educators on the grounds of absconding. However, some school managers are afraid to implement these procedures as they fear victimisation by the teacher unions (Zengele, 2009:67). In South Africa, unions such as COSATU wield power over education policy and legislation and tirelessly try to manipulate the courts, especially when their members/allies are involved (McKinley, 2006:1). Lately, according to News 24 (2010), the "left" has issued waves of public written and verbal criticism of the ANC's economic and education policies. These criticisms have occasionally been buttressed by short-term strike actions over wages, salaries, working conditions and

political campaigns targeting various domestic and international issues related to government policy and institutional redress in favour of the broad working class, including educators (McKinley, 2006:1).

4.3. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

The Constitution of the Republic of South Africa, Act 108 of 1996 (SA, 1996a), as enacted in 1996, is the supreme law of South Africa (Section 2). Thus, any other legislation or conduct of any individual person or body which is inconsistent with it is invalid. This means that the validity of the Education Law, for instance, is determined by the Constitution. Chapter 2 of the Constitution, which contains the Bill of Rights in which the state guarantees the protection of individual's fundamental rights, has an impact on education and training as well as on education labour issues.

4.3.1. The influence of the Constitution in the field of education

There is no doubt that the Bill of Rights should have a pervasive influence on society in general and in the field of education in particular. This, according to Dlamini (2006:66), is the case because in the past, the area of education was adversely affected by policies that violated human rights. Dlamini (2006:66) declares that educators especially in black schools had no claim to either professional autonomy or accountability. Zengele (2009:57) confirms that joining a labour organisation at that time would cost educators their jobs. Mosoge (in Zengele 2009:58) contends that education in South Africa was offered in an unequal manner and "Bantu Education" was particularly meant to further entrench the policy of separate development. This was extended to tertiary education through the creation of historically black universities which ensured that blacks were totally excluded from historically white universities (Dlamini, 2006:66). Thus, the Bill of Rights had to reverse all this by integrating institutions. Following the stipulations of the Constitution, various forms of legislation (to be discussed later in this chapter) had to be established to address, specifically, the rights provided for in the Bill of Rights.

The National Education Policy Act 27 of 1996 (SA, 1996b) was enacted mainly to redress the unpleasant education disparities, and it does make provision for the Minister of Education to determine national education policy in accordance with the Constitution. This, it is deduced, takes into account the supremacy of the Constitution as the country's law. Other education legislation has since been enacted to support the rights entrenched in the Constitution. For example, the South African Schools Act 84 of 1996 (SA, 1996c) (henceforth referred to as SASA or Schools Act) provides for compulsory education whilst the Constitution merely provides for the right to basic education (section 29). The Schools Act further provides for the right to receive education in the language of one's own choice in any public institution where such education is feasibly practicable. Dlamini (2006:69) confirms that this provision in the Schools Act is in line with section 30 of the Constitution which stipulates that everyone has the right to use the language of his/her own choice and to participate in the cultural life thereof. The manner in which the admission requirements and policy are categorically stated in the Schools Act further clarifies the instrumental role of legislation to redress the past disparities. It is significant to note that the legal status of parents and their role in the education of their children is clarified in the Schools Act. As Zengele (2009:19) asserts, knowledge of the current legislation is crucial as it arms educators for classroom practice and would indeed enhance professional conduct.

Asmal and Wilmot (2002:5) were of the opinion that a clearly articulated value system to which everyone subscribes is lacking in our centres of learning: Educators violate fundamental rights every day in the classrooms of South African schools. Yet, Asmal and Wilmot (2002:5) asserted that the values enshrined in the Constitution are central in constructing educational professionalism.

Although many of the individual rights embodied in the Bill of Rights have an impact on educators' employment relationship, only the following sections in the Bill of Rights will be briefly discussed as they have a bearing on the development of this study:

4.3.2. Equality – Section 9

Malherbe (2008:45b) declares that the right to equality is one of the most important rights because it underpins most of the other fundamental rights in the Constitution. This implies that complete enjoyment of other fundamental rights depends on equal treatment for all. Section 9 stipulates that every person is equal before the law and has the right to equal protection and benefit of the law. The equality also protects persons against unfair discrimination by the state on grounds listed in subsection (3) *i.e.:*

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.

This section is important in schools as it challenges educators to view learners as equal to them in terms of humanity and in terms of the law. Reinforcing the equality principle through the human rights culture in schools would promote professionalism and educators would come to understand that the protective ambit of the right to equality overlaps with those of other rights (Malherbe, 2006:884). As Malherbe (2006:884) asserts, the infringement of a specific right very often also amount to a violation of the equality principle and may be challenged on the latter ground alone. When educators embark on strikes and force principals and parents to close schools; they directly deny learners equality of access to education and educational facilities. This section of the Constitution's Bill of Rights should be used to regulate unionism in favour of the learners during such strikes.

Subsection (2) relates to affirmative action which Malherbe (2008b:45) refers to as positive discrimination and is aimed at addressing persons or categories of persons previously disadvantaged by unfair discrimination. The objective of this provision, as Beckmann and Bray (2006:437) confirm, is to enable these previously disadvantaged people to achieve full and equal enjoyment of all their rights and freedoms, including labour rights. Legislation and other measures should be adapted

to advance persons or groups that were adversely affected by previous unfair discrimination (Beckmann & Bray, 2006:437). The initiative in the labour field to adopt the Employment Equity Act of 1998 and affirmative action employment policies and equity plans which illustrate how affirmative action should be addressed in the labour field is a good example.

In South African schools, there are still discriminatory practices during the recruitment of educators that compromise section 9 of the Bill of Rights. The court case of *Kimberley Girls High School v Head of Department of Education, Northern Cape Province* cited by Smit (2006:1177) is relevant to this study since the recruitment of educators is both a professional and governance matter. In this case, the knowledge of English as a subject was the most important requirement/feature/characteristic of the requirement for the position. Though the Afrikaans-speaking candidate was also competent to teach English, by short-listing and even interviewing the Afrikaans-speaking candidate, the School Governing Body (SGB) undermined this significant requirement and also displayed inconsistency in applying their own criteria to shortlist only English first language-speaking candidates. Implicit in this case was the lack of evidence that the Afrikaans-speaking candidate had qualifications in English Home Language, as it is now called. A black applicant was not shortlisted, and this concretely spells out sheer discrimination. This case is featured here because it indicates that there was a lack of knowledge regarding some legislation by the school governing body as well as by the educators. As stipulated in the South African Schools Act (SASA) (SA, 1996c), principals of schools are part of the School Governing Body (ex-officio), and there is also the educator component within the SGB. Furthermore, in the interest of labour peace, teacher unions should have been involved to fulfil the role of observation in the recruitment process of personnel to ascertain that the process was fair and procedural. In this case, there was no evidence of the role of unions in the contention.

The case that Smit (2006:1177) cites here is an example of inequality (section 9(2)) featuring in the case of *Kimberley Girls High School v Head of Department of Education, Northern Cape Province* where a vacant post for an educator for English

First Language was advertised and a number of candidates had applied. Prescribed procedures pertaining to the filling of posts were followed to the letter, except that legislation (Employment Equity Act) was ignored during the short-listing process. Consequently, the Head of Department (HOD) declined to make the appointment recommended by the School Governing Body and the matter was taken to court. Smit (2006:1178) outlines the legal issues in contention as follows:

The Department declined the recommendation based on the following:

- The School Governing Body failed to adhere to a collectively agreed upon process of giving preference to candidates disadvantaged by the injustices of the past;
- The School Governing Body overlooked the democratic values and principles referred to in section 7(1) of the Employment of Educators Act 76 of 1998 (SA, 1998).

During judgement, the court held that the Head of Department has the power to appoint educators though such powers are circumscribed by the provisions of section 6(3)(b) of the Employment of Educators Act (EEA) (SA, 1998). The Employment of Educators Act provides reasons why the Head of Department may decline the recommendation made by the School Governing Body of a public school or the council of a further education and training institution. The decision by the Head of Department was informed by and in line with the provisions under section 6(3)(b). Thus, it was justified. In the light of this, the court dismissed the application for review with costs.

It is of key importance to state that discrimination against other qualifying educators may lead to appointment of educators who may not be very strong academically. This would not only affect professional productivity but would short-change the learners.

4.3.3. Freedom of expression – Section 16

Freedom of expression protects all forms of communication. Section 16 of the Bill of Rights states that:

(1) Everyone has the right to freedom of expression which includes –

- (a) freedom of the press and other media;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity;
- (d) academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to –

- (a) propaganda for war;
- (b) incitement of imminent violence;
- (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.”

These aspects of the right to freedom of expression highlighted above relate to educators’ professional and union activities. The four aspects under subsection (1) directly affect educators’ professional inclination. For instance, education itself is, in a wide context, an artistic work (Malherbe, 2008b:56), and scientific research is crucial to sustenance of the education profession (Robertson, 1996:32). Malherbe (2008b:57) submits that freedom of expression is protected and afforded the status of a “civil right” for the following reasons:

- Speaking and expressing oneself is a natural and essential human practice and part of being human;
- Scientific, artistic or cultural progress would be unattainable if people were not free to express their ideas and discoveries;
- Freedom of expression is essential to the functioning of a democratic state.

During this era of a unionised workforce, Malherbe (2008b:57) argues that employees are free to express grievances, to criticise the employer and to contribute

to peaceful progress and societal change. It is crucial to note that the right in subsection (1) is qualified by language that demarcates its scope in subsection (2). According to Malherbe (2008b:58-59), the three exceptions listed in subsection (2) limit freedom of expression. Subsection (2)(c) also refers to hate speech which, as Malherbe declares, is a restriction on the scope of freedom of expression and is also found in international human rights documents.

4.3.3.1. *Freedom of expression and the curriculum*

Academic freedom, according to Fischer *et al.* (1999:159), includes the right of educators to speak freely about their subjects, to experiment with new ideas and to select materials and methods appropriate to teaching and learning programmes. It is evident that Fischer *et al.* (1999:159) advocate professional autonomy or authority in their statement above. Malherbe (2008b:59) concurs with Fischer *et al.* (1999:159) when he avers that education is unequivocally all about expressing, conveying and receiving information and ideas. This implies that educators should not be prohibited from expressing their views and from receiving information, unless it is harmful or can cause disruption or detrimentally affect the education process as parents and the education departments may determine. Fischer *et al.* (1999:159), being American authors and scholars, caution that educators must tread carefully as freedom of expression in the United States is limited when it comes to curriculum delivery. Malherbe (2008b:59), a South African author and scholar, contends that freedom of expression affects the kind of books prescribed in the school curriculum, the literature issued to learners and even the official notice boards found on school premises and campuses. Freedom of expression in the context of the school is manifested in many ways in South Africa: school magazine publications, wearing of symbolic items, dress and hairstyle (Malherbe, 2008b:60). It is crucial, for legal purposes, to comprehend symbolic as describing an action or item that expresses or seems to express an intention or feeling which has little practical influence on a situation, in this case, education.

However, Oosthuizen and Russo (2001:262) submit an alternative view, namely that educators have a responsibility to educate learners in accordance with a culture of

fundamental rights (i.e. freedom of expression, including artistic creativity). Oosthuizen and Russo (2001:262) further advance their argument and declare that educators are under an obligation to protect learners against possible adverse effects of pornography. The right to freedom of expression, like any other right, is not absolute and can be limited by section 36 of the Constitution (SA, 1996a). Constitutional parameters for freedom of expression (artistic creativity) in South African schools should be drawn on the basis of the Constitution and South African educational statutes as well as international and foreign law relevant to freedom of expression (Oosthuizen & Russo, 2001:263).

In education legislation, educators' expressive rights are expected to be limited in laws such as the South African Schools Act (SASA) 84 of 1996 (SA, 1996c), Employment of Educators Act (EEA) 76 of 1998 (SA, 1998) and in the Code of Conduct contained in the South African Council of Educators Act 31 of 2000 (SA, 2000). However, a careful scrutiny of all these laws provides no conclusive evidence of efforts to curb educators' expressive rights, whether directly or indirectly (Beckmann *et al.*, 2008:27).

4.3.3.2. *Controversial issues and academic freedom*

In an effort to assert their views on academic freedom, Fischer *et al.* (1999:160) related a case in Montgomery, Alabama, where an educator assigned her eleventh grade class a satiric piece of literature by Kurt Vonnegut Jnr. entitled "*Welcome to the Monkey House*". The following day, the educator was cautioned by the principal and the associate superintendent not to teach the story again as they perceived it as literary garbage that condoned the killing of elderly people and free sex. However, the educator concerned considered the story a good literary piece and believed that she had a professional obligation to teach it. Consequently, the educator was dismissed because she rejected the advice of her seniors and assigned "disruptive" material. The educator was duly aggrieved and viewed her dismissal as a violation of her right to academic freedom. The matter was submitted to the federal trial court.

In considering the case, Judge Johnson looked into the constitutional principles involved. Judge Johnson held that the United States Supreme Court had always emphasised that academic freedom, the right to teach, to evaluate and to experiment with new ideas is fundamental to a democratic society. The judge further asserted that the school officials could not restrict constitutional rights unless they firstly demonstrate that the forbidden conduct would materially and substantially interfere with school discipline.

Applying these principles to the case cited by Fischer *et al.* (1999:160), the court held that the school authorities failed to demonstrate either that the assignment was inappropriate reading for the eleventh grade or that it created a significant disruption to the education process. Therefore, the court further held that the educator's dismissal constituted an unwarranted invasion of her constitutional right to academic freedom. Consequently, she was reinstated. However, it is important to note that in the United States, freedom of expression is limited within curriculum design and delivery (Oosthuizen & Russo, 2001: 263).

Below is a case that Beckmann (2008:31) cites as an incident which provides insight into how educators' right to freedom of expression may manifest itself.

The *Beeld* newspaper published a report on an incident that occurred in 1999 in which an educator employed by a School Governing Body (SGB) at the Cullinan Combined School in Gauteng set a test from a passage adapted from Herman Bosman's short story, *Unto Dust*. To enhance learners' creative writing skills, he instructed them to write a newspaper article based on this short story. The researcher, who is an English educator, knows that in this short story, the word *kaffir* appears thirty-three times, and it was inevitable that the set passage would not carry it. The passage, as correctly paraphrased by *Beeld*, is about a white soldier and a black soldier who fought in a war and how, when they died, it became impossible to discern which bones belonged to which soldier. The educator, after attending a course on multicultural education, thought the extract presented him with a relevant opportunity to promote multicultural relations within the school. Knowing that the

word *kaffir* is offensive and racist, the educator explained to the learners what the background to and context of the extract were, namely, as it is deduced, in death, the race of the soldiers was not important. Accordingly, race should be insignificant in real life.

Despite the educator's good intentions, he was dismissed by the governing body who conveyed the news in a letter delivered by the school principal. There was neither suggestion nor evidence that the necessary procedures were followed. It is deduced from this incident that an educator who used freedom to receive an idea at a developmental training course and used his freedom of expression to impart a message was punished for it as he used a politically incorrect word in the process. Beckmann (2008:32) concludes by stating that the incident seemed to make inroads into educators' freedom of expression to teach what they deem best.

It is clear from this incident that implicit trust inherent in a profession was lacking on the governing body's side. Consequently, the governing body undermined the educator's professional authority, autonomy and accountability. On reflection, it is, regrettable that this particular incident did not reach the courts of law as it would be interesting to analyse the verdict. This incident also indicates how far education is from being accorded the respect, authority and trust that should be accorded to a profession. It is notable in many instances that the right to freedom of speech does not promote professionalism as it is discouraged by the bureaucracy. However, during public servants' strikes; freedom of speech is abused through derogatory slogans and the striking public servants get away with it.

4.3.4. Labour Relations - Section 23

Section 23 of the Bill of Rights provides everyone with the right to fair labour practices. For instance, no person may be dismissed unfairly. It also protects employees and employers in their respective individual and collective labour agreements. Just like all the other rights that benefit everyone or which no-one may be denied, this section categorically allows for fair labour practices. The right to fair

labour practices, according to Currie and De Waal (2005:501), has its origin in the equity jurisdiction of the industrial court established in 1979. Currie and De Waal (2005:504) further assert that labour practice must actually relate to the mutual interests of the employer and employee parties. Accordingly, it should not be extended beyond the employment relationship.

Included in the balanced package of rights of trade unions and their members in section 23(2) is the right to strike should there be an impasse. Educators, like any other workers, are covered in this section. The Interim Constitution, as Currie and De Waal (2005:513) state, balanced the right to strike with an employer's recourse to lock-out for purposes of collective bargaining. However, the final Constitution enacted in 1996 does not provide for limitation of the right to strike unless the limitation complies with section 36(1): Strikes can go beyond collective bargaining, and the Constitution clearly stipulates that "*every worker has the right to strike*".

Rossouw (2008:84 & 2010:116) refers to section 64 of the Labour Relations Act (SA, 1995) which stipulates that employees have the right to strike if the following requirements have been met:

- The issue in dispute must have been referred to a bargaining or statutory council, or to the Commission chosen to deal with labour disputes;
- A certificate has been issued stating that the issue has not been resolved, or a period of 30 days or an agreed to extension of time has lapsed, since a council or the commission received the referral;
- In the case of a proposed strike, the employer has been given written notice at least 48 hours before the commencement of the strike;
- If the employer is the State, at least seven days' written notice has been given before the strike commences.

If all these requirements are met, the strike or lock-out is a protected one (Rossouw, 2010:116). An example cited by Rossouw (2010:116) is of a protected strike whereby 178 educators from different schools in KwaZulu-Natal refused to report at

their respective schools in protest to a recurrence of crime in their district. During October 2002, according to Rossouw, the minibuses that the educators in the district used as transport for work were subjected to regular high-jacking by armed people. Following those incidences, educators took their case to the district office of the KwaZulu-Natal Department of Education. Rossouw (2010:116) asserts that if those educators had simply stayed at home, it would have been an unlawful and unprotected strike, but reporting at the offices of the department of education made the demonstration/strike legal and, thus, protected. Fischer *et al.* (1999:69) declare that a comprehensive law regulating educational labour relations in Illinois sets requirements similar to the one Rossouw has cited above as a prerequisite for a strike action.

Though by law educators have the right to strike, Heystek (2008:9) clarifies the fact that their right infringes upon learners' right to receive quality education. It is also significantly notable that educators' professional status is compromised because most of their labour activities are determined by generic labour legislation (Heystek, 2008:9). Heystek (2008:9) pursues this declaration as he further submits that such labour legislation is also applicable to any other worker, including unskilled labour. Zengele (2009:57) concurs with Heystek when he contends that section 29 of the same Constitution that grants educators the right to strike in section 23, advocates the learners' right to a basic education. The Constitution, as Zengele (2009:57) further argues, does not indicate whether the right of the educators should take precedence over those of the learners, or *vice-versa*. Heystek and Zengele depict a clear contrast between labour issues (going on strike) and professional issues (teaching learners). The right to a basic education may be jointly invoked by the government and parents to promote professionalism. Invoking the right to a basic education would certainly curtail the right to strike. Time has come for the South African government, parents and general public to protect the learners' right to a basic education; reinforced, this right would definitely trump the right to strike due to its weighting and high value.

Zengele (2009:57) avers that if education is believed to be the solution to eradicate poverty and contributory to the country's affluence, South Africans have to begin to perceive it as an essential service. Zengele's submission above is supported by, *inter alia*, Smit (2010:1) as he argues that the definition of an essential service needs to be amended and extended in the Labour Relations Act in order for teaching to be declared an essential service. According to Oosthuizen *et al.* (2009:28), the limitation clause provides for a fair balance between the interests that are protected by each of the rights in the Bill of Rights chapter. The limitation clause is significant in the sense that it prohibits employees performing essential services from deserting their posts for the strike.

Essential services, as the Labour Relations Act (LRA) section 70(1) stipulates, have to be established by the Public Service Administration Minister after consultation with the National Economic Development and Labour Council (NEDLAC). The essential service committee has to conduct an investigation into whether or not the whole or just a part of a service could be declared an essential service. The scholarly views on this matter, however, are similar: In view of the annual civil servants strikes, education needs to be declared an essential service. Zengele (2009:57), substantiating his argument further, submits that various scholars, stakeholders in education and critics argue whether educators should have the right to strike. This debate, according to Zengele (2009:57), fuels the already existing contention whether educators are professionals or workers.

Smit (2010:1) states that it has become the South African norm annually that salary negotiations between the government and the unions reach impasse; resulting in public servants' strikes. Public servants include educators in public schools. Smit (2010:1) avers that strikes generally affect the functionality of schools. According to Smit (2010:1), during the 2010 public servants' strike the Department of Basic Education obtained a court interdict to prohibit the striking educators from intimidating non-striking educators and from disrupting schools but SADTU defied the court interdict with contempt.

Section 36 of the Constitution determines that non-fundamental rights, such as the right to strike can be limited in terms of section 23(1). In terms of section 28(2) of the Constitution the best interest of the child is of paramount importance in all matters that affect the child. Smit (2010:1) asserts that the question that should bother every stakeholder in education should be: To what extent is the striking beneficial to the learners? Khoabane (2010:2) concurred with Smit (2010:1) when she stated that intimidation of learners in particular was uncalled for and confirms that the intimidation and violence during the 2010 public servants' strike was uncontrollable. According to Smit (2010:1), the previous public servants' strike of 2007 yielded remarkably poor grade 12 results despite the provincial education departments' efforts to minimise the impact of the strike by organising work-recovery programmes. Smit (2010:1) further argues that educators are regarded as professionals and not mere workers; accordingly, their commitment to serve their clients (learners) should be of primary concern and should outweigh their right to strike.

Section 65 of the Labour Relations Act (LRA) stipulates that persons performing an essential service or maintenance service may not strike. The definition of an essential service in terms of section 213 of the Labour Relations Act:

“Is a service which would place the life, personal safety or health of the whole population in danger if interrupted.”

Parliamentary services and police services fall under essential services. According to Smit (2010:1) and Zengele (2009:57), education should be declared an essential service and the limitation clause should be applicable during public servants' strikes to limit the educators' right to strike as it infringes upon and is outweighed by the learners' right to education (section 29). Woolman and Fleisch (2009:117) view the right to basic education as very important because education, by its substantial nature is essential.

It is questionable whether the educators, in exercising their right to strike, ever consider section 28(2) of the Constitution that provides that “**a child's best**

interests are of paramount importance in every matter pertaining to the child”.

The implication is clear: It is not in the child’s best interest to be left untaught while educators roam the streets in pursuit of their own interests. Heystek (2008:2) contends that educators cannot claim professional rights if they are guilty of gross negligence such as the above. Frequent absenteeism, being late for classes, being inadequately prepared to teach and waiting for the Department of Education to provide professional development are examples of unprofessional conduct and also a betrayal of the clients’ trust and that of the nation. As Oosthuizen *et al.* (2009:52) aver, it is significant to note that the **“child’s best interests”** principle had to be accorded the most important consideration by the Constitutional Court in the case between *S v M 2007 (2) SACR 539 (CC) 52* as the court affirmed its paramount status.

4.3.5. Children - Section 28

This section relates to education as it addresses the rights of children who are the major and prime clients in educational institutions. Section 28 (2) of the Bill of Rights (SA, 1996) stipulates that ***a child’s best interests are of paramount importance in every matter concerning the child.*** In many instances, educators do not take the child’s best interest into consideration when they embark on strikes. Strikes are not in the best interest of the children in schools. The section is in line with the provisions of the International Convention as well as the Organisation of African Unity (OAU) on the rights of the child. Children, as stipulated in section 28(1d) (SA, 1996), need to be protected from maltreatment, neglect, abuse or degradation. When section 28 is scrutinised together with the right to privacy, human dignity and the right not to be treated or punished in a cruel, inhuman or degrading way, Malherbe (2008b:73) contends that the intensity of the debate on corporal punishment in schools is justified and is necessary.

Despite the country’s legal stance regarding corporal punishment, Malherbe (2008b:73) states that it is notable that forbidding corporal punishment in schools does not augur well with some citizens who want to maintain their biblical stance that corporal punishment enhances discipline. Malherbe (2008b:73) cites the case

between *Christian Education SA v Minister of Education of the Government of the RSA* 1999 9 BCLR 951 (SE) in which a Christian organisation contended that section 10 of the South African Schools Act (SASA) and section 12 of the Bill of Rights were in conflict with section 31, also found in the Bill of Rights, which allows communities to practise their religion with other members of the community. The organisation contended that a total ban of corporal punishment in schools violated their religious freedom and further submitted that they administered corporal punishment in their independent schools as a biblical directive.

Following extensive research into international, foreign and national legal sources, the High Court of the Eastern Cape held that even if it was a biblical injunction for parents to administer corporal punishment to their children, it cannot be viewed as a core religious precept that educators in schools should be empowered to administer corporal punishment to learners. The court further held that even if sections 10 and 12 violated the religious freedom of the applicants, the infringement was not substantial enough to justify these sections being declared unconstitutional or granting the applicants an exemption from section 10 of SASA and section 12 of the Bill of Rights. Accordingly, the application failed and the appeal that followed was dismissed.

It needs to be emphasised that corporal punishment can never make educators better educators in the classroom or even enhance discipline. As Oosthuizen *et al.* (2009:107) assert in chapter 2 (2.4.3), the authority of educators should stem from the knowledge of the subjects they teach. This is the kind that is acknowledged as professional authority.

According to the Wits Education Policy Unit (2005: 26), the South African Council for Educators' report on the North-West Province reflects corporal punishment, which is constitutionally inadmissible, as one of the most frequent forms of misconduct committed by educators. The South African Council for Educators' Code of Conduct (section 3.5) stipulates that:

An educator avoids any form of humiliation, and refrains from any form of child abuse, physical or psychological.

Educators are expected to act in accordance with the ideals of their profession as expressed in the Code of Conduct (Oosthuizen *et al.*, 2009:150). According to Oosthuizen *et al.* (2009:151), it is apparent that educators have a duty to protect and not abuse or ill-treat the learners they are entrusted with. Doing so is a breach of the Code of Conduct.

4.3.5.1. *Alternative perception of corporal punishment*

According to Morrel (2001:292), South African educators are unrelenting when it comes to corporal punishment. Morrel argued that this was an indication of mental laziness to devise alternative measures; consequently, corporal punishment is still practised in schools. Oosthuizen *et al.* (2009:33) cite the case between *Christian Education South Africa (CESA) v Minister of Education of the Government of the Republic South Africa 2000 (4) SA 757 (CC)* in which CESA appealed to the Constitutional Court against a High Court ruling.

Sachs J, on dismissing the appeal, contended that:

- In terms of section 39(2) of the Constitution of the Republic of South Africa, international law is of vital importance when interpreting our Bill of Rights. In actual fact, South Africa is bound by the international conventions it has signed. South Africa has ratified both the Convention against Torture and other Cruel, Inhuman or Degrading Treatment of 1987 and the United Nations Convention on the Rights of the Child of 1989, both of which declined corporal punishment, ensuring that children would not be subjected to violence and degrading punishment.
- The whole matter should be assessed against the background of what is to be regarded as reasonable and justifiable in an open and democratic society based on human dignity, freedom and equality. Sachs J argued that “when all these factors are weighed together, the scales come down firmly in favour of

upholding the generality of the law in the face of the appellant's claim for a constitutionally compelled exemption".

Sachs' remarkably well-reasoned judgement in this case is relevant for the purposes of this study which focuses on educators' activities. As illustrated by table 2.1 in chapter 2, corporal punishment rates first in terms of educators' unprofessional actions in schools.

4.3.5.2. *Violation of children's inherent dignity*

Cases of unprofessional conduct that the Department of Education in the North-West Province frequently handles include use of corporal punishment (2009:147) submit that educators as professionals have to practise their profession with a high degree of skill and care. The law, as Oosthuizen *et al.* (2009:147) contend, views an educator as a person with reasonable expertise. Accordingly, he/she should comprehend precisely that by law, corporal punishment is abolished. Corporal punishment in schools is unconstitutional because it harms and degrades learners. In terms of the South African Schools Act (SA, 1996c), corporal punishment is illegal and forbidden in schools, and according to the South African Council of Educators Act 31 of 2000 (SA, 2000), it is a very serious breach of the Code of Conduct. The Code of Conduct contained in the SACE Act cautions to exercise authority with compassion and to respect the learners' dignity. Administering corporal punishment is unprofessional conduct, and it reflects the educators' lack of humanity and self-control (Bertram *et al.*, 2002:115) as it dispossesses the learners of their inherent dignity and is degrading as well (SA, 1996: section 12(1)(e) (SA, 1996A).

4.3.6. Children's right to a basic education – Section 29

Clearly, this right is not for educators but for learners. It is discussed in this study because it is viewed as important that educators should not infringe upon this right as they execute their professional duties and engage in their labour activities. Zengele (2009:56) contends that the Constitution is contradictory in granting educators the right to strike and simultaneously granting the learners the right to basic education.

Zengele's argument is based on the fact that children in public schools are predominantly minors placed in the care of educators. The Constitution, Zengele (2009:56) contends, should have made provisions for care for children in public schools whilst granting educators the right to strike. The Labour Relations Act, which is a generic law, provides for the educators' right to strike, also without taking into consideration the learners' right to basic education. The Employment of Educators Act (SA, 1998) in terms of which educators are employed, is silent on the educators' right to strike as well as the learners' right to basic education. In essence, legislation is found deficient regarding section 29.

Educators are expected to carry out their duty of care at all times during school terms. It is, therefore, a dereliction of duties to desert learners during a strike by leaving them unattended to (Malala, 2007:9). Professionally matured and committed educators would not choose to infringe upon the children's right to a basic education; they would rather relent on their right to strike. Education, by its very nature, is a mechanism for empowerment. Thus, educators have no right to deny learners their right to education. According to Woolman and Fleisch (2009:117), education is both a human right and an indispensable means of enabling people to realise other rights. Education is, therefore, an empowerment right and a primary vehicle by which economically and socially marginalised adults and children can rid themselves of abject poverty.

4.3.7. Just administrative action – Section 33

Section 33 stipulates that every person is entitled to administrative action that is lawful, reasonable and procedurally fair. Beckmann and Bray (2006:437) submit that for employment relations, section 33 implies that the employer (that is the Head of Department, the public school and any other employer) in an authoritative position must act in a lawful, reasonable and procedurally fair manner in the employment relationship, that is disciplining, suspending or dismissing educators. Educators are also entitled to written reasons when their labour rights have been affected, for instance in cases of suspension or dismissal. As stipulated in subsection (3)(a), national legislation, namely the Promotion of Administrative Justice Act (3 of 2000)

(PAJA), was enacted to give effect to this right in all spheres where administrative action is being exercised, and this should benefit the employment relationship greatly.

Section 33 of the Constitution is consolidated by the Promotion of Administrative Justice Act which is meant to give effect to administrative action that is lawful, reasonable and procedurally fair (Oosthuizen *et al.*, 2009:54). According to Oosthuizen *et al.* (2009:54), prior to the inclusion of section 33 in the interim Constitution, South African administrative law constituted common law rules. Oosthuizen *et al.* (2009:54) further declare that common law rules were not fundamentally established by legislation but were created with reference to customary law and decisions by competent courts. It is important to acknowledge that common law rules are still relevant if they do not in any way contravene the provisions of the Constitution.

According to Oosthuizen *et al.* (2009:54-55), the following acts would be classified as administrative acts in the education context in terms of the Constitution, common law and the Promotion of Administrative Justice Act:

- Decisions of the national or provincial departments of education, made in terms of legislation, that adversely affect educators, for example transfers to other schools;
- Decisions of the national or provincial departments of education, made in terms of legislation, that adversely affect a school or its governing body;
- Decisions of educational managers that adversely affect educators, for example instituting disciplinary action against an educator who has misbehaved at work ;
- Decisions of educational managers or educators that adversely affect the learners, for example the implementation of school rules;
- Decisions of governing bodies that affect learners or educators, for example the drafting of new school rules.

Oosthuizen *et al.* (2009:55) aver that the decision making referred to above binds the decision maker to abide by the provisions that authorise him or her to take such decision or action in a particular manner, and he/she is also bound by the provisions of section 33 of the Constitution and Promotion of Administrative Justice Act. A procedural process must be adhered to when taking an administrative action. Following legislation, should any party be aggrieved by an administration decision taken against him or her that party can apply for judicial review as provided in the Promotion of Administrative Justice Act which owes its existence to section 33 of the Constitution (Oosthuizen *et al.*, 2009:55).

The Promotion of Administrative Justice Act also regulates the right to written reasons for administrative action as contemplated in section 33. Malherbe (2008b:91) states that this kind of legislation compels government officials, organs of state and institutions vested with authority to refrain from abusing their discretionary powers in their actions against individuals. According to Malherbe (2008b:91), people with authority often act *ultra vires* (outside the scope of authority). It, therefore, suffices to say that for administrative action to be carried out legally, it must comply with the relevant stipulations of the Constitution, Promotion of Administrative Justice Act, common law and case law.

Though administrative justice requires that a person be furnished with written reasons substantiating an administrative action, it is important to assess exactly what constitutes adequate reasons as the action taken should correlate with the reasons furnished. The decision taken must be based on objective facts and circumstances. It stands to reason that the gravity of the administrative action should determine the degree of particularity required in the reasons furnished: The more drastic the action taken, the more detailed the reasons should be. The Promotion of Administrative Justice Act regulates what the following should entail:

- Procedurally fair administrative action affecting any person;
- Administrative action affecting the public;
- Reasons for administrative action;

- Judicial review of administrative action;
- Procedure for judicial review;
- Time variations;
- Regulations.

These factors have a major influence in dealing with cases whereby the administrative actions of employers are viewed as an infringement upon an employee's right. The person aggrieved by an administrative action could be assisted through consideration of these guidelines towards reaching a procedurally fair conclusion to the matter in contention. As in the case discussed in the paragraph below, sometimes it is the public that could be adversely affected by administrative injustice. It is imperative that the reasons for the administrative action taken against anyone should be tangible enough to institute such an action. However, Oosthuizen *et al.* (2009:55) confirm that there is a remedy available to the aggrieved party if he/she is not satisfied with the administrative action taken against him/her. The judicial review process focuses on the procedure that was followed, as well as substance and not the correctness or the wrongness of the decision reached.

Among many court cases that involve administrative injustice, the case between the *Centre for Child Law v the MEC for Education – Gauteng 2008 (1) SA 223(1)* is an example. The main dispute in this case was the conditions at JW Luckhoff High School, a school of industry, which the first applicant alleged infringed the school children's constitutional rights. The first applicant's (Centre for Child Law at the University of Pretoria) main concerns were the following:

- Poor physical conditions at the children's hostels/residences;
- Lack of access control which led to children selling their clothes and buying drugs from outsiders;
- Absence of proper psychological support and therapeutic services at the school.

The first applicant contended that the conditions at the school infringed upon the children's rights guaranteed by section 28 of the Bill of Rights, as well as the right to human dignity (section 10) and the right not to be subjected to cruel, inhuman or degrading treatment (section 12). The first applicant also argued that the nature of any school of industry is such that the state should be in a position to provide care better than the parents could and to rehabilitate the children in a secure and controlled environment. According to the first applicant, children's basic needs, such as the provision of sleeping bags, were not satisfied. Correspondence and other documentary evidence revealed that attempts by the principal of the school to address those problems had, over six years, been met with bureaucratic silence and inertia. In addition to the redress of the problems, the first applicant required that with all the concerns raised above, the Member of the Executive Council (MEC) for Education in Gauteng (the first respondent) be directed by the court to make immediate arrangements for the school to be subjected to a developmental quality assurance process.

Murphy J expressed concern about the bureaucratic prevarication and unnecessary defence of litigation against the department of education which utilised resources that could be used better elsewhere. The court further contended that the authorities, the MEC and the second respondents (the school board) contravened the Constitution and the provisions in the Child Care Act of 1983 in terms of which children are sent to such schools. Though the respondents did not dispute the first applicant's account, their defence leaned on budgetary constraints. Murphy J surmised that the state could afford an estimated amount of R30 000 – R70 000 for the two industrial schools in Gauteng, each housing 38 and 111 children respectively. The court further surmised that the estimated amounts would be less than the amount spent by the respondents in defending the litigation. In conclusion, the court held that budgetary implications ought not to compromise the justification of the children's rights and further held and ordered that:

- The practices and living conditions at JW Luckhoff High School violated section 28 (1 and 2), section 10 and section 12 of the Constitution;
- The state had shirked from its responsibility;

- By the very nature of the institution, a school of industry must be secure, and access to and exit from it should be carefully monitored and controlled;
- The state had, thus, reneged on the constitutional promise of protection and, in the process, the children's trust was betrayed as a state institution could not protect them;
- The prayer for relief made by applicants was eminently reasonable and the applicants were entitled to the order they made, that is provision of sleeping bags and arrangements for developmental quality assurance;
- The first respondent was directed to devise plans for perimeter and access control at the school and to provide written information pertaining to such plans by the 31 July 2006 to the court and the applicants;
- The court would retain a supervisory role to ensure progress in the implementation of these changes.

The Gauteng Department of Education lost the case with costs. In view of the law, the reasons furnished by the Centre for Child Law were sound against the MEC's arguments that held no water and were less meritorious. The administrative action of the Gauteng Department of Education (GDE) was unjust, unreasonable and procedurally unfair and, most importantly, contravened provisions of the Constitution and of PAJA. Such maladministration acts occur frequently in all the provinces, resulting in learners and educators being adversely affected (Manuel, 2011b:2). Maladministration acts constitute unprofessional conduct.

4.3.8. Limitation of rights – Section 36

It is of key importance to note that the fundamental rights, as entrenched in the Bill of Rights, are not absolute (Rossouw, 2010:27). According to Rossouw (2010:27) and Oosthuizen *et al.* (2009:28), 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 a transparent and democratic society based on human dignity, equality and freedom (SA, 1996). It is also of key importance to take into account all the relevant

factors that contribute towards successful limitation of a right or the failure thereof. Such factors include the following:

- The nature of the right;
- The significance of the purpose of the limitation;
- The nature and extent of the limitation;
- The relation between the limitation and its purpose;
- Less restrictive means to achieve the purpose.

Beckmann and Bray (2006:438) assert that rights (including fundamental rights) may be limited by the rights and interests of the other party in a particular relationship or when the public interest demands it. This often happens in situations where competing or conflicting rights have to be weighed up and balanced. For instance, the equality right or employment rights of educators could be limited in circumstances where such a limitation would be reasonable and justifiable. Beckmann and Bray (2006:438) cite an example of a dismissal which, without doubt, affects the educator's right to practise a profession and earn remuneration for his/her execution of duties. The act of dismissal, which is the limitation, must be reasonable and justifiable under the circumstances.

The limitation clause, as it is often referred to, deals with justifiable infringements of rights (Currie & De Waal, 2005:164). When an infringement is justifiable in accordance with the criteria in section 36, it then is constitutionally valid. Currie and De Waal (2005:164) contend that rights cannot simply be overridden: The reasons for limiting any right need to be exceptionally tangible, and appropriate evidence must be produced to justify a limitation of a right in accordance with the criteria laid down in this section. A law that restricts any fundamental right must not invade rights any further than it needs to in order to achieve its purpose (Currie & De Waal, 2005:164).

It should be taken into consideration that the Bill of Rights contains numerous demarcations, namely most rights are qualified by language that specifically

demarcates their scope. For instance, section 17 as cited by Currie and De Waal (2005:186) states that a person has the right to assemble, demonstrate and present petitions but only if it is done peacefully and unarmed. The last three words qualify (limit) the extent and scope of this right (Malherbe, 2008a:48). It is crucial to note that these words are part of the definition of the right and not really a limitation, though the limiting connotation of these words could be evoked by a contradictory action. An example relevant here is cited in the Khutsong report (DoE, 2007:6) whereby educators' right to assemble, demonstrate and present petition had to be limited as violence and vandalism broke out at the Dr Kenneth Kaunda District Education offices where the educators had taken their issues.

It is important to note that even the right to strike can be limited if, for instance, learners are due to start their final external examinations or the duration of the industrial strike will impact negatively on learners' education. As Zengele (2009:57) contends, the learners' right to education outweighs the educators' right to strike. Accordingly, educators' right to strike infringes upon the learners' right to learn and must be limited (Zengele, 2009:57). The implication here is that the right to strike is important though the nature of the human right in question (the learners' right to basic education) is more significant. Malherbe (2008a:48) submits that the purpose, nature and extent of the limitation must be reasonable and justifiable.

The limitation of rights clause; pre-embedded in the Labour Relations Act (SA, 1995) and as interpreted by Rossouw (2010:27), may prohibit persons from participating in a strike if:

- A collective agreement prohibits the strike and the persons concerned are bound by the agreement;
- There is an agreement that requires the issues in dispute to be referred to arbitration;
- The issue in dispute is one that a party is entitled to refer for arbitration to the labour court;
- The persons are engaged in an essential service or a maintenance service;

- The persons are bound by an arbitration award or collective agreement that regulates the issue in dispute;
- Persons are bound by a determination made by the Minister of Labour that regulates the issue in dispute;
- Persons are bound by a wage determination as made in terms of the Wage Act (5 of 1957) which has not been in force for more than one year.

4.3.9. Interpretation of Bill of Rights – Section 39

In interpreting educators' employment relationship, section 39 places an obligation on the court, tribunal or forum to promote the values that underlie an open and democratic society based on human dignity, equality and freedom. It is notable in Hancke J's judgement in *Moletsane v Premier of the Free State* that the courts indeed take this obligation seriously as the judge ordered that the matter be heard (openly and democratically) as a matter of urgency and that clarity of the administrative action be given in terms of common law. The educator's dignity in this case was put at stake, and her freedom to practise her profession freely was curtailed.

The major reason why the Bill of Rights needs interpretation is to ascertain the meaning of a provision in the Bill of Rights in order to establish whether the law or conduct is inconsistent with that provision (Currie & De Waal, 2005:145). Currie and De Waal (2005:145) confirm that interpretation involves two enquiries, namely:

- The meaning or scope of a right must be determined;
- It must also be determined whether the challenged law or conduct conflicts with the right.

Currie and De Waal (2005:146) further contend that the meaning of a constitutional provision depends on the manner in which it has been used. It is crucial, therefore, to acknowledge that constitutional interpretation to a large extent is about establishing the context within which a particular constitutional provision must be given (Currie & De Waal, 2005:146). All constitutional rights that have an influence on education,

therefore, need to be interpreted correctly as they may enhance professionalism, regulate unionism and even curtail the right to strike.

4.4. THE NATIONAL EDUCATION POLICY ACT (NEPA)

This is the core of parliamentary education legislation that is meant to facilitate the democratic transformation of the national system of education into one that serves the needs and interests of all the people of South Africa and upholds their fundamental rights. The National Education Policy Act (SA, 1996b), as determined by the Minister of Education, is in accordance with the Constitution of the Republic of South Africa. Thus, it is incumbent upon all persons involved in education to be well conversant with this act.

The policy contemplated in section 3 of the National Education Policy Act (SA, 1996b) aims to advance and protect the fundamental rights of every person guaranteed in terms of Chapter 2 of the Constitution and international conventions ratified by Parliament. Section 5 and section 6 (SA, 1996b) have an impact on the organised teaching profession. According to these sections, consulting on national education policy and legislation is crucial. All the stakeholders in education must be consulted on matters pertaining to policy as this alleviates intolerance and disputes between the state and other stakeholders (Mweli, 2004).

NEPA also deals with monitoring and evaluating personnel. Monitoring and evaluating education provision (SA, 1996b) is a legalised process that is meant to raise the standard of education and both educator and learner performance without any hitches. The developmental appraisal system which was initially the first instrument designed to evaluate educators' performance was found lacking in some aspects. An agreement was then reached in the Education Labour Relations Council (Resolution 8 of 2003) to integrate the existing programmes on quality management in education. The existing programmes were the developmental appraisal system, performance measurement system and whole-school evaluation. The integrated quality management systems (IQMS), which encompasses the developmental

appraisal system, performance measurement system and whole-school evaluation, is informed by the Employment of Educators Act 76 of 1998 (SA, 1998) where the Minister of Education is required to determine performance standards for educators in terms of which their performance is to be evaluated. IQMS is an effort by the employer to further professionalise education and enhance academic performance and productivity (Mweli, 2004).

4.5. THE SOUTH AFRICAN COUNCIL OF EDUCATORS (SACE) ACT

The establishment of the South African Council for Educators (SACE) in 1997 by the post-apartheid government signalled recognition of educators as autonomous professionals who are able to decide on the nature of their work (Wits Education Policy Unit, 2005:28). The South African Council for Educators has three main responsibilities, namely professionalisation, registration and regulation of educators through the enforcement of a Code of Conduct contained in the South African Council of Educators (SACE) Act 31 of 2000 (SA, 2000). The preamble of the Code of Conduct (section 2) states that educators should behave in a proper and acceptable manner such that their behaviour does not bring the teaching profession into disrepute. Section 3 of the Code of Conduct deals mainly with the educators' conduct with regard to learners. Educators have an obligation to perform their professional duties without negligence or indolence. According to Mokgalane (2001:12), the South African Council for Educators seems to have focussed more on registration as opposed to the professional developmental role whereas development, Mokgalane further contends, should be its main priority. However, there is a general agreement about the fact that the establishment of the South African Council for Educators has certainly contributed towards the re-professionalisation of education (Wits Education Policy Unit, 2005:28). The promulgation of the SACE Act (SA, 2000) is a juristic evidence of the efforts made to re-professionalise education. The SACE Act has added a legal status to the South African Council for Educators (SACE).

Jansen (2004:55) argues that the effort to professionalise education is contradicted by some of the policies which seek to increase bureaucratic accountability as

opposed to professional accountability. Jansen (2004:55) takes his argument further when he states that it is unacceptable for the state to expect any form of accountability from educators without backing it up with support and development. The role of the South African Council for Educators has not been as vigorous as it should be to fill in the gaps (Jansen, 2004:56). The Wits Education Policy Unit (2005:29) submits that there is a belief by educators, teachers' organisations and experts in education matters that the South African Council for Educators could do more to professionalise education. Lack of capacity has been identified as one of the obstacles that impact negatively on the South African Council for Educators' contributions, the Chief Executive Officer (CEO) of the South African Council for Educators (2005) asserted in a conference. Gardiner and Diltiens (2002:11) point out that the South African Council for Educators employs only four people in its professional development unit. Consequently, most cases and educators' developmental needs that are referred to the council are not attended to.

When it comes to matters of professionalism, the Chief Director of Quality Assurance in the North-West Department of Education, Dr Molale (2008), concurred with the Wits Education Policy Unit that the South African Council for Educators has in the past conceptualised its role wrongly as it saw itself as a service provider to educators, in as far as it ran professional development workshops for educators instead of seeing itself as regulating such programmes. Following the enactment of the SACE Act, its conception is changing as it now aims to enhance the status of the teaching profession and to promote the development of educators and their professional conduct. The Code of Conduct is unexceptional, and its disciplinary structures and procedures are in accordance with the Labour Relations Act (Gardiner & Diltiens, 2002:11).

4.6. THE EMPLOYMENT OF EDUCATORS ACT

This act was enacted in parliament for the sole purpose of providing for the employment of educators by the state as well as for the regulation of educators' service conditions, discipline, retirement and discharge and for matters connected to these. The act is, by nature, supposed to be the watchdog ensuring that educators

do what is expected of them and guarding against unprofessional conduct. Chapter 3 of the Employment of Educators Act clarifies the powers of employers, being the Minister of Education, the Director-General and the Head of Department. It deals mainly with procedures that should be followed in executing the administrative duties listed below:

- Appointments and filling of posts;
- Conversion of temporary employment to permanent employment;
- Transfer of educators;
- Promotions;
- Secondment of educators.

The list of duties above will be discussed later under this heading. All the above may affect the educators' lives either positively or negatively. It is imperative to note that educators employed by the state are bound by the provisions of the Employment Educations Act and, accordingly, they remain subject to such provisions.

Beckmann and Bray (2006:430) contend that the employment relationship between two parties, the employer and the employee, is a legal relationship. This employment relationship, as Beckmann and Bray (2006:430) assert in their argument, is a public law/labour law relationship of authority in which the employer exercises authority over the employee. Beckmann and Bray (2006:430) support Joubert and Prinsloo (2001:22) when they describe the relationship as a vertical relationship. However, Beckmann and Bray (2006:430) acknowledge the different rights and obligations that flow from an employment relationship. For example, the employee has rights in terms of the services he/she renders – a right to remuneration and a right to leave benefits – whilst the employer also has rights in terms of the services he/she receives – a right to have work agreed upon performed. In addition, the employee has the right to strike, and the employer has the right to lock out.

It is significantly notable that the educators' employment relations in South Africa have become considerably unionised which causes the employment relationship to

be comprised of both individual and collective labour law. It is inevitable then to ignore the interrelationship that exists between the various forms of legislation. However, Zengele (2009:56) contends that the emphasis in education is that educators are employed in terms of the Employment of Educators (EEA) Act 76 of 1998 (SA, 1998); accordingly, the provisions of the EEA take precedence over labour legislation that generally applies to all South African citizens. Based on Zengele's and other scholars' submissions, it is deduced that policy documents do not in themselves constitute law, but they should be perceived as executive documents that outline policy plans and action plans for implementation.

4.6.1. The appointment of educators

Section 4(1) of the Employment of Educators Act states that the Minister of Education determines salaries and educators' conditions of service. Educators' appointments remain the responsibility of the Head of Department (HOD) of every province. Such appointments may only be made on recommendation by the School Governing Body (SGB). Educators in excess may only be identified by the Head of Department. Since the principal is the legal representative of the Head of Department at school level (section 6(3a)), this becomes his/her responsibility.

Section 6(3b) allows the Head of Department to decline the nomination of the SGB if the correct and fair procedures have not been followed or if the candidate does not meet the requirements for the post as determined by the Minister. It should be noted that this process of declining nominations may take a long time and may have a negative impact on teaching and learning. Furthermore, the amendment of the above sections of the Employment of Educators Act in 2006 (Education Law and Policy Handbook) gives the Head of Department the powers to overrule the recommendations and order of preference of candidates for appointment.

This is perceived as bureaucratic manipulation of the legislation and disempowerment of the SGB, as well as a futile exercise since the Head of Department is not expected to be well informed about the suitability of candidates for the advertised posts. In an ideal situation, the best decision should rest with the

stakeholders at school level without contravening the Employment of Educators Act. Lately, there has been a plethora of cases pertaining to the provincial Heads of Department's disregard of SGB recommendations after interviewing candidates. This raises the question as to whether the Department of Education is committed to advancing transformation through legislation and parents' involvement in education. Section 195(1) of the Constitution states categorically that the filling of new posts and redeployment should be guided by:

- The ability of the candidate;
- The need to address the imbalances of the past in order to achieve broad representation.

In essence, to promote professionalism, the candidate must be suitably qualified for the post applied for and considerations should ensure that candidates cover broad representation of women, disabled people and the previously marginalised racial groups.

4.6.2. The redeployment of educators

With the integration of the education system, a new challenge arose whereby the influx into well-resourced schools left township schools with staggering learner numbers. This led to the process of redeployment, alternatively known as right-sizing, determined in the Education Labour Relations Council (ELRC). The redeployment of educators is a process aimed at posting educators to schools where their expertise is needed most. Schools which have low learner enrolments have to follow the agreed upon procedures when transferring or redeploying educators.

In terms of the Employment of Educators Act's Resolution 6 of 1998 section 2.4, operational requirements should be limited to:

- A change in learner enrolment;
- Curriculum changes;
- A change in the grading of the particular school;

- Financial constraints.

The implication here is that a negative change in learner enrolment may result in an educator's post being declared in excess whilst a positive change in learner enrolment may add another post to the post establishment of the school. However, the change must be significant to cause a loss of or an addition of a post. This is calculated at an educator-learner ratio of 1:30 in secondary schools. A school, as a juristic person, may decide to extend/replace or limit the curriculum by one subject due to financial constraints. However, whether there is a limitation or an extension, it affects the process of redeployment. It must be noted that a school could be upgraded or downgraded due to learner enrolment; this process also has both a negative and a positive impact on the placement of educators. The process of redeployment is a life-changing factor in educators' professional lives and it is not popular.

Paragraph 2 of the Employment of Educators Act's Resolution 6 of 1998 states that procedures have to be in place for the rationalisation or redeployment of educators, and educators in excess should not be declared redundant, resulting in their retrenchment. According to this Resolution, the redeployment process was supposed to start on 5 February 1999 and be completed by 30 June 1999. To date, the process is still on-going although the original provisions were amended by Resolution 2 of 2003. In 2005, SADTU (www.sadtu.org.za) referred to the redeployment of educators as a good policy that has been poorly administered by the bureaucracy of the Department of Education. Zengele (2009:56) argues that the implementation of this policy at school level is done incorrectly. Zengele (2009:56) substantiates his argument by stating that his qualitative study found that some managers use the policy to get rid of educators who:

- Are perceived as incompetent;
- Seem to be advocating progressive change in schools that resist democratic ideals;
- Are suspected to be terminally ill due to HIV/AIDS;
- Lack commitment and are professionally unproductive.

The list above is evident of the negativity that is associated with the process of redeployment. As Zengele (2009:56) contends, this process is bureaucratically abused by the departmental officials and principals; and teacher unions follow suit.

In concluding the above matter, it is important to note that due to the realisation by educators and the SGBs of the significant role of legislation in education, there has been a plethora of litigation elicited by maladministration of appointments and the redeployment/transfer of educators. In the interest of all stakeholders in education, the courts are making a major contribution to the process of refining the basic rights within the realm of education. This study, therefore, has to determine the stakeholders' knowledge and raise awareness of legislation that is instrumental in regulating the education fraternity.

4.6.3. The Personnel Administration Measures

The PAM document states that the principles of fairness, justice and generally accepted principles relating to the recruitment of educators have to be taken into account when the processes involved in recruitment are carried out. The following are the processes involved in the recruitment of educators: advertising, sifting, short-listing, interviewing, recommending and ultimately, appointing.

The department is responsible for advertising posts as informed by vacancy lists from schools and also has to do the sifting process before the applications are sent to schools. Section 3.3(b) indicates that the short-listing and interview committee should be comprised of:

- One departmental representative who may be the principal sitting in as an observer and resource person (this person must have all the relevant information about the process);
- The school principal, if he/she is not the applicant;
- School Governing Body members, except the educator component in the School Governing Body who are applicants;

- One union representative per union that is represented at the Education Labour Relations Council (ELRC) (union members sit only as observers).

It is worth mentioning, though, that Schwella *et al.* (1996:41-42) are convinced that in education, recruitment is hampered by the package associated with a position and attitudes relating to public employment. They contend that the attractiveness of a post's package (remuneration, fringe benefits, working conditions, opportunity for promotion and potential job satisfaction) and not the sophistication of recruitment methods guarantee a successful recruitment campaign in the long run. The implication here is that if the package offered by the teaching profession is inferior to similar positions in the private sector, the educational sector will not recruit the best possible candidates.

According to Schwella *et al.* (1996:41-42), the attitudes of the general public regarding public employment affect the recruitment of candidates with potential. Schwella *et al.* (1996:42) pursue their argument and submit that some people view the education field as desirable, while others do not prefer it due to real or perceived discrimination, teacher unions' identification with political parties and new policies. The attitudes of the general public are mainly formed by what they see and hear in the mass media: Strikes and negative articles in newspapers or on television regarding education contribute to the negative attitudes the general public has of the teaching profession.

4.6.3.1. *Time-off*

Chapter G section 3.1 of Employment Educators Act provides for time-off to be given to educators who serve in teacher unions as office bearers and who have to attend union-related meetings at provincial and national levels for collective bargaining purposes. They may also take reasonable time-off to prepare for such meetings. The proviso is that there must have been communication between the union and the employer. Section 3.2 allows union representatives to represent members during disciplinary hearings, grievances and dispute resolution hearings,

including redeployments and dismissals. Measures contained in the Personnel Administration Measures document are based on the acknowledgement of the labour rights entrenched in the Constitution of the Republic of South Africa, Act 108 of 1996 (SA, 1996a) and the Labour Relations Act 66 of 1995 (LRA) (SA, 1995) as well as those espoused by the Education Labour Relations Council (ELRC) which seeks to promote labour peace.

However, time-off should neither disrupt the process of teaching and learning nor affect levels of productivity in schools. It is stipulated in the Personnel Administration Measures document that arrangements for time-off should not compromise the integrity of the education system and must take into consideration the constitutional rights of the child to receive quality education. This, according to Zengele (2009:57), is another area of policy that continues to deprive learners of valuable contact teaching time. According to Zengele (2009:57), there is an existing belief that the effective participation of unionists tends to ascertain that no stone is left unturned when dealing with crucial sections of the Employment of Educators Act.

The time-off policy aimed at allowing union office bearers time to attend to hearings is viewed as an indication that the employer is willing to waste teaching and learning time rather than to employ mechanisms to maximise quality teaching and learning time. This can further be interpreted as an admission of guilt by the Department of Education that it cowers where unions are involved, and this adversely affects policy implementation at school level. This refers back to Zengele's argument earlier that section 23(2) of the Constitution which provides for the right to strike is contrary to section 29 of the same Constitution that advocates the right to education. It also refers back to the contention of Oosthuizen *et al.* (2009:52) that section 23(2) is contrary to section 28(2) of the Constitution, namely that ***"a child's best interests are of paramount importance in every matter pertaining to the child"***.

4.6.3.2. *Conditions of service*

The Personnel Administration Measures (PAM) constitutes an integral part of educators' conditions of service as stipulated in the Employment of Educators Act. The scope of applicability covers institution/school-based educators, technical colleges and colleges of education. The Personnel Administration Measures document also regulates educator post establishment and post levels. The number of learners plays a major role in determining how many posts should be provided per school as well as the different post levels. The workload of school-based educators is also outlined in the Personnel Administration Measures document as well as the duties and responsibilities of educators assigned to different post levels. It is important to note that this is yet another contested policy area between the teacher unions and the employer since unions are always fighting for improvements in the conditions of service.

A relative value is attached to an education qualification in accordance with the measures set out in the Personnel Administration Measures (PAM) document. The number of recognised prescribed full-time professional or academic years of study at any approved university, university of technology or college of education determines the Relative Education Qualification Value (REQV). For example, the minimum requirement for a new entrant into the education system is a relative education qualification value (REQV) 13 qualification which must include appropriate educator training. The document also gives guidance pertaining to the determination of salaries: taking into consideration the educator's educational qualifications (in other words, the relative education qualification value), experience and rank or post level.

The Personnel Administration Measures document also provides clarity on payment of allowances to educators who perform supervisory duties at hostels and to educators who perform exam-related duties. It also stipulates and gives clarity on travel allowances.

4.6.3.3. *Secondment of educators*

In recognition of expertise and skills, sometimes, the employer moves educators temporarily to a particular post to perform special duties within the organisation. Employee organisations are also entitled to have educators seconded to organisations registered with the Education Labour Relations Council to take up full-time positions through elections. Payment in respect of seconded educators is arranged by the employer or employee organisation concerned.

4.6.3.4. *The grievance procedure*

If an educator is aggrieved regarding, for example, his/her service conditions, allocation of work, promotions, *et cetera*, it is possible to address such by making use of the grievance procedure. Being employed in terms of the Employment of Educators Act, educators are subject to the grievance procedure contained in Chapter H of the document.

The grievance procedure requires that an educator must lodge a formal written grievance within a reasonable period of time but, in any event, not later than 90 calendar days following on the time and date on which the alleged grievance occurred. The objective of the grievance procedure is to try and resolve a complaint at personal level, as close to the source of the complaint as possible and as quickly as possible. This should be done in order to prevent the grievance turning into a dispute or a serious conflict that could harm the smooth functioning of the institution.

In the case where a grievance cannot be resolved as described above and where it is consequently registered as a dispute in terms of the Education Labour Relations Council, such registered dispute can be dealt with in terms of the dispute resolution procedures as set out in the Personnel Administration Measures document.

4.6.3.5. *Termination of services*

Chapter 4 addresses termination of services by educators for various reasons, namely:

- Retirement;
- Discharge of educators due to abolition of post or misrepresentation;
- Discharge of educators on account of ill-health;
- Discharge due to abscondment;
- Discharge of educators appointed on probation;
- Resignations.

In such cases as listed above, educators are struck-off the register kept by the South African Council for Educators (SACE). By implication, a relationship exists between the South African Council for Educators and the Employment of Educators Act. Although the educators' professional relationship with the South African Council for Education is distinguished from their employment relationship with the Head of Department, these relationships have a mutual influence on each other. Therefore, records of disciplinary procedures and sanctions thereof must be forwarded to the South African Council for Educators.

4.6.3.6. *Incapacity and misconduct*

Incapacity and misconduct are dealt with elaborately in Chapter 5 of the Employment of Educators Act. If it is alleged that if an educator is unfit for the duties attached to the educator's post or incapable of carrying out those duties efficiently, the employer will assess the educator's capacity and may take action against the educator in accordance with the incapacity code and procedures for poor work performances as provided in Schedule 1 (Section 16 substituted by section 9 of Act 53 of 2000).

Section 17 (substituted by section 10 of Act 53 of 2000) clarifies serious misconduct which directly leads to dismissal. If it is alleged that an educator has committed

serious misconduct as contemplated in subsection (1), the employer has to institute disciplinary proceedings in accordance with the disciplinary code and procedures provided for in Schedule 2. The disciplinary code and procedures for educators outline the purpose and scope, principles and Code of Good Practice as contained in Schedule 8 of the Labour Relations Act 66 of 1995 (SA, 1995). The Code of Good Practice gives clear details pertaining to disciplinary procedures for less serious misconduct, sanctions, issuing notices of enquiry, conducting disciplinary hearings, suspensions and appeals.

Types of misconduct that do not warrant dismissal are dealt with in section 18. Section 25 of Employment of Educators Act allows educators charged with misconduct to appeal against whatever decision taken or sanction imposed by the employer. This reflects the democratic element of the act as expected and is in accordance with the supreme law of the country; the Constitution. Procedures laid down in Schedule 2 must be followed when an appeal is lodged. Generally, the Employment of Educators Act (Chapter 7) addresses other issues such as performance of other work by educators (for example marking external examination scripts), offences and penalties, regulations and assignment of functions. Offences are categorised under sections 17 and 18 according to their seriousness, and penalties thereof are adapted to the nature of the offence.

It can be deduced from the provisions of Employment of Educators Act that acquaintance with the act is vital as it can either be a lifeline if interpreted correctly and comprehended well or signify the demise of the educator's professional life if misunderstood and ignored. If followed, the act could be a good guiding companion to an educator, yet if contravened it can become an educator's worst foe. It must be realised that the provisions of the Employment of Educators Act which specifically regulate educators' employment may even take precedence over labour legislation that generally applies to all employment relationships in South Africa (Beckmann & Bray, 2006:343).

4.6.3.7. *The education leave measures*

According to the Regulations regarding the Terms and Conditions of Employment of Educators (South Africa, 1995:25-44) and Education Labour Relations Council (1997:11-14), leave of absence from duty by an educator is granted by the relevant provincial education department with due regard for the requirements of the department or educational institution concerned. Leave of absence has a direct relationship with the Personnel Administration Measures document which provides for educators' termination of services. When services of an educator terminate for whatever reason, except when the educator reaches the pensionable age, all leave credits lapse on his/her last day of service, and he/she cannot claim the cash value of these credits .

In terms of Education Labour Relations Council, Resolution 7 of 2001, absence from duty that is recorded as leave can be classified under one of the following categories:

- Normal sick leave;
- Temporary incapacity leave;
- Permanent incapacity;
- Leave for occupational injuries and diseases;
- Special leave for study purposes, examinations, quarantine purposes, participation in sports or cultural events, urgent private matters, confinement, adoption leave, family responsibility leave, unpaid leave, unpaid leave for continuity of service and extraordinary circumstances.

Regulations are clear with regard to leave, namely leave is not a right but a privilege that can be denied if the institution needs the educator at the time of application. There is only one type of leave that is a right: confinement leave.

The Employment of Educators Act is directed towards promoting professional conduct within the teaching fraternity in South Africa. Educators are expected to

adhere to professional requirements/characteristics mentioned in Chapter 2 (2.2.1). A clear framework for the role of educators as professionals is created through this legislation. The importance of investing in the formulation and enforcing of national education legislation can never be overemphasised. Legislation provides the solution when there are conflicting ideas and unacceptable conduct, and it has to be utilised effectively. The legal instruments place or locate educator professionalism within an arrangement of democratic accountability. As the report of the Working Group on Values in Education puts it, it is the educator who is accountable to the citizens of the democratic society. According to a report from the Human Resource Section of the DoE in the North-West Province (2008:23), leave is so abused that if principals fail to properly manage it, it might have dire consequences. Leave, as Education Labour Relations Council Resolution 7 of 2001 stipulates, is a privilege not a right. This means that the principal may decline an educator's leave application if the school cannot afford not to have the educator at work. Abuse of leave is another example of unprofessional conduct, and this includes leave granted to union office bearers which is unregulated.

Sujee, a school principal in Gauteng, confirmed how leave is abused by educators if it is not well managed by the principal (2010:3). Sujee emphasised the fact that educators have to realise that teaching is a calling not just a job. As a seasoned principal, Sujee has found it difficult to challenge the culprits (educators who abuse leave) and to prove their misdemeanours. However, a panel of experts gathered by *The Sunday Times* in 2010 asserted that the principal as head of the institution has to have policies that establish an ethos of effective learning and teaching. According to the panel, the School Governing Bodies should adhere to actions taken by the principal to address issues such as educator absenteeism and educator performance. The governing bodies, as the panel argued, have the powers to request a report from the principal on educator absenteeism and can further make recommendations on how to deal with educators who show a certain pattern of absenteeism. Should it happen that the report indicates a serious absenteeism pattern for a particular educator; the educator could be summoned to a hearing with the governing body which can then refer the matter to the human resource

department for sanctions. The implication by the panel is that the governing body has tremendous authority to ensure that educators are in line with policy, procedure and practice.

4.7. THE SOUTH AFRICAN SCHOOLS ACT (SASA)

The significant role of parents in education can never be overemphasised as is evident in the Education Laws Amendment Act of 2007 (ELAA). According to Heystek (2008:11-12), the pressure to provide quality education and the exposure and experience of the communities to high quality education will have an influence on the ability of school governing bodies to ensure and support schools to deliver quality education. This calls for active involvement of parents in supporting schools and promoting the best interest of the school. Conversely, Heystek (2008:12) foresees a negative consequence from the educators' perspective which is that the proficiency of school governing bodies may lead to intrusion into the rights of professional educators. Competent school governing bodies are likely to demand high quality education and may put pressure on principals and educators to yield better results. As Heystek (2008:12) quite correctly contends, the actions of the school governing bodies may infringe upon educators' rights as professionals to determine the quality in education classroom activities. It is significant to add that this intrusion may also load more pressure and stress on the already overloaded educators.

Joubert and Prinsloo (2001:19) aver that, due to South Africa's long history of apartheid and other discriminatory acts in education, the Schools Act (SA, 1996c) was enacted with the intention to provide a uniform system for the organisation, governance and funding of schools to amend and appeal certain laws relating to schools. According to Joubert and Prinsloo (2001:19), one of the basic aims of the Schools Act is to transform education by creating and managing a new national school system.

The act makes provision for both the governance and professional management of public schools. It is easy to notice that everything the act strives to achieve is within

the framework of the Constitution which is the supreme law of the country (Joubert & Prinsloo, 2001:19). Zengele (2009:19) concurs with Joubert and Prinsloo (2001:19) when he declares that any educator who goes into the classroom unarmed with thorough knowledge of the Constitution and the Schools Act does so to his/her own professional detriment. Section 16 (1) of the Schools Act places the governance of every public school in the hands of the School Governing Bodies (SGB) whilst section 16 (3) indicates that professional management is the responsibility of the principal under the authority of the Head of Department. The implication here is that the Head of Department has the authority to, unilaterally; take certain important decisions regarding the running of the school. This, however, should not be interpreted as allowing the Head of Department to undermine the authority of the principal or, else, the appointment of the principal in the school should be declared ineffective.

Section 20 (1) of the Schools Act stipulates that the School Governing Body has the powers to recommend the appointment of educators in schools to the Head of Department subject to the Employment of Educators Act and the Labour Relations Act. Zengele (2009:52) emphasises that there is no mention of other stakeholders such as educators, parents and teacher unions as major role players in the appointment of educators in the South African Schools Act. However, section 3.3(b) of the Employment of Educators Act does make provision for one union representative per union represented in the Education Labour Relation Council (ELRC) to attend as observers only. Yet, a qualitative study undertaken by Smit (2009:419) confirms tensions in the education system in the North-West Province due to existing power relationships and incidences of interference by teacher unions during the appointment of educators.

Reference to the South African Schools Act is relevant for this study as the School Governing Body has to recommend the appointment of educators in schools and submit its recommendations to the Head of Department. This is the emphasis of the democratic role of parents in the education of their children. The Employment of Educators Act (EEA) acknowledges the role of the School Governing Bodies in

section 6 (3) (6), namely that any appointment, promotion or transfer to any post in a public school may only be made on the School Governing Body's recommendation (Joubert & Bray, 2007:93-107). However, it has become a bureaucratic trend to undermine the powers of the School Governing Bodies, and this practice also ignores the legislation as seen in the case cited by Joubert and Bray (2007:100) below:

The case of *Pudulogo Primary School v MEC of Education of the North-West Province Case no. 14754/2005 TPD* is an example where the governing body's recommendation was totally disregarded by the Department of Education. As Joubert and Bray (2007:100) confirm, the Department of Education in the North-West has become accustomed to the practice of deploying educators in excess to schools with vacancies, ignoring the obligatory duty of the School Governing Bodies to make recommendations. According to Joubert and Bray (2007:100), in this particular case, an educator refused to be transferred as his subject profile did not meet that of the school where a vacancy existed. That vacancy was later duly advertised in the open vacancy list and, as expected, the School Governing Body correctly followed the short-listing and interviewing procedures. On the morning of the interviews, the School Governing Body was notified by the department that the South African Democratic Teachers' Union (SADTU) had objected to the advertisement of the vacancy and that that objection had been upheld. Joubert and Bray (2007:100) contend that the implication was that the vacancy had been withdrawn. However, the interviewing panel proceeded with the interviews, and the School Governing Body recommended an educator who had been employed on a temporary capacity at the school as the preferred candidate.

The Department of Education declined to appoint the recommended educator and transferred the educator who had initially not consented to the transfer. As the school learnt, the educator had subsequently consented to the transfer. The school made an urgent application to the court requesting that the recommended educator be appointed and the transfer be nullified (Joubert & Bray, 2007:100). The respondent (Education MEC in the North-West) contended that the Education Labour Relations

Council's resolution pertaining to Collective Agreement No 6 of 1998 with SADTU and other teacher unions required that preference be given to educators in excess. The respondent, as Joubert and Bray (2007:100) submit, further argued that in terms of the Personnel Administration Measures (PAM), the department was within its entitlement to withdraw erroneously advertised vacancies at any time. However, according to Joubert and Bray (2007:100), the respondent conceded that its arguments were erroneous and offered to settle before the matter went to court. In terms of the settlement, the court ordered the recommended educator to be appointed and also awarded a punitive cost order in favour of the school (Joubert & Bray, 2007:100).

The case above elicits questions such as: How far would bureaucratic interference go if unchallenged? A collective agreement is a subordinate legislation, thus, how could it supersede the specific provisions of the Employment of Educators Act and the South African Schools Act? Could it be possible that the department cowers whenever teacher unions become involved in a case? How many more such cases have gone unchallenged because some of the School Government Bodies are less knowledgeable? Beckmann (in Smit, 2009:242) concludes this matter as he avers that the misconstruction of the legal framework as well as the consequent misalignment of the law can stem from either ignorance of the law or misguided decision making and even *mala fide* use of imaginary power by school leaders or provincial administrators.

4.8. CONCLUSION

In terms of legislation, a lot still needs to be done in South Africa for education to be perceived as truly a profession. Morrel (2001:293) submits that educational malpractice still goes unaccounted for. Examples would be learners who graduate from high school despite being functionally illiterate and unable to earn a living; primary school educators who fail to identify learners with normal intelligence and learning disabilities such as dyslexia, thereby denying them the right to receive special instruction and effective and appropriate education; learners who still remain victims of corporal punishment and victims harmed by negligence, to cite but a few.

The South African government, Morrel (2001:293) suggests, should begin to treat education as a profession and strive to rate it at the level of the medical profession where cases of malpractice definitely end up in courts of law.

Despite the fact that, according to Rossouw (2010:20), society has become more aware of the law and the supremacy of the constitution, the country's citizenry still lives to witness a case where an educator is taken to court for "failure to teach". Since the mid-nineties, there has been "floodgates of litigation" against schools, departmental officials and the state. There is no case on record where parents litigate against educators for "failure to teach" despite the fact that there are so many grade 12 graduates in South Africa who are illiterate and unemployable. It remains a mystery whether it is political negligence or fraud to promote learners despite their conspicuous incompetence.

Burger (2008/9:214-241) contends that government, since 1994, has never simply appointed any ANC loyalists to the positions in the ministry of finance, the commissionership of the South African Revenue Service and the governance of the reserve bank. The implication here is that government views these positions as vital and will not compromise these services by rewarding cadres for loyalty. It is evident that the government appointed people of unquestionable integrity to such positions, some with no political inclination at all, the likes of which would be Derek Keys and Chris Liebenberg who served in the ministry of finance from 1994 to 1996. To date, Burger (2008:293) pursues his argument: These services have continued to thrive well under the stern leadership appointed by the government. It is regrettable to note that education has not been afforded a similar status. The Department of Education, with its massive budget, is one of the biggest carriages on the government's hugely mismanaged budget. It continues to utilise the biggest budget, paying salaries to a huge number of incompetent employees in schools and in top management positions as is evidenced by the calibre of the school leavers in South Africa (Zengele, 2009:58). It has become clear that education is in extreme need of an overhaul of its entire staff complement and, as is the case with the Department of Finance, its needs should be prioritised.

From the literature study, it is evident that legislation has been put in place to deal with most of the educational issues concerning educator professionalism and teacher unions. However, in some cases, the law is ignored by educators and education officials alike. The state, even in extreme need, does not utilise the law effectively to protect the rights of the entire citizenry and, in particular, to adequately regulate the professional conduct of educators in many instances. In other instances, legislation seems inadequate in addressing education issues, for example the definition of an essential service (discussed in par. 4.3.3) in section 65 of the Labour Relations Act and the conspicuous silence of the Personnel Administration Measures document on the regulation of educators' conduct during strikes. Not without reason, the expectation should be that such a legal document would vividly state what is expected of educators on strike without infringing on their right to strike. The right to strike cannot be withdrawn, but it can be limited within the realms of legislation.

In this chapter, a description, analysis and critique of the various forms of legislation in South Africa have been provided, while the synergy that exists between these forms of legislation has also been highlighted. This study aims to ascertain whether legislation can be utilised and reinforced adequately to regulate professionalism and unionism. The literature study has confirmed the knowledge gaps. Although legislation contains copious provisions and theories about professionalism and unionism is well developed, the literature study confirms that the scholars have not investigated the political attitudes of educators with regard to unionism, professionalism and legislation. Evidently, there are knowledge gaps when viewed from the perspective of Education Law perspective, a discipline resorting under human sciences that deals with legislation impacting education.

CHAPTER 5

QUANTITATIVE EMPIRICAL RESEARCH

5.1. INTRODUCTION

The previous three chapters comprised a literature review on educator professionalism and teacher unionism from the Education Law perspective. Chapter 2 covered the theoretical aspect of the concept educator professionalism and its tenets and challenges. The underlying causes of unprofessional conduct, of which trade unionism in education is one, were discussed in Chapter 3, and the historical overview of trade unionism in South Africa was explained. Chapter 4 provided an analysis of all forms of legislation that are determining factors for education in contemporary South Africa. The literature review has confirmed that:

- There are gaps pertaining to education as a profession;
- Trade unionism is so politicised that it hinders professional productivity in schools;
- Legislation is inadequate as it does not clarify the role of unions in developing educators towards professional accountability;
- The Employment of Educators Act has defects too as it does not stipulate the terms and conditions relating to educators' conduct during strikes.

Accordingly, empirical research had to be undertaken to establish the knowledge level of respondents regarding professionalism, trade unionism and education legislation; to assess their attitudes towards professionalism and teacher unionism and to ascertain their knowledge level regarding legislation to regulate professionalism and unionism in education. This chapter states the rationale for the quantitative research design, explains the methodology of the research, tabulates the results and discusses the findings of this study.

5.2. OBJECTIVES OF THIS CHAPTER

The rationale behind this chapter was to give an account of the empirical study and quantitative findings. The quantitative research was designed to:

- Establish the knowledge level of respondents pertaining to educator professionalism, teacher unionism and Education Law;
- Assess the attitudes and opinions of respondents with regard to professionalism and trade unionism in education;
- Ascertain the respondents' knowledge level of the laws that should regulate both professionalism and unionism;
- Determine the political climate that prevails in schools;
- Adduce correlation, validity and reliability of sub-sets and factors;
- Determine the effect sizes between the answers of the various sub-population groups of respondents on individual questions;
- Determine the effect sizes between the means of factors for the various sub-population groups.

5.3. RESEARCH DESIGN

Quantitative research has been used predominantly in compiling this study. According to Leedy and Ormrod (2005:86), quantitative research methods are used to explore social and human problems and to integrate and measure data collected from surveys and questionnaires. Quantitative research, including surveys and questionnaires, can help organisations to improve their performance and services by enabling them to make informed decisions (Wallis, 2010:1). According to Wallis (2010:1), quantitative research is also about asking people for their opinions in a structured manner so that hard facts and statistics can be produced for future guidelines. Hunter and Leahey (2008:36) explain quantitative research as the systematic empirical investigation of social phenomenon through statistical, mathematical or computational techniques. The objective, as Hunter and Leahey

(2008:36) state, is to develop and employ theories or hypotheses pertaining to phenomena such as education or sociology. Quantitative research is generally accomplished through the use of scientific methods which include, *inter alia*, collection, collation and analysis of data.

This quantitative study was designed as a non-experimental cross-sectional study to determine the role of educator professionalism and teacher unionism from the Education Law perspective.

5.3.1. Survey: Public Secondary Schools

This research study comprised a survey conducted among educators and school principals in the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH) Area in the Dr Kenneth Kaunda District of the North-West Province. The choice of this area was influenced by factors such as proximity, logistics, availability of time, availability of financial resources and convenience. The prior knowledge that the area constitutes all teacher unions addressed representation. Historical incidences of educator unprofessionalism also informed the decision to choose the KOSH Area. The decision to focus only on secondary schools was informed by the poor academic performance in grade 12. The purpose of the quantitative study was to obtain an overview from the population involved in public secondary schools pertaining to educator professionalism and teacher unionism from an Education Law perspective. A questionnaire was developed and designed to compare the biographical data, knowledge levels, attitudes and opinions towards educator professionalism, teacher unionism and legislation. The questionnaire was meant to determine the political climate that prevailed in schools as it relates to different respondents.

5.3.1.1. Population

In order to answer questions relating to the aims of this study and to provide unbiased findings, a survey of the schools' population in the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH) Area was conducted. All the public schools in the four circuits of the KOSH Area (see Table 5.1) formed part of the survey. It

was expected that the survey would be representative of the following range of school types in the four circuits:

- Rural farm schools;
- Rural mine schools;
- Suburban schools;
- Township schools;
- Urban schools.

In order to obtain a statistically significant sample, 10 participants were randomly selected from the total educators' population of each school. The selection was informed by the staff list obtained from the principals. The target population, therefore, consisted of:

- All the principals (n = 34) in the KOSH Area;
- One deputy principal per school (n = 34);
- Two randomly selected departmental heads per school (n = 68);
- Six randomly selected post level 1 educators per school (n = 204).

Every selected educator was handed a questionnaire and requested to participate. It was expected that there would be members of different unions in each school and there would also be educators who were not affiliated to any trade union. All independent schools in the area were excluded from the population. This demarcation was necessitated by the need to maintain the focus on the aim of the study, namely to research professionalism, unionism and the impact of legislation at the micro-level of public school education in the KOSH Area.

It was expected that voluntary randomised sampling could possibly result in under-sampling as some of the educators may decline participation. Therefore, in order to compensate for possible under-sampling as a result of voluntary participation, the researcher had oversampled by distributing more questionnaires to larger schools.

5.3.2. Development of the measuring instrument – A structured questionnaire

The researcher developed a structured questionnaire (see Appendix F) as the measuring instrument. The questions were based on the variables that were identified in the literature study, and they covered the following:

Section A: Biographical and demographical information

Section B: Questions on knowledge and understanding of education legislation, educator professionalism and teacher unionism:

- Educators' opinions and perceptions on professionalism, unionism and legislation;
- Frequency of unprofessional conduct in schools/education;
- Public servants' (particularly educators') strikes;
- Bureaucracy's impact on education and poor management.

The following indicators were identified from the literature review (The figures in brackets are cross-references to paragraphs within the document.):

- The level of professionalism in education (2.2.1);
- Opinions and understanding of professionalism in education (2.2.1);
- Attitudes towards professionalism and its tenets (2.3 & 2.3.1);
- Debates sparked by professionalism and unionism in education (2.3.5.1, 2.3, 5.2, 3.2.5 & 3.4.5);
- The incidences of unprofessional conduct in the education system (Table 2.1 & 3.2.9.1);
- The role of trade unionism in professionalising or de-professionalising education (3.2.6);
- The politicisation of the education system and public schools (3.2.4 & 3.2.8);
- The poor management of education in schools (3.5).

5.3.2.1. *Education Law as an instrument to regulate labour and professional activities (4.1)*

5.3.2.2. *Section A – Biographical and demographical information*

A nominal scale was used to gather the biographical particulars of the respondents (Items 1-11, Appendix F) and provided the following information:

- Age, gender, race and home language;
- Position in the school hierarchy;
- Career experience in education or management position;
- Highest academic qualifications;
- Level of training ever received in Education Law.

The demographical particulars (Items 12-14, Appendix F) provided the following information about the respondents:

- Type of secondary school;
- Geographical situation of the school;
- Language of instruction at the school.

5.3.2.3. *Section B – Knowledge of legislation that regulates educators' activities*

Section B requested the respondents to indicate their answers by means of a Likert rating scale of 1 to 4, with 1 signifying the lowest and 4 signifying the highest level of knowledge or understanding. Leedy and Ormrod (2005:86) confirm that the Likert scale is one of the most reliable instruments used to justify quantitative findings. The Likert scale was used to measure, assess, compare and weigh scores based on opinions; it has limited use, though (Leedy & Ormrod, 2005:86).

The first part of Section B required of the respondents to self-assess their knowledge of education legislation. The respondents rated their answers on an interval scale ranging from poor, average, and good to excellent.

The second part of Section B required of respondents to self-assess their knowledge and understanding of professionalism, unionism and legislation that regulates educators' activities. This part of Section B also required the respondents to indicate their answers by means of a Likert rating scale of 1 to 4, with 1 signifying the lowest and 4 signifying the highest level. As is characteristic of an interval scale, this part of Section B arbitrarily established the points of beginning and measured the responses in terms of equal intervals (Leedy & Ormrod, 2005:28). All the questions in this section assessed the respondents' knowledge and understanding of professionalism, unionism, education policies and legislation.

The second part of Section B also assessed the respondents' attitudes towards and perception of professionalism, unionism and education legislation as applicable in a school system. It also measured the occurrence and frequency of unprofessional conduct in the school system and the possible causes thereof. Questions in this part assessed the relation between the knowledge and application of legislation in regulation of professionalism and unionism. The respondents' answers were able to attest/oppose the existence of knowledge and application/interpretation.

In addition, two open-ended questions that were intermittently infused within Section B collected quantitative data on the opinions, perceptions and views of the respondents (see Appendix F). The qualitative data from these questions would be used in triangulation to confirm or refute the validity of conclusions reached in chapter 6.

4.3.3. The target population: The Profile of Secondary Schools in the KOSH Area.

In an effort to improve the questionnaire, the researcher undertook to check for technicalities with some educators. The initial draft questionnaires were distributed to 10 educators who did not form part of the final sample of respondents. The selected participants were one school principal, one deputy principal, three departmental heads and five post-level 1 educators. The answers, queries and responses of the

participants were analysed for ambiguity, misinterpretation and mistakes. Based on the queries and responses, the ambiguities in the wording of certain questions in sections B were identified and addressed.

The measuring instrument was reviewed by Dr SM Ellis of the Statistical Consultation Services of the North-West University for elements containing possible bias and ambiguity (Ellis, 2010). The comments and suggestions from the Statistical Services Department of the North-West University were taken into account and the wording of certain questions in Section B was amended to remove possible bias and ambiguity. After the checking process was completed, the format and content of the questionnaire were finalised.

A list of the total population of public secondary schools in the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein Area (KOSH) was obtained from the Matlosane Education Area Office, and a compilation of schools was compiled (Matlosane, 2010). Within the KOSH Area, there are 41 secondary schools, 34 of which are public schools and seven are private schools. Out of the 34 public schools, three were newly registered and did not yet have records of performance at matriculation level.

Although the Department of Education promotes multiculturalism, most of the township schools did not yet reflect this envisaged state. The quality and quantity of results in township schools and urban/suburban schools differed vastly, as was the case with the infrastructure (Molale, 2007:11). The analysis of these schools in the KOSH Area is organised into the different categories of schools listed in paragraph 5.3.1.1 (Table 5.1).

Table 5.1. Number of educators in the public secondary schools of the KOSH area

CIRCUITS	PUBLIC SECONDARY SCHOOLS	LOCATION	NUMBER OF EDUCATORS	SITUATION	2008	2007	2006	2005
MEEPONG	1. Borakanelo	Khuma	43	T	71,62	55,77	44,66	62,50
	2. Dirang Ka Natla	Khuma	26	T	74,19	58%	85,31	66,57
	3. Stilfontein	Stilfontein	13	S	100	100	97,78	98,25
	4. Thuto-Thebe	Khuma	32	T	47,73	57,27	63,93	54,55
	5. Vuyanimawethu	Khuma	35	T	60,28	55,24	70,43	77,66
TSWELELOPELE	6. Alabama	Alabama	39	T	64,38	58,52	82,86	67,12
	7. Alabama Comb.	Alabama	12	T	No entries yet			
	8. Gaenthone	Hartebeesfontein	38	T	67,12	85,71	18,12	44,96
	9. Metebong Sec	Jouberton	17	T	57,14	46,15	100	49,28
	10. Chris Hani	Jouberton	19	T	45,10	65,52	80,00	61,90
	11. Cocekani	Jouberton	30	T	54,79	80,77	80,95	50,85
	12. Letlhasedi	Klerksdorp	13	RF	83,33	53,85	93,33	100%
	13. Are-Fadimeheng	Jouberton	47	T	71,60	80,63	80,63	82,53
	14. Milner	Klerksdorp	32	U	97,18	95,30	99,33	96,43
	15. Mofatlhosi	Jouberton	22	T	59,60	39,02	75,00	67,90
	16. Tshedimoseiso	Jouberton	27	T	46,67	79,12	62,83	73,68
	17. Thuto-Tsebo	Kanana	24	T	47,73	85,71	81,45	73,81
MOTAUNG	18. VaalReefs Tech.	Orkney	68	RM	84,53	92,62	86,21	83,17
	19. Orkney H.S.	Orkney	16	U	98,55	95,65	98,41	93,44
	20. Kanana	Kanana	28	T	41,24	57,41	40,38	64,56
	21. Tshebedisano	Kanana	33	T	46,67	58,93	83,12	78,33
	22. Matlhaleng	Kanana	21	T	68,00	79,35	66,32	64,36
	23. Mmonkeng	Kanana	28	T	95,45	78,31	66,67	69,92
	24. Klerksdorp Sec	Manzilpark	20	S	86,52	91,30	95,66	78,79
	25. Klerksdorp HTS	Klerksdorp	32	U	99,26	94,35	98,78	97,87
	26. Schoonspruit	Klerksdorp	23	S	100,00	100%	98,04	100%
	27. New Vision	Klerksdorp	18	S	73,26	-	-	-
	28. Nkang-Mahlale	Jouberton	28	T	87,21	86,56	80,65	50,57
REFENTSE	29. Tsamma	Jouberton	28	T	61,21	80%	99,44	88,31
	30. Wesvalia	Klerksdorp	30	S	100,00	99,43	80,22	100%
	31. Matlosana	Jouberton	32	T	73,61	95,92	80,22	83,61
	32. Dominion Reefs	Dominionville	18	RF	43,75	-	-	-
	33. Phakela Comb.	Klerksdorp	11	RF	90,00	38,46	98,74	12,50
	34. Klerksdorp H.S.	Klerksdorp	36	U	100,00	98,66	100	100

Source: Matlosana Education Area Office 2010

T – Township

RF – Rural Farm

RM – Rural Mine

S – Suburban

U – Urban

Following the recommendations of the statistical consultant, Dr SM Ellis (2010) from the North-West University's Statistical Consultation Services, all 34 schools in the KOSH Area formed the target population. It was anticipated that the respondents would be representative of the diverse segments and perspectives on the issues of the study's focus in their respective schools.

5.4. DISTRIBUTION AND COLLECTION OF QUESTIONNAIRES

In order to collect sufficient quantitative data, the researcher preferred addressing the respondents personally and handing out the questionnaires thereafter. In most cases, where it was reasonably possible, the questionnaires were filled in and collected the same day. During distribution, emphasis was placed on the fact that participation was voluntary and that the responses would remain anonymous and confidential. The nature and the aims of the study were explained to participants. The participants were requested to provide written and signed consent to the completion of the questionnaires. Some participants were of the opinion that filling in the questionnaire was an indication of consent. In some cases, due to time constraints, the questionnaires were left with respondents, and the researcher arranged dates for collection with the groups of participants.

Letters requesting permission (Appendix D) from principals were sent to all 34 schools, with letters from the departmental officials (Appendix C) allowing the researcher to profile schools. The letter (Appendix D) explained the procedure that would be used and requested the principals, deputy principals, departmental heads and educators at post-level 1 to complete the questionnaires independently. Each school thereafter received 10 identical questionnaires (see Appendix F) distributed by the researcher.

5.5. RESEARCH PROPOSITIONS

The researcher had postulated that with regard to knowledge, application and understanding of the principles and tenets of professionalism as well as knowledge and application of legislation that pertains to education, the study would:

- Demonstrate gaps and poor knowledge of what professionalism entails;
- Demonstrate a prevalence of unprofessional conduct;
- Demonstrate inadequate knowledge of legislation regulating educators' professional and labour activities;
- Demonstrate significant adverse effects of trade unionism in education;
- Demonstrate a prevalence of bureaucratic control and poor management in the education system.

5.6. DATA ANALYSIS

The responses were analysed with the assistance of the Statistical Consultation Services of the North-West University. The information from the questionnaire was coded into a computerised data base of the afore-going service, and the application of the widely used Statistical Analysis package, known by the acronym SAS (SAS, Institute Inc., 2003), made it possible to do the required statistical analysis.

5.7. VALIDITY AND RELIABILITY

According to Leedy and Ormrod (2005:28), the validity of a measuring instrument is the extent to which the instrument measures what it is expected to measure. McMillan (2008:50) submitted an alternative view and asserted that the latest definition of validity is the extent to which inferences, claims, interpretations, uses and conclusions are sound and appropriate.

The researcher endeavoured to obtain fact validity by relating all items in the instrument to the study's focus area (theme), namely educator professionalism and teacher unionism as viewed from the Education Law perspective. The content

validity was established by determining the coherence between the theme of educator professionalism, teacher unionism and education legislation and the variables listed in Section B of the instrument. Construct validity was ascertained by factor analysis on the different sub-divisions of Section B.

Reliability, as described by Leedy and Ormrod (2005:29), is the consistency with which a measuring instrument yields a certain result. Reliability, according to McMillan (2008:49), should take the measurement error into account. According to Field (2005:674), a Cronbach alpha value of 0.70-0.80 is an indication of good reliability though lower values may be expected. The statistical consultant, Dr SM Ellis (2011) of the University of the North-West's Statistical Consultation Services, explained that the Cronbach alpha coefficient of the extracted factors was calculated in order to determine the reliability of the scale and to show the relationship between variables. Dr Ellis (2011) further confirmed that a Cronbach alpha value of more than 0.50 could be regarded as acceptable.

5.7.1. Qualitative research

In addition to the prior quantitative method, a basic qualitative research was conducted to measure the extent of the attitudes of participants towards professionalism and unionism in education. This was done in order to arrive at a realistic, descriptive and exploratory representation of the phenomena. The decision to use a mixed-methods approach was intended to provide structure for the development (Creswell, 2009:77) of "more complete and full portraits of our social world through the use of multiple perspectives and lenses", as espoused by Somekh and Lewin (2005:275).

Qualitative research is a method whereby researchers try to explore and understand the complexity of the phenomena being studied by immersing themselves into the subject matter (Leedy & Ormrod, 2005:148). However, the nature of the qualitative component of this study was very basic and limited to the two open-ended questions in the quantitative survey.

5.7.1.1. Data collection

The data for the descriptive research was collected through the same instrument (Appendix F) that was used extensively for the quantitative research. Two qualitative open-ended questions were intermittently used within the questionnaire to obtain comments regarding the phenomena being studied (see Appendix F, items B10 & B65.2).

5.7.1.2. Participants

The participants in the qualitative research (the open-ended questions in Section B10 and B65.2) were all the educators and participants who participated in the quantitative study from schools of the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein area of the Dr Kenneth Kaunda District of the North-West Province (see Table 1.1). Accordingly, the principals, deputy principals, heads of department and educators at post level 1 participated in this research. These participants were varied in terms of teacher unions' affiliation, and among them were educators not affiliated to any teacher union. Participants were requested to provide written comments on two open-ended questions included intermittently within Section B.

5.7.1.3. The role of the researcher

In order to compare and analyse data, the researcher undertook to go through all the comments. According to Leedy and Ormrod (2005:141), it is imperative for the researcher to suspend any preconceived notions or personal experiences that could unduly influence him or her during the collation and analysis of data. Data collected should reflect the thoughts, perspectives, attitudes and opinions of participants without the possibility of distortion. By remaining detached from her personal notions and experiences, the researcher was able to present data with accuracy.

5.7.1.4. Aims of the qualitative part of the study

To further explore the aims of the quantitative research, the qualitative research study would determine the following:

- The extent to which the South African Council of Educators has succeeded or not education as well as the role of the government in professionalising education;
- The prevailing perceptions and opinions regarding unionism;
- The extent to which unionism plays a role in teachers' unprofessional conduct;
- The extent of the prevailing political control some unions might have in education as well as the undemocratic atmosphere succeeded to professionalise teacher unionism creates in public schools.

5.7.1.5. *Analysis of qualitative data*

The process to analyse the qualitative data involved consolidation, deduction and interpretation of the respondents' comments in the questionnaires. Leedy and Ormrod (2005:150) state that the method of analysis and evaluation of data is largely through interpretation of what participants say or write. Data was compared and analysed. Themes were identified and coded accordingly (Maree, Creswell, Ebersohn, Eloff, Ferreira, Ivankova, Jansen, Nieuwenhuis, Pietersen, Plano Clark & van der Westhuizen, 2009:109). The researcher, therefore, sought to identify common themes in the participants' descriptions of their notions and experiences pertaining to the phenomena (Maree *et al.*, 2009:109 and Crano & Brewer, 2002:137).

5.7.1.6. *Synthesis of qualitative data*

The meaning of the findings of the qualitative data was evaluated and synthesised and integrated into the findings of the quantitative research. In the final chapter, all the qualitative and quantitative findings are synthesised into conclusions and recommendations pertaining to teacher unionism, educator professionalism and Education Law.

5.7.2. Credibility and Trustworthiness

Maree *et al.* (2009:80) assert that in qualitative research the researcher is the data gathering instrument, thus, validity and reliability refer to research that is credible and trustworthy. In order to enhance the internal validity and reliability of the study, the triangulation technique was applied. Triangulation, according to Maree *et al.* (2009:39) and Crano and Brewer (2002:161), is the process of verification whereby the results of analysed and interpreted data from different sources are compared. It was from the convergence of similar points of agreement that verification of the conclusions occurred.

5.8. STATISTICAL TECHNIQUES

Descriptive and inferential statistics to unlock the desired information was utilised. The following techniques were used to analyse the data:

- Determination of frequencies and percentages of biological and demographic data of the sub-populations of respondents (educators, including union members, and the school management teams);
- Determination of averages and standard deviation of all the questions and sub-population of respondents;
- Factor analysis;
- Determination of reliability of appropriate sections of the questionnaire by means of the Cronbach alpha value (Anastasi, 1988:124);
- Determination of the effect sizes amongst the respondents' answers to individual questions by means of Tukey's *post hoc* and Levene's *t*-test for equality means; and
- One-way analysis of variance (ANOVA) and effect sizes between the means of the extracted factors for the various sub-populations of respondents.

5.9. RESULTS OF THE EMPIRICAL STUDY

The results of the empirical research are tabulated below (Table 5.2). The descriptive statistics are discussed in the following order:

- Objective of the section;
- Combined data;
- Comparison between the educators at different levels; and
- Synopsis.

5.10. BIOGRAPHICAL AND DEMOGRAPHICAL DATA: SECTION A

5.10.1. Objective of Section A

The aim of Section A was to obtain and compare biographical information (such as age, gender, qualifications, experience, race and language) and demographical data about the various sub-population groups of respondents in public secondary schools.

5.10.2. Combined biographical data

Column A of table 5.2 contains a summary of the combined frequencies of biographical data of all respondents (per school) from the 34 public secondary schools. Column B of the same table contains the summary of the combined percentages of biographical data of respondents.

Table 5.2 illustrates the combined and comparative biographical data of all respondents, as well as the percentages. The following facts are evident from the combined data:

- Educators at post level 1 (PL1 subject educators) - 190 = 64.6%
- Educators at post level 2 (PL2 HODs) - 49 = 16.7%
- Educators at post level 3 (PL3 Deputy Principals) – 29 = 9.9%

- Educators at post level 4-5 (PL4-5 Principals) – 26 = 8.8%

It is notable that not all the prospective participants took part in the study due to unavailability at schools (principals) and failure to fill-in and return the research questionnaire. The controversial nature of the research also contributed to the negativity of many SADTU members. Some educators did not return the questionnaires on time because they were writing examinations.

5.10.3. Comparison between the biographical data of all the respondents

The frequencies and percentages of the biographical data of the various sub-populations are contained in table 5.2. Table 5.2 also illustrates other variables relating to biographical and demographical data of all the respondents from the 34 public secondary schools. In comparing the various sub-populations, the following were notable:

5.10.3.1. Years of experience in the position (A2)

It is important to note that in terms of years of experience in the positions held:

- 26.5% of educators had less than five years in their respective positions
- 24.8% of educators in various management positions had occupied their posts for six to 10 years
- 31.3% of educators had more than 10 years but less than 20 years in their respective posts
- 17.3% of educators had been in their respective posts for more than 20 years

Thus, more than half of the educators sampled had more than 10 years experience in the posts they occupied.

Table 5.2. Combined and comparative data of the respondents

	VARIABLES	COMBINED DATA	
		FREQUENCY	PERCENTAGES
Management Levels A1	Educators at PL1	190	64.6
	Educators at PL2	49	16.7
	Educators at PL3	29	9.9
	Educators at PL4-5	26	8.8
	TOTAL	294	100
Experience in Position A2	0 – 5 years	78	26.5
	6 – 10 years	73	24.8
	11 – 20 years	92	31.3
	21 + years	51	17.3
	TOTAL	294	100
Career Experience A3	0 – 5 years	46	15.6
	6 – 10 years	49	16.7
	11 – 20 years	100	34.0
	21 + years	99	33.7
	TOTAL	294	100
Highest Qualification A4	Secondary Educators' Dipl.	53	18.0
	National Dipl./Certificate	56	19.0
	Bachelor's Degree/Equiv.	90	30.6
	B.Ed./Honours Degree	78	26.5
	Master's Degree	14	4.8
	Doctorate	3	1.0
	TOTAL	294	100
Training related to acts A5	Constitution of RSA	109	37.1
	EEA	117	39.8
	NEPA	106	36.1
	SASA	102	34.7
	LRA	106	36.1
Training Course in Ed. Law A6	Education Law module	64	21.8
	ACE	56	19.0
	B.Tech.(module - Ed.Law)	9	3.1
	B.Ed. (module – Ed.Law)	31	10.5
	B.Ed.Hons. (Ed.Law)	50	17.0
	Master's or Ph.D (Ed.Law)	2	.7
Affiliation to teacher unions A7	SADTU	137	46.6
	SAOU	74	25.2
	NAPTOSA	45	15.3
	OTHER	2	1.7
	NONE	36	12.2
	TOTAL	294	100.0

Table 5.2. Combined and comparative data of the respondents

Affiliation to professional bodies A8	AMESA	25	8.5
	SACE	239	8.3
	SAELA	2	.7
	SAATA	17	5.8
	OTHER	6	2.0
Race (for statistical purposes only) A9	Black	171	58.2
	Coloured	23	7.8
	Indian	8	2.7
	White	92	31.3
	TOTAL	294	100.0
Gender A10	Male	137	46.6
	Female	157	53.4
	TOTAL	294	100.0
Age A11	20 – 30 years	38	12.9
	31 – 40 years	91	31.0
	41 – 50 years	112	38.1
	51 – 60 years	46	15.6
	TOTAL	294	100.0
Home Language A12	Setswana	79	26.9
	Sesotho	45	15.3
	IsiXhosa	107	36.4
	English	22	7.5
	Afrikaans	22	7.5
	Other	19	6.4
Type of School A13	TOTAL	294	100.0
	Technical High Schools	54	18.4
	General Sec. Schools	222	75.5
	Commercial Sec. Schools	4	1.4
	Comprehensive Sec. Schools	14	4.8
Geographical Situation A14	TOTAL	294	100.0
	Rural Farm Schools	24	8.2
	Rural Mine Schools	32	10.9
	Suburban Schools	57	19.4
	Township Schools	140	47.6
	Urban Schools	41	13.9
Language of learning and teaching A15	TOTAL	294	100.0
	Afrikaans	35	11.9
	English	215	73.1
	Both Afrikaans & English	44	15.0

5.10.3.2. Career experience – total number of working years (A3)

Data pertaining to career experience confirmed the following:

- 15.6% of the population had less than five years experience in the teaching field
- 16.7% of the educators had above five years of career experience but less than 10

- 34.0% of the population had between 10 and 20 years of career experience (majority of the population)
- 33.7% of the population had been in the teaching field for more than 20 years

Thus, it was evident that there were fewer educators entering the system, and this poses a challenge to the Department of Basic Education. The more likely explanation could be the diminishing interest amongst the young generation to enter the teaching field. As Schwella *et al.* (1996:41-42) indicated in chapter 4 (par; 4.6.3), teaching is not attractive because of low salaries.

5.10.3.3. *Highest Academic Qualifications (A4)*

Deducing from table 5.2, the following was apparent:

- 18.0% of the population had only Secondary Educators Diploma – REQV 13
- 19.0% of educators had National Diploma/Certificate in Education – REQV 13
- 30.6% of educators had Bachelor's Degree/Equivalent – REQV 14
- 26.5% of the population had B.Ed. Hons/Honours Degree – REQV 15
- 4.8% of educators had/were studying towards Master's Degree – REQV 16
- 1.0% of the entire population had Ph.D/studying towards Ph.D – REQV 17

(REQV stands for Relative Education Qualification Value.)

It was interesting, though, to find that quite a reasonable number of educators were currently studying to improve their level of qualification which would move them to another REQV level. The Department of Basic Education (DBE) has been encouraging educators to upgrade their qualifications. The DBE has also gone further than just offering encouragement: It has been funding courses such as the Advanced Certificate in Education (ACE) since, by 2014, it is envisaged that the entrance level will be moved up from the current REQV 13 to REQV 14. The data collected proved that there were none or rare cases of unqualified educators in secondary schools within the KOSH Area.

5.10.3.4. *Module related to Acts (A5)*

The purpose of this question was to determine the respondents' self-assessed level of knowledge in Education Law in order to compare the results found in Section B. The following statistics were notable:

- Only 37.1% of the respondents had done a module related to the Constitution of the RSA
- 39.8% of the respondents had done a module related to the Employment of Educators Act (EEA)
- 36.1% of the respondents had engaged in studying a module related to the National Education Policy Act (NEPA)
- Only 34.7% of the respondents had done a module related to the South African Council for Educators (SACE)
- 36.1% of the respondents had done a module on the Labour Relations Act (LRA)

It was evident from the information above that despite the role played by all the legislation included in Item A5 in educators' professional lives, only small percentages of the respondents had engaged in studying modules related to this legislation.

5.10.3.5. *Education Law training (A6)*

The purpose of questions relating to Education Law was to determine the respondents' level of training received in this important area of their jobs within the education system. The responses to item A6 confirmed the following:

- 21.8% of all the respondents had formal training in Education Law
- 19.0% of the respondents had an ACE certificate in Education Law
- Only 3.1% of the respondents had received qualification in B.Tech – Education Law

- Only 10.5% of the entire population had received some training and qualification in B.Ed (module in Education Law)
- 17.0% of the respondents had a B.Ed Hons in Education Law
- A mere 0.7% of the respondents had received Education Law training when doing their Master's or Ph.D degrees

However, according to the results, it was evident that educators' level of knowledge of legislation was inadequate. The majority had one introductory module in Education Law which indicates a fairly generalised and superficial exposure to Education Law. The fact that most of the respondents (28.6%) admitted to having no formal Education Law training or qualifications, confirmed the informal nature of their knowledge and indicated the probable superficial level of knowledge of Education Law and the implications thereof in their professional and teacher union activities. The respondents' knowledge was assessed in Appendix F and was found to be inadequate.

5.10.3.6. *Affiliation to teacher unions (A7)*

The purpose of questions regarding affiliation to teacher unions was to determine the prevalence of teacher unionism in the education system and the impact thereof. The responses to item A7 confirmed the following:

- 46.6% of the population were South African Democratic Teachers' Union (SADTU) affiliates
- 25.2% of the same population held membership with the Suid-Afrikaanse Onderwysersunie (SAOU) – this high percentage was probably due to the willingness SAOU members showed towards participation in the study and their inquisitiveness and interest in the topic
- 15.3% of the population were members of the National Professional Teachers' Organisation of South Africa (NAPTOSA)
- 0.7% of the same population was affiliated to other smaller teacher unions which are not acknowledged by the Education Labour Relations Council

(ELRC) in terms of representation in the negotiations and bargaining chambers

- 12.2% of the population were not affiliated to any teacher union.

From this statistics, SADTU is the largest teacher union in the area, and this finding corresponds with national statistics. However, SAOU's high percentage of respondents does not correspond with the national statistics and is even higher. A possible explanation could be the willingness of the members of SAOU to participate in research studies. The fact that the distribution of the questionnaires coincided with the civil servants strike in which the majority of SADTU members participated could have resulted in unrealistic statistics. Many SADTU members declined to participate even after the strike (Table 5.1 – the number of SADTU respondents does not tally with reality).

5.10.3.7. Affiliation to professional bodies (A8)

The data obtained in Item A8 was aimed at determining the involvement of respondents in professional bodies and the activities thereof. The responses to this item confirmed that:

- Despite the country's outcry regarding poor performance by both learners and educators in Mathematics (Bloch, 2009:66), only 8.5% of the respondents were affiliated to the Association of Mathematics Educators of South Africa (AMESA);
- 81.3% of the respondents were registered with the South African Council of Educators (SACE) – it remained unclear how the other 18.7% entered the education system and were practising without the licence to teach, viz. the SACE Certificate, as it is a statutory precondition to be allowed to teach;
- In a democratic country whose legislation has become so prominent in the education arena, only 0.7% of the respondents were affiliated to the South African Education Law Association (SAELA);

- Only 5.8% of the respondents were members of the South African Agency of Science and Technology Advancement (SAASTA) despite the wide call made by the Department of Basic Education to educators to join this professional body. Membership is free and it was envisaged that a substantial number of Physical Science and Life Science (Biology) educators would sign up for membership;
- 2.0% were involved in other professional bodies such as the South African Principals Association (SAPA) and the South African Institute of Chartered Accountants (SAICA).

Thus, the level of professionalism is clearly very poor in the teaching profession. According to the findings, tenets of professionalism, such as specialised knowledge and continuous research, are evidently unrecognisable among educators.

5.10.3.8. *Race (A9)*

It should be noted that this item was surveyed because the patterns of union affiliation still follow historic and political trends linked to race. The data was needed also to identify trends associated with various population groups. It is important to state that although South Africa strives towards non-racialism, race is still a correlative factor determining political and union affiliation. The information obtained from the respondents was as follows:

- 58.2% of the population was Black
- 7.8% of the population was Coloured
- 2.7% of the respondents were Indians
- 31.0% of the same population was White
- 0.3% of the population did not provide an answer to this item

The percentage of whites who participated in this research was remarkably high when taking into consideration the fact that the national percentage of whites is approximately 10% and the provincial (North-West) percentage is approximately

7.5% (StatsSA, 2008:8). The high percentage of white respondents, therefore, could be attributed to the fact that educators who were willing to participate in the research were predominantly white. It also could be interest in the research topic that drew such a high percentage.

5.10.3.9. Gender (A10)

About 45.9% of the population were males, and 53.4% of the same population were females. Though 0.7 % of the population provided no response to this item, the results confirmed that the teaching field is predominantly occupied by females. The literature review in chapter 2 (2.3) confirmed that the teaching field is predominantly a place for women (Villegas-Reimers, 2003:34).

The results above accord with the national and provincial statistics which, according to the Census results of 2001 (StatsSA, 2003:8), were indicating that females outnumbered males by 8-12%

5.10.3.10. Age (A11)

The results from the respondents highlighted the following:

- 12.9% of the population consisted of educators between 20 and 30 years of age
- 31.0% of the population consisted of respondents of ages ranging from 21 to 40 years
- 38.1%, which was the majority of the population, were aged between 41 and 50 years
- 15.6% of the respondents were aged between 51 and 60 years
- Only 2.4% of the population had already entered the exit years, namely 61 and above

Generally, the results indicated that there were fewer educators who were entering the teaching profession, and even fewer educators were beyond retirement age. The

bulk of the respondents were aged between 41 and 50 years. This concurs with what Burger (2009/2010:86) indicates. According to Burger, there are more people aged between 20 and 40 in South Africa, but those people are not in education.

5.10.3.11. Home language (A12)

- The largest language group represented by the respondents was Afrikaans at 36.4% followed by Setswana at 26.9%. Voluntary participation yielded more responses from the Afrikaans speakers, and it is surmised that many potential respondents may have refused to participate due to the controversial nature of the study.
- The percentage of IsiXhosa 15.3%
- The English language group was 7.5%
- The language group whose representation was not as expected was Sesotho at also 7.5%
- The combined percentage of all the remaining language groups was 6.4%, and one respondent did not provide an answer to this item.

The 2001 Census results (StasSA, 2003:8) indicated that Setswana was the home language of 65.2%, Afrikaans was the home language of 7.5% and English was the home language of only 1.2% of the population of the North-West Province. The high percentage of the Afrikaans respondents could be attributed to the fact that the research was viewed by many as controversial since the distribution of the questionnaire coincided with the still raw anger of the public servant strikers. Some questionnaires were returned unanswered by quite a number of other language groups from the townships. Despite this, the response rate was remarkable at 86.4%. Out of the total number of 340 questionnaires distributed, 294 were returned.

5.10.3.12. Types of secondary schools (A13)

The following was notable with regard to the types of secondary schools:

- 18.4% of the population were drawn from Technical High Schools

- 75.5% of the population was from General Secondary Schools
- 1.4% of the population was from Commercial Secondary Schools
- 4.8% of the population was from Comprehensive Secondary Schools

The decision to sample secondary schools was informed by the researcher's inquisitiveness regarding poor academic performance in grade 12. The functionality of the basic education system is assessed through grade 12 results. It is illogical, though, that the importance of 12 years of schooling should be determined by one grade (Makhanya, 2009:12 – Chapter 3, par. 3.6.2) and as Jansen (2011:106) quite correctly states, expectations in every grade have been adjusted downwards by the Department of Basic Education. The nation has sunk so deeply into mediocrity that quantity results are more celebrated in township schools than quality results elsewhere by the very same departmental officials who should strive to find a solution to mediocre performance.

5.10.3.13. Geographical situation of the schools (A14)

The geographical data of the respondents revealed that:

- The combined percentage of respondents from the rural schools (both mine and farm) amounted to 19.1%
- The combined percentage of respondents from the suburban and urban schools amounted to 33.3%
- The majority of respondents were from township schools at 47.6%

Suburban schools are those that are situated in residential areas surrounding a town or city. Urban schools are found in the peripheries of towns or cities away from the central business development (CBD). Township schools are situated in residential areas where only blacks lived during the apartheid era and still live today.

5.10.3.14. Language of learning and teaching (A15)

The following was evident from the data for the language of instruction in schools:

- The largest group of respondents came from English single medium schools at 73.1%
- 15.0% of the population were from schools where a parallel medium was used for instruction, namely English and Afrikaans
- 11.9% of respondents were from Afrikaans single medium schools

5.10.4. Synopsis of biographical and geographical data

The data from section A of the questionnaire reflects expected cross-section of biographical and demographical variances for the KOSH Area. Salient particulars of the Section A data were:

- 38.1% of the respondents were older than 40 years of age
- More than half (53.4%) of the respondents were females
- The largest language group of respondents was Afrikaans at 36.4%, followed by Setswana at 26.9%, IsiXhosa at 15.3%, English and Sesotho both at 7.5% and other minority language groups combined at 6.4%
- The majority (75.5%) of the respondents were from general secondary schools, followed by technical high schools at 18.4%, 4.8% from comprehensive secondary schools and 1.4% from commercial secondary schools
- The majority of the respondents had tertiary qualifications ranging from diplomas to university degrees – the researcher found it impressive to record 26.5% of respondents who had honours degrees
- The majority of the respondents (34.0%) had between 11 and 20 years in the school environment followed by those who were about to leave the profession at 33.7%
- It was very interesting to discover that the majority of educators (87.8%) were unionised.

5.11. SECTION B: KNOWLEDGE OF EDUCATION LEGISLATION

5.11.1. Objectives of Section B

The primary purpose of Section B was to determine respondents' level of knowledge of professionalism and unionism in education from an Education Law perspective. The secondary objective of collecting data on knowledge of the above concepts was to examine and compare the level of knowledge to the correctness of the answers to certain questions within Section B in order to verify the accuracy of participants' self-assessment.

5.11.2. Analysis of the combined data of Section B

Appendix G displays the combined frequencies and percentages of the respondents' level of knowledge of professionalism, unionism and education legislation. The results portrayed in Appendix G are of the combined data of respondents' knowledge of legislation, educator professionalism and teacher unionism.

5.11.3. Synopsis

In summary, the results of Section B confirmed the following:

- The majority of the respondents admitted to just having average knowledge of Education Law and Policy. The 30.3% and 4.1% who claimed to have good and excellent knowledge respectively were probably those respondents who were engaged in lifelong learning programmes.
- It became clear that, generally, the inadequate knowledge of legislation is problematic because very few educators have actually engaged in legislation issues through studies after 1994. That was indicated by ignorance and poor comprehension or interpretation on the part of the respondents.
- The respondents were strongly convinced that education was a profession; though again, the majority admitted that the educators' professional authority

was not acknowledged by the society. The contradiction was probably due to the fact that indeed educators were taught at their various tertiary education institutions that teaching is a profession, but on reaching the teaching field, they were confronted by challenges to their professional stance including, *inter alia*, political inclination and hunger for political power (Smit, 2009:442, Barbeau, 2009:15, Govender, 2004:268-272, and McDonnell & Pascal, 1988:8).

- Educators' low salaries were cited as another de-professionalisation mechanism. It is notable that the current teacher unions' trends tend to weigh professionalism against salary, yet there is no correlation between the two. Professionalism entails the qualities of the practitioner, not the reward. The literature study has revealed no relationship between the two: Professionalism is about ethical and personal qualities (McDonagh, 2008:7 – Chapter 2, 2.2.2). Remuneration is given to anyone who has performed a certain list of duties; such duties may not necessarily require specific qualities.
- The respondents strongly confirmed the prevalence of misconduct in schools. Effect sizes demonstrated this prevalence quite clearly in tables 5.6-5.10.
- The majority of the respondents did not want to take responsibility for poor learner performance (Appendix G: item 39). Probably, logical evidence could be related to, among others, lack of self-discipline and pride among those who are practising within the teaching profession. The logical question or concern that arises from this is whether educators deserve or should be accorded respect by the society if they cannot account for poor performance in what is their field of expertise. How do learners fail in the hands of experts or professionals (Raseala, 2011)?
- Ambivalent attitudes and uncertainty of the respondents regarding the roles of professionalism, unionism and legislation in the professional lives of educators were revealed in their responses to various questions. This (Appendix G: items 28, 36) clearly confirmed the respondents' lack of knowledge regarding what professionalism entails.

It was illogical that some of the respondents (27.8% - Appendix G; item 50) believed that the strike was in the best interest of the learners too. These were mainly SADTU members whose children are in the former model-C schools, schools which SADTU hardly ever disrupt (Khoabane, 2010:2). This was contrary to the majority of responses in B49 in which the respondents confirmed that unions did place delivery of quality education first. The respondents furthermore displayed an attitude averse to bureaucracy.

The following section will give an account of grouped variables by means of a comparative statistical analysis of the data.

5.12. COMPARATIVE STATISTICAL ANALYSIS

5.12.1. General remarks

The descriptive statistics in section 5.11 confirmed that the existing general knowledge regarding professionalism, unionism (labour issues) and legislation that impact on education in South Africa was inadequate and unclear among the secondary school educators in the KOSH Area. However, in order to identify specific trends among the respective sub-population groups with regard to the concepts above, factors underlying these concepts were analysed by means of comparative statistical techniques.

5.12.2. Research propositions

The research propositions were as follows:

- The respective respondent sub-population groups had significantly different levels of knowledge, opinions and attitudes with regard to professionalism, unionism and legislation;
- Significant differences existed among the sup-population groups with regard to identified factors and other sub-sets in the questionnaire.

In addition, comparative statistical analysis was applied to determine association between variables in this research study. The results of the alternative statistical methods to determine such associations are discussed below:

5.13. FACTOR ANALYSIS

Factor analysis was carried out in Section B with oblimin rotation. The purpose of conducting factor analysis was to reduce the number of items of variables by ascertaining whether the items (independent variables) of that particular section were functioning separately or whether there was a commonality that would allow a reduction of items. However, it was inevitable that some information would be lost by reducing the number of variables. Nevertheless, the factor analysis indicated whether the commonality between variables was sufficient to avert the loss in the predictive or differentiating ability of the instrument. The factor analysis in Section B actually gave the researcher an indication of which items were perceived in a context other than that for which the sub-scales were originally designed. The factors that were identified necessitated the researcher to interpret the information in Section B differently; accordingly, this enhanced the calibration of the measuring instrument. Correlation coefficients for each pair of variables were based on all the cases with valid data for that pair. The factor analysis was, therefore, based on those correlations.

5.13.1. Factors analysis of Section B: Knowledge of Education Law and Policies

As a first step, the research data was submitted to rotation factor analysis; thereafter, Cronbach alpha coefficients were determined for each extracted factor. The Cronbach alpha coefficient is an indication of the degree of reliability of the factors.

The first items in Section B required of the respondents to assess their own knowledge and understanding of Education Law and policies, the Bill of Rights as embodied in the Constitution of the Republic of South Africa, the Employment of Educators Act, the Labour Relations Act and the SACE Code of conduct. These first

five items of Section B were not submitted for factor analysis. Factor analysis, according to Ellis (2011), should only be performed on data that contains sufficient variations. Consequently, items that resulted in too little variation in responses were excluded from factor analysis. However, other parts of Section B that were submitted for factor analysis indicated the correlation. In essence, this means that all responses to certain items in Section B were so correlated that they could simply be regarded as one factor.

5.13.2. Factor analysis of Section B: Professionalism, unionism and legislation

The next set of questions in Section B required of the respondents to express opinions on statements about educator professionalism, teacher unionism and labour issues as well as Education Law. This part of Section B consisted of 58 items measuring attitudes towards professionalism, unionism and legislation in education. In order to compare trends and to group opinions about similar issues, the responses were submitted to factor analysis.

The following items of Section B led to responses with insufficient variances:

- Item B43 – 79.3% of the respondents agreed and strongly agreed that education should be declared an essential service.
- Item B47 – 71.4% of the respondents (contrary to what was expected) agreed and strongly agreed that the educators' right to strike should be limited.
- Item B48 – 61.9% of the respondents agreed and strongly agreed that education is by law an essential service. Though by its own significant nature education is an essential service, it is not listed as one of the essential services in the Labour Relations Act (SA, 1995). This was an unexpected response and it confirmed the researcher's postulation that educators' knowledge of legislation that impacts on education was generally poor.

Certain items were excluded from factor analysis not only because of insufficient variation but due to ambiguity as well. As a result of the subtle ambiguity, such items

should be excluded from factor analysis. Item B65.1 is an example: Only 27.9% knew that the central authority in schools rests with the SGB. That could be due to the fact that educators erroneously regard management as the centre of authority as a result of the subordinate role that the School Governing Bodies play in township schools. This further reflects the dysfunctional presence of governing bodies in these schools as well as the educators' ignorance with regard to the legal participatory requirement of parents as stipulated in the South African Schools Act (SA, 1996c).

Table 5.3. Oblimin rotated pattern matrix with Kaiser normalisation for Section B

Variables	F1 Effects of unionism in education	F2 Misconduct	F3 Nature of professionalism in education	F4 Professional ethics	F5 Educators' professional status	F6 Political Inclination in unionism	F7 Legislation and policies	F8 Prevalence of bureau- cracy	F9 Tenets of a profession	F10 Knowledge of labour law	F11 School managemen t & governance	F12 Effects of strikes & profesnlsm	F13 Educators' strikes & education	F14 Inadequacies in legislation
B63	0.654													
B64	0.564													
B62	0.495									-0.211				
B27	0.49												0.203	
B57	0.357									-0.276		-0.203		
B19		0.751												0.253
B35		0.728												
B20		0.706												
B16		0.561							0.23					
B18		0.554												
B38		0.399											-0.208	
B39		0.351												-0.208
B9		0.313										-0.307		
B14	0.205	0.302							-0.224					
B7			0.694					0.278						
B8			0.571											
B26			0.491		0.208							0.261		
B30	-0.242		0.429			0.222					-0.281			
B6			0.373											-0.269
B33			0.339							-0.272	-0.211	-0.315		
B29			0.281										-0.26	
B59				0.728										
B61				0.708				0.2						
B60				0.544				-0.2				-0.256		
B55				0.377						0.205			-0.296	

B53					0.582			-0.22			0.226			
B37					0.561									
B54					0.445		0.201							
B51		0.223			0.399					0.227				
B21	0.258	0.204			0.269	0.258							0.242	
B24						0.677								
B25						0.384						0.258	-0.323	
B45		0.298					0.469							-0.213
b58				0.234			-0.409				0.224			
B44								-0.682						
B41		0.219						-0.467						
B13									-0.759					
B12									-0.414					
B17									0.332					
B34									-0.282					
B11						0.214			-0.257					
B32										-0.594				
B36										-0.386				
B15		0.294								-0.299		0.245		
B42											-0.546			
B40											-0.501			
B31			0.237		0.266					-0.275	-0.284			
B28	0.228		-0.226									-0.314	0.241	-0.263
B50			-0.23								-0.231		-0.674	
B49													-0.632	
B56													-0.431	0.246
B23										0.209			0.425	
B52							-0.256					-0.206	-0.296	
B47														-0.618
B43													0.201	-0.596
B48														-0.59
B22			-0.248			0.213								-0.322



5.13.2.1. *Factor analysis of independent items from Section B*

Seven items were calculated separately due to the fact that there was very little correlation with other items to which they belonged; accordingly, they were less reliable. These were the following items:

- B24 – Polarisation of unions by politics;
- B25 – Educators' right to strike;
- B28 – Striking is unprofessional;
- B31 – Professional recognition by employee;
- B40 – Management of learners' progress reports;
- B42 – Legislation regulating learners' progress reports;
- B58 – Creation of SGB posts.

Item B17, which fell under factor 9, had to be reversed so that it had the same mean and also to ascertain correlation with other items. Factor analysis also revealed that certain items (variables) were interrelated with other items from other factors as well. As Table 5.3 reflects, such items are B62, B27, B57 and B16. A selection of the most appropriate relation in terms of interpretation determined where each particular item should be placed.

The Cronbach alpha coefficients as well as the mean inter-item correlations were calculated. This was done to ascertain the reliability of factors. Table 5.4. below displays the results thereof.

Table 5.4. Cronbach alpha coefficient and mean inter-item correlation

FACTORS	Cronbach alpha coefficient	Mean inter-item correlation
F1 Effects of unionism in education	0.8	0.44
F2 Misconduct	0.85	0.39
F3 Nature of professionalism in education	0.75	0.29
F4 Professional ethics	0.71	0.4
F5 Educators' professional status	0.65	0.28
F7 Legislation and policies	0.51	0.35
F8 Prevalence of bureaucratic control	0.53	0.38
F9 Tenets of a profession	0.63	0.26
F10 Knowledge of labour law	0.56	0.31
F13 Educator strikes' impact on education	0.72	0.34
F14 Inadequacies in legislation	0.65	0.31

In order to improve reliability, F6 (political inclination), F11 (school management and governance) and F12 (effects of strikes on professionalism) were removed from Table 5.4. Items that were above 0.5 could be worked with, and such results needed to be interpreted cautiously (Ellis, 2011). According to Dr Ellis (2011) of the University of the North-West's Statistical Consultation Services, items that were above 0.6 were the most reliable and acceptable. For example, the empirical research has proven that teacher unionism has adverse effects on education (0.8). A remarkable majority believed that and agreed strongly on this factor.

All items in Section B required of the respondents to indicate their knowledge of teacher unionism, educator professionalism and legislation. The Cronbach alpha coefficients for the tabulated factors (Table 5.4) are reliable and acceptable as they are above 0.6. The reliability of the factors means that these sub-sets would possibly yield the same results should the same or similar respondents be questioned again. It should be noted that the most reliable items or factors have been discussed extensively in this same chapter under paragraphs 5.15.3-8.

5.13.3. One-Way independent analysis of variance (Anova)

The analysis of variance, which is often abbreviated as ANOVA, is a technique designed to test for the significance of the difference between more than two sample means (Field, 2005:309). In this study, the sub-populations were the teacher unions – SADTU, SAOU and NAPTOSA – as well as the non-affiliates (Table: 5.5). The technique assumes a null hypothesis, viz. that there is no significant difference among the means of the four sub-populations. It computes the ratio (**F**) of two different estimates of the variance of the overall population. These are the variances among the four sample means and the variances within the samples themselves. If the null hypothesis is true, the ratio should be very small.

If it happens that the ratio is considerably larger than unity, then the null hypothesis is not true and would need to be rejected. Rejection of the null hypothesis would, therefore, imply that there is significant difference among the means of the four sub-populations.

Analysis of variance does not, however, explicitly specify which of the four sub-populations' means differ significantly from one another. However, should the **F** value indicate significant differences among means, it becomes necessary to use a **t**-test to determine which of the means differ from one another.

5.14. THE EFFECT SIZES

The effect size measures practical significance by utilising the standardised difference between the means of two population groups, namely the difference between the two means divided by the estimate for standard deviation (Ellis, 2010:52). The statistical formula below was utilised to determine the effect sizes (Ellis & Steyn, 2003:52):

$$d = \left| \frac{\bar{X}_1 - \bar{X}_2}{S_{max}} \right|$$

Where $\bar{x}_1 - \bar{x}_2$ is the difference between $\bar{x}_1$ and $\bar{x}_2$ without taking the sign into consideration and S_{max} is the maximum of the two standard deviations.

When no control group exists, as is the case with this particular study, the deviation by S_{max} in the formula gives rise to a conservative effect size in the sense that a practically significant result cannot easily be concluded (Ellis, 2010:52).

5.14.1. Guidelines for interpretation of the effect sizes

The effect size represents an objective and standardised magnitude of the differences in means (Field, 2005:32). According to Cohen's d values (Field, 2005:32), the following constitute large, medium and small effects:

$d = 0.2$ (small effect)

$d = 0.5$ (medium effect)

$d = 0.8$ (large effect)

Effect sizes were determined between sub-population groups on the following items of Section A:

- Unions
- Races
- Language groups
- Geographical situation of schools
- Age
- Gender

5.14.2. Factorial ANOVA tests among subject effects and significance in variance

Table 5.5 tabulates the ANOVA for the factors. The results of the factorial ANOVA, as reflected in Table 5.5, demonstrate the following:

- The ANOVA p-value among the sub-populations was statistically significant in these factors: misconduct, educators' professional status, tenets of a profession, knowledge of labour law, educators' strikes and impact on education, inadequacies in legislation, B24 – polarisation of unions by politics, B25 – educators' right to strike, B28 – striking is unprofessional, B31 – professional acknowledgement by the employer and B58 – creation of SGB posts.
- The remaining factors indicated differences of small statistical significance among the sub-populations; accordingly, they were removed from the table.

The implication, as tabulated here, is that the results confirmed that there were significant statistical differences among the teacher unions in respect of issues pertaining to professionalism, unionism and legislation in education.

Table 5.5. Tukey's *post hoc* test for analysis of variance (ANOVA) – A7

FACTORS	SUB-POPULATIONS	N	ANOVA	Mean + Standard Deviation		EFFECT SIZES		
	Teacher unions		p-value	Mean	Std	SADTU	SAOU	NAPTOSA
F2: Misconduct	SADTU	137	0.000	2.6059	0.61675			
	SAOU	74		2.1607	0.54112	0.72		
	NAPTOSA	45		2.5960	0.70345	0.01	0.62	
	NON-AFF	36		2.5602	0.69011	0.07	0.58	0.05
F5: Educator's professional status	SADTU	137	0.001	3.0873	0.51185			
	SAOU	74		3.3182	0.38478	0.45		
	NAPTOSA	45		3.1267	0.70595	0.06	0.27	
	NON-AFF	36		3.4083	0.42519	0.63	0.21	0.40
F9: Tenets of a profession	SADTU	137	0.019	3.1962	0.49944			
	SAOU	74		3.2899	0.44174	0.19		
	NAPTOSA	45		3.1441	0.56755	0.09	0.26	
	NON-AFF	36		3.4528	0.48373	0.51	0.34	0.54
F10: Knowledge of labour law	SADTU	137	0.000	3.3747	0.51797			
	SAOU	74		2.8356	0.53386	1.01		
	NAPTOSA	45		3.2593	0.54536	0.21	0.78	
	NON-AFF	36		3.3056	0.57666	0.12	0.81	0.08
F13: Educators' strikes - impact on education	SADTU	137	0.000	2.4372	0.67153			
	SAOU	74		2.0703	0.47908	0.56		
	NAPTOSA	45		2.2533	0.65837	0.27	0.28	
	NON-AFF	36		2.0097	0.61989	0.64	0.10	0.37
F14: Inadequacies and defects in legislation	SADTU	137	0.000	2.7420	0.63741			
	SAOU	74		3.1318	0.42245	0.61		
	NAPTOSA	45		3.1889	0.58046	0.70	0.10	
	NON-AFF	36		3.1204	0.62216	0.59	0.02	0.11

Table 5.5. Tukey's *post hoc* test for analysis of variance (ANOVA) – A7

FACTORS	SUB-POPULATIONS	N	ANOVA	Mean + Standard Deviation		EFFECT SIZES		
	Teacher unions		p-value	Mean	Std	SADTU	SAOU	NAPTOSA
B25: Educators' right to strike	SADTU	137	0.006	3.2903	0.64737			
	SAOU	74		2.9701	0.60227	0.49		
	NAPTOSA	45		3.1818	0.62030	0.17	0.34	
	NON-AFF	36		3.0000	0.76200	0.38	0.04	0.24
B28: Striking is unprofessional	SADTU	137	0.000	2.2214	1.06186			
	SAOU	74		3.0811	0.84004	0.81		
	NAPTOSA	45		2.5000	1.19105	0.23	0.49	
	NON-AFF	36		2.6286	1.19030	0.34	0.38	0.11
B31: Professional acknowledgement by employer	SADTU	137	0.002	2.3750	0.82290			
	SAOU	74		2.4861	0.75046	0.14		
	NAPTOSA	45		2.2889	0.84267	0.10	0.23	
	NON-AFF	36		2.9167	0.84092	0.64	0.51	0.74

5.14.3. The interpretation of Tukey's *post hoc* test for the ANOVA (A7- Teacher unions)

Tukey's *post hoc* test was administered to the ANOVA-results (Ellis, 2011) in an effort to compare all the sub-populations of participants with one another (Field, 2005:354). The term "*post hoc*" is derived from Latin, and it means **after that** and is synonymous with "**follow-up**" test. Table 5.5 indicates the results of Tukey's *post hoc* test. Table 5.5 also displays the mean (alpha = 0.05) as well as the standard deviation of the sub-populations and effect sizes thereof. According to Ellis (2011), the mean is more reliable for the interpretation of effect sizes.

The findings of Tukey's *post hoc* test, as tabulated in Table 5.5, proved to be quite interesting as they confirmed the following results among the sub-populations:

- *F2 - Misconduct*: There was a large, statistically significant difference between members of SADTU (0.72) and those of SAOU. SADTU members held strong views about the frequency of incidences of misconduct by educators in public secondary schools. The mean also proved that NAPTOSA members' experience of misconduct was not very different from that of SADTU members. SAOU members (0.62) and non-affiliates (0.58) agreed on average about educators' involvement in misconduct. The implication here is that the prevalence of incidences of misconduct in schools where SADTU members were dominantly practising was more conspicuous. The likely explanation for this finding is that SADTU was probably involved in more interventions to assist its members during cases of misconduct. Such prevalence of misconduct among educators confirmed how torn the professional fabric is in public schools. The literature study has seen Jansen (2004:52) and the Wits Education Policy Unit (2005:167) in Chapter 2 confirming the existence of two education systems in South Africa: one professionalised and another de-professionalised by teacher union members.
- *F5 - Educators' Professional Status*: The mean indicates that all teacher unions seemed to agree on some elements of this factor. Non-affiliates (0.63),

though, differed significantly from SADTU members in that they strongly believed that the professional status of educators is not acknowledged by the public and the educators in South Africa were not enjoying professional autonomy. SAOU members (0.45) on average held a similar view as the non-affiliates. The implication here is that the majority of the teacher union members believe the education system has not been successfully professionalised and more effort is still needed so that educators can attain professional status. It was more remarkable to realise the ambivalent stance of SADTU members as they thought of themselves as professionals and thought that the public acknowledged them as such despite their appalling conduct during industrial strikes. Prevalence of such conduct was revealed by the literature study in chapter 2 (par. 2.4.4.2), in chapter 3 by Malala (2007:9) and Khoabane (2010:2). The majority of SADTU members admitted to being workers (Appendix G: item 36). Professionalism is a lifestyle, a permanent badge that one does not shed at times and wear it again when it suits one (Starr, 1982:15). If one is a professional, one's conduct will attest to that status even under difficult circumstances.

- *F9 - Tenets of a Profession*: The test revealed that all the teacher unions acknowledged the tenets of professionalism, though non-affiliates (0.51 and 0.54) showed a stronger inclination towards knowledge particularly as a tenet of professionalism than did SADTU members and NAPTOSA members. The close range mean between non-affiliates and SAOU members indicates that SAOU members also believed that the tenets of a profession centre round knowledge.
- *F10 - Knowledge of Labour Law*: The mean indicates that all the teacher unions viewed the knowledge of labour law as important, though the large, statistically significant variances (SADTU 1.01, non-affiliates 0.81 and NAPTOSA 0.78) revealed that SAOU members are less confident about their knowledge of labour law than SADTU members, the non-affiliates and NAPTOSA members. It should be noted that the literature review (Govender, 2004:272 – Chapter 3 par; 3.3.1) has revealed that SAOU concentrated more on professional matters than labour issues. This could be why SAOU

members were not convinced that their knowledge of labour law was good. On the other hand, this could be due to the fact that many SAOU members, being predominantly white, do not engage much in furthering their studies since they are already in the teaching field. Accordingly, when the country and its laws transformed, most of them did not transform in terms of legislation knowledge, and this was an indication of absence of democratic attitudes that critically examine authority or labour protest. This might be due to vestigial civil-servant attitudes that were predominant in the authoritarian climate of the apartheid regime. This finding could be confirming that whites were also adversely affected by the apartheid regime.

- *F13 - Educators' Strikes and Impact on Education*: The medium, statistically significant variance (0.56) and (0.64) implies that SADTU members differed from SAOU members and non-affiliates in the sense that SADTU members believed the strikes were in the interest of the learners too and still believed that as members of a union, they placed delivery of quality education first. This is a harmful and unacceptable attitude because it clearly indicates that SADTU members are in denial of the damage caused by the strikes to the education of learners. SAOU members and non-affiliates maintained that the educators' strikes had adverse effects on education. Accordingly, as per items under this factor (Appendix G: items 28, 43, 47), they thought that the strikes should be averted or limited and legal regulations be reinforced.
- *F14 - Inadequacies and Defects in Legislation*: There is a large, statistically significant difference (NAPTOSA 0.70), and the medium, statistically significant differences (SAOU 0.61 and non-affiliates 0.59) from SADTU members indicate that NAPTOSA members, SAOU members and the non-affiliates were more convinced that there were gaps and defects in the legislation regarding education and unionism. Comments (Appendix G: item 65.2) of the respondents confirmed the need for legislation to stipulate how educators should conduct themselves during strikes (Chapter 4, 4.8). The respondents further alluded to "products" (learners) being exposed to educators' unacceptable behaviour in the media and again being expected to learn and develop holistically in the care of same educators. These significant

differences with SADTU members confirmed how the members of the other two teacher unions and non-affiliates thought it was important to reinforce the current legislation to ensure that strikes were properly regulated and education protected. This confirms that they envisage a possibility of the strike action being limited and education being declared an essential service (see items under this factor – table 5.3 and Appendix G).

- The effect sizes have also confirmed a significant prevalence of lawlessness amongst SADTU members. As the findings have revealed, this does not necessarily mean that all SADTU members are content with the current *status quo* whereby legislation is not effective. The reason for legislation to be so conspicuously ineffective in education probably lies in the fact that SADTU, which is the largest teacher union, is in government (Zengele, 2009:2 – Chapter 3) (alliance through COSATU). The government is afraid to act against SADTU; consequently, it deliberately ignores the limitation clause, section 36 of the Constitution's Bill of Rights. Some SADTU members have, because of the alliance, become demagogues who disrupt schools to pursue their own political agenda (Jansen, 2008:14).
- *B25 – Educators' Right to Strike*: The mean confirms that all teacher unions acknowledge the educators' legal right to strike, but SADTU members (0.49), though on average, would exercise the right to strike more readily than SAOU members would. This further explains the reason strikes have more devastating impacts on education where the majority of educators are SADTU members. This predisposition of SADTU members strongly affirms the necessity that this right needs to be weighed against the learners' education (Zengele, 2009:52 – Chapter 4). Though the right to strike is not absolute, innocent South African learners and educators who do not want to participate in strikes face the real probability of being subjected to hostility, violence, intimidation and strings of expletives from the strikers (Malala, 2007:9 – Chapter 1 & 2).
- *B28 – Striking is Unprofessional*: SAOU members (0.81) greatly differed from SADTU members on this factor as they strongly held the opinion that the strike did not relate to professionalism. Actually, NAPTOSA members (0.49)

and non-affiliates (0.34) agreed with SAOU members on average. This confirms the fact that SADTU members find it difficult to discern between what is professional and what is not. This further explains the unacceptable behaviour that is often displayed by educators during the strikes (Malala, 2007:9, Khoabane, 2010:2). These findings also reveal that it is not clear to educators what professionalism entails.

- *B31 – Professional Acknowledgement by Employer:* The large and medium statistically significant differences (non-affiliates 0.74, 0.64, and 0.51) revealed that non-affiliates strongly differed from teacher union members as they believed that the professional recognition accorded educators by the employer was adequate. The effect sizes also reveal that NAPTOSA members, whose existence is underpinned by professionalism (Govender, 2004:272), were the least content with the professional acknowledgement the employer accorded the educators. It is tempting, thus, to deduce from these findings that NAPTOSA members' unusual and conspicuous inclination towards the strike action in 2010 was an indication of such disappointments by the employer. The literature study (Chapter 3: par 3.2.5) confirmed that professionalism was high on the agenda of NAPTOSA and SAOU. The findings therefore declare that the attitude of the employer towards educators (inadequate salaries, poor work conditions, failure to negotiate in good faith, *et cetera*) has, over the years, compelled even teacher unions that were less inclined to strike to divert from their original ideologies.

5.14.4. Levene's test for equality and *t*-test for equality means (A9 – Race)

Table 5.6. Levene's test for equality of variances and *t*-test for equality means – A9

FACTORS	Race	N	DEVIATION		EFFECT SIZES	
			2-tailed p-value	Mean	Standards	
F2: Misconduct	Black	171	0.000	2.6310	0.63938	0.82
	White	91	0.000	2.1077	0.50567	
F5: Educator professional status	Black	171	0.002	3.1051	0.58089	0.38
	White	91	0.000	3.3231	0.39953	
F10: Knowledge of labour law	Black	171	0.000	3.3986	0.52312	1.08
	White	91	0.000	2.8333	0.50123	
F13: Educators' strikes – impact on education	Black	171	0.000	2.3731	0.68086	0.49
	White	91	0.000	2.0401	0.49053	
F14: Inadequacies and defects in legislation	Black	171	0.000	2.8319	0.65871	0.49
	White	91	0.000	3.1566	0.44667	
B 25: Educators' right to strike	Black	171	0.000	3.2727	0.65950	0.50
	White	91	0.000	2.9412	0.64278	
B 28: Striking is unprofessional	Black	171	0.000	2.2515	1.09625	0.67
	White	91	0.000	2.9890	0.87553	

Levene's *t*-test for equality means was performed to compare the opinions and attitudes of the different races. It is important to note that with Levene's *t*-test for equality means, there is a reversed correlation between the two-tailed p-value and the effect sizes. The findings of Levene's *t*-test, as tabulated in Table 5.6, revealed the following:

- *F2 - Misconduct*: The effect sizes revealed a large, statistically significant variance (0.82) between black and white populations regarding misconduct whereby the black population strongly confirmed the prevalence of misconduct in their schools. These findings confirm what the literature study in Chapter 2 (SACE 2007 Legal records: table 2.1) stated: The South African Council for Educators found that there was more prevalence of misconduct

amongst black educators than there was amongst white educators. Other than the fact that the black population outnumbers any other population group in South Africa, there could be other factors influencing the rates of misconduct amongst the black population. These will be referred to for further research in the next chapter as well as the general belief that the white principals shield misconduct.

- *F10 - Knowledge of Labour Law*: The effect size revealed that black educators appeared to be strongly convinced that their knowledge of labour law was much better than that of white educators. The large, statistically significant variance (1.08) attests to this conviction. In this case, this could mean that black educators were more receptive to transformation in terms of labour issues than white educators. An alternative view would be that the black educators have taken more advantage of the courses (for example, ACE: Education Law) that are sponsored by the government to upgrade their qualifications than the white educators have.
- *B28 - Striking is Unprofessional*: The large effect size of 0.67 indicates a significant difference of opinion between the black educators and white educators with the white educators strongly opposed to the strike as they believed that it is unprofessional. It is an appalling and worrying factor that all the tests elicited results that reveal that black educators assume that the strike is somehow a tenet of professionalism. (If something is not unprofessional, it is professional.) Considering all that the media portrayed about educators' behaviour during the strike actions, it becomes explicitly clear that what professionalism entails is not known among black educators (Manuel, 2011a). This is an indication that rebellious conduct amongst black people generally is the ugly remnant of the apartheid regime that will always want to rear its head (Makhanya, 2011:4). This is a retrogression that was unforeseen by many South Africans who were part of the struggle for freedom. The envisaged situation would have been a move towards a more acceptable way of dealing with an impasse during salary negotiations. The rebellious conduct among black people is an apartheid-era legacy for which

the democratic government has to provide a remedy as part of other remedies for the ailing South African education system (Manuel, 2011b:2).

- B25 - *Educators' Right to Strike*: Levene's *t*-test results yielded a difference of medium statistical significance (0.50) which revealed that both black and white educators acknowledged the right to strike with black educators showing a greater inclination towards the strike than white educators. This confirms that the white educators were circumspect regarding this: They would resort to a strike action when all other avenues have been exhausted. This also further reveals the current culture in South Africa whereby workers (educators included) vent their frustrations and anger in the streets through violence, vandalism, intimidation and derogative slogans directed at government and school managers (HSRC, 2007:4). It has to dawn on black educators and workers that the alliance that their unions have with the government of the day has stripped them of their strengths. History has it on record that since 1994, educators have trodden the streets in vain; no strike has ever yielded the envisaged results after the strike of 1993 (Zengele, 2009: 63) during which union leaders did not sell-out. There was no alliance then with the apartheid government; accordingly, a strike had no political agendas unknown to the rank and file (Zengele, 2009:63).
- F13 - *Educators' Strikes and Impact on Education*: The effect size of 0.49 indicates a medium, statistically significant variance between the black educators and the white educators. This implies that both sup-populations acknowledge the indisputable fact that strikes have adverse effects on education in their schools. Black educators seemed to confirm that they experience more negative impact on education during strikes than white educators did. This is probably because during strikes, the schools in black communities completely close down which should not be the case. The school (infrastructure and governance), as a juristic person, should be controlled by the SGB; accordingly, the educators' right to strike must not be allowed to impinge on the learners' right to a basic education (Zengele, 2009:57 – Chapter 4). However, it is impressive that the findings confirm the fact that some educators are not completely blinded by the pursuit for their economic

gains; they do realise the negative impact of strikes on education. The government could then be challenged to try harder to meet the educators' demands reasonably to avert the strikes that benefit not a single stakeholder in education.

- *F14 - Inadequacies and Defects in Legislation*: The *t*-test revealed that there was a medium, statistically significant difference (0.49) between black and white educators, with white educators more certain that there definitely were inadequacies and defects in the current legislation. This implies that educators envisage a South Africa that values education more by reinforcing legislation so that educators' activities are regulated properly to favour education prosperity.

5.14.5. Levene's test for equality and *t*-test for equality means (A10 - Gender)

Levene's *t*-test for equality means elicited results that revealed that the male and female respondents did not differ much pertaining to most of the factors subjected to the test. This led to only three factors indicating statistically significant variances. The *t*-test findings attested to the following:

Table 5.7. Levene's test for Quality of Variances and *t*-test for equal means – A10

FACTORS	Gender-Groups	N	SIGNIFICANCE		DEVIATION		EFFECT SIZES
			p.value	2 – tailed	Mean	Standards	
F2: Misconduct	Male	135	0.139		2.6261	0.66338	0.37
	Female	157		0.001	2.3827	0.61494	
F8 : Prevalence of bureaucratic control	Male	135	0.583		3.2127	0.64708	0.34
	Female	157		0.003	2.9679	0.72218	
F10: Knowledge of Labour Law	Male	135	0.749		3.3605	0.57310	0.46
	Female	157		0.000	3.0987	0.55211	

- *F2 - Misconduct*: There is a medium, statistically significant variance (0.37) between males and females regarding misconduct with males more inclined to believe that there was a greater prevalence of misconduct in schools than

females did. A medium effect does not necessarily mean that the variance is insignificant; it simply means that the sub-populations are more agreeable on the issue being tested. In most cases of misconduct, males are the ones who often face charges of misconduct pertaining to the sexual harassment of learners (SACE Legal Department, Table 2.1).

- *F8 - Prevalence of Bureaucratic Control*: On average (0.34), male educators thought that there was still a prevalence of bureaucratic control by the employer over educators' professional activities. This belief probably emanates from the employer's interference in public schools where, frequently, principals, educators and even the SGBs are undermined and decisions that are not in the interest of the school are taken by the employer (Chapter 2: par. 2.3.5.2). This interference often leads to legislation and policies amended to suit the employer but not the schools. The departmental officials have a tendency of issuing instructions that do not only contravene policies but degrade and undermine the principals' authority as well as the powers of the School Governing Bodies (Colditz, 2011).
- *F10 - Knowledge of Labour Law*: The mean as well as the medium, statistically significant difference (0.46) revealed that male respondents were more inclined towards the view that education is essential although it is not listed as such in the LRA. The test also revealed that the male respondents were more confident of their knowledge of Labour Law than female respondents were. Both the males and the females tended to agree on all the other remaining factors. The mean proved that whatever differences existed were too small and not statistically significant.

5.14.6. Tukey's *post hoc* test for ANOVA: A11 (Age groups)

The *post hoc* test was conducted in order to assess the attitudes and opinions of the various respondents' age groups regarding all analysed factors. The test revealed the following:

- *F1 - Effects of Unionism on Education*: The *post hoc* test revealed that the elderly educators (51-61) held a strong conviction that unionism has a negative impact on education. The large, statistically significant variance (0.90) between the 51-61 and 31-40 age groups attested to the above. The elderly educators actually differed significantly (0.57) from the 20-30 age group as well. The group aged between 41 and 50 agreed, on average, that negative effects of unionism do exist in education. This large variance between the elderly and the young could be due to the fact that they have reached a career stage where they would want to do what is right. Their understanding of professionalism has matured with age; consequently, order and a culture of learning and teaching carries more weight than their individual concerns.

F2 - Misconduct: this factor registered medium, statistically significant differences among the age groups with the elderly (0.54) believing strongly that misconduct was more prevalent in public schools than the 31-40 age group did. This could probably be because misconduct occurs noticeably within the ages of 30-40 (SACE – table 2.1). The medium significance, though, indicates that all age groups did acknowledge the scourge of misconduct in public schools. The means of the different age groups confirm this as well.

- *F7 - Legislation and Policies*: The effect sizes revealed that the 51-61+ group held strong views regarding legislation and policies as they believed that they constitute order and enhance a sense of responsibility in schools. The medium, statistically significant differences (0.61) between the age groups 50-61+ and 31-40 and (0.57) between the age groups 51-61+ and 20-30 emphasise the difference in maturity regarding the law and observance thereof. The elderly respondents seem more inclined towards ethical conduct than the younger respondents.
- *F13 - educators' strikes and impact on education*: the *post hoc* test indicated results that confirmed that the younger respondents were more eager to embark on strikes as they were not perturbed by the impact strikes have on education. The large, statistically significant

Table 5.8..Tukey's *post hoc* test for Analysis of Variance (ANOVA) – A11

FACTORS	SUB-POP.	N	ANOVA	DEVIATION		EFFECT SIZES		
	Age Groups		p-value	Mean	Standards	20-30	31-40	41-50
F1: Effects of unionism in education	20 – 30	38	0.000	2.6965	0.68106			
	31 – 40	91		2.4667	0.56766	0.34		
	41 – 50	112		2.7893	0.77145	0.12	0.42	
	51 – 61	53		3.0978	0.70098	0.57	0.90	0.40
F2: Misconduct	20 – 30	38	0.013	2.4401	0.65916			
	31 – 40	91		2.3568	0.58743	0.13		
	41 – 50	112		2.5091	0.66427	0.10	0.23	
	51 – 61	53		2.7165	0.68385	0.42	0.54	0.31
F7: Legislation and policies	20 – 30	38	0.000	2.7368	0.90596			
	31 – 40	91		2.7747	0.79325	0.04		
	41 – 50	112		3.0625	0.68486	0.36	0.36	
	51 – 61	53		3.2549	0.75082	0.57	0.61	0.26
F13: Educators' strikes – impact on education	20 – 30	38	0.000	2.3158	0.61271			
	31 – 40	91		2.4516	0.59914	0.22		
	41 – 50	112		2.2313	0.66624	0.13	0.33	
	51 – 61	53		1.9330	0.57454	0.62	0.87	0.45
F14: Inadequacies and defects in legislation	20 – 30	38	0.007	3.1053	0.58596			
	31 – 40	91		2.8278	0.60026	0.46		
	41 – 50	112		2.9338	0.63090	0.27	0.17	
	51 – 61	53		3.1585	0.54956	0.09	0.55	0.36
B24: Polarisation of unions by politics	20 – 30	38	0.058	2.6571	0.80231			
	31 – 40	91		2.9318	0.72390	0.34		
	41 – 50	112		3.0472	0.83246	0.47	0.14	
	51 – 61	53		3.0698	0.73664	0.51	0.19	0.03
B28: Striking is unprofessional	20 – 30	38	0.000	2.7632	1.99822			
	31 – 40	91		2.1011	1.00051	0.60		
	41 – 50	112		2.5963	1.10654	0.15	0.45	
	51 – 61	53		3.0200	1.09712	0.23	0.84	0.38
B31: Acknowledgement by employer	20 – 30	38	0.000	2.7368	0.92076			
	31 – 40	91		2.6364	0.79049	0.11		
	41 – 50	112		2.3519	0.81246	0.42	0.35	
	51 – 61	53		2.1020	0.74288	0.69	0.68	0.31

difference (0.87) between the age groups 51-61+ and 31-40 confirmed that the 31-40 age group was more rebellious and uncompromising with regard to their own individual needs. The medium, statistically significant variance (0.52) between the age group 50-61+ and 20-30 also confirmed the fact that these were novice “young lions” who did not view the nature of education as essential. Their socio-economic pursuit at this age was more significant than the education of their clients.

- *F14 - Inadequacies and Defects in Legislation:* The medium, statistically significant differences among the age groups revealed that all groups agreed that legislation was inadequate and defective, with the 50-61+ agreeing more (0.55) than the 31-40. The 20-30 age groups (0.46), on average, shared the same view as the 50-61+ age group regarding the inadequacies and defects in legislation. These were the young entrants into the field who probably entered with pre-conceived ideas (from their tertiary studies) about the teaching field. It probably was disappointing for them to realise that the public viewed them as ordinary workers; accordingly, they eagerly take to the streets probably because they have nothing much to lose. However, taking to the streets is probably for other reasons which may include grievances pertaining to salaries, conditions of employment and political aspirations for power. Despite the fact that they held a similar view as the elderly educators that the right to strike could be limited, they did not associate strikes with negative effects in education (see F13). This is a signal that the government could succeed to transform and completely professionalise education if they were more sympathetic towards the educators’ genuine needs. It is imperative to mention that there is a high probability that if education could be declared an essential service, there could be a danger of an unsympathetic government abusing such legislative prohibition to ignore the genuine grievances of educators. The findings confirmed that the new entrants into the teaching field could be malleable and were receptive. However, it remains unclear whether, as they become entrenched in the profession, they will be inclined more towards professionalism or unionism (Bloch, 2009:106).

- *B24 - Polarisation of Unions by Politics*: The *post hoc* test yielded results of medium significance whereby the 50-61+ age group (0.51) supported by the middle-aged 41-50 groups (0.47) believed that unions were indeed polarised by politics. It should be borne in mind that those are the age groups that were there during the uprisings of the 80's during which unity was emphasised. It could be discouraging to them that during a democratic era, when they would have expected more unity among labour unions, politics have become a scourge that seeks to benefit only the union leaders in upper echelons and leave the rank and file in the cold (Pencavel, 2005:67).
- *B28 - Striking is Unprofessional*: The results elicited by the *post hoc* test were quite interesting in the sense that they confirmed, once again, how malleable the novices (young entrants) were and how the government could use this characteristic to its advantage and help cure the ailing education system. The large, statistically significant difference between the 51-61 (0.84) and the 31-40 (0.45) age group revealed that the seasoned respondents viewed professionalism in a more serious light than the younger respondents. The elderly educators apparently believed that the strike was uncharacteristic of a profession. The respondents aged between 20 and 30, following the seasoned respondents with a medium, statistically significant variance (0.60), believed more than the 31-40 age groups did that the strike was unprofessional. This confirmed what Malala (2007:9 - Chapter 2: par. 2.4.4.2) alluded to when he referred to intimidation of educators who did not want to join the strike.
- *B31 Acknowledgement by Employer*: The *post hoc* test yielded results that confirmed that the 51-61+ age group, at the effect sizes of 0.69 and 0.68, was more convinced than the novices (20-30 age group) and the 31-40 age group respectively that the employer did acknowledge educators as professionals. The elderly have been through some highs and mostly lows in their education career; they probably view the current dispensation more positively. Moreover, they have reached a stage in life where they have less financial commitments and needs, and due to their years of experience, they probably do not view their salaries as low. This is a generation that obeyed

authority unquestioningly; accordingly, they found it not professionally demeaning that they have no autonomy.

5.14.7. Tukey's *post hoc* test for ANOVA: A12 (Language groups)

Seven factors indicated statistically significant differences. The most significant effect sizes have been highlighted in bold for easy reference. The minority language groups were excluded from the test as they would yield statistically insignificant results. The findings of Tukey's *post hoc* test, as tabulated in Table 5.11, revealed the following:

- *F2 - Misconduct*: The effect of the difference between the Setswana group, IsiXhosa and the Afrikaans group in respect of misconduct committed by educators is of medium statistical significance (0.66 and 0.64). Most of the Setswana and IsiXhosa speaking groups held the strong opinion that misconduct by educators in public secondary schools was rife. It was apparent from the mean registered by the Afrikaans group that misconduct was less prevalent in their schools. These significant effect sizes confirmed the pattern that existed in township schools where the Setswana and IsiXhosa groups were predominantly practising. This could be an indication that the schools where the Setswana and IsiXhosa groups practice lacked profound management or educators lacked discipline and self-respect (Jansen, 2007:12, North-West Education Research Unit, 2008:3). Usually, there are fewer incidences of misconduct in schools that are managed by seasoned and good managers. This implies that where there is more prevalence of misconduct, the consequences are usually poor academic performance as more teaching and learning time is spent on disciplinary hearing sessions.

Table 5.9. Tukey's *post hoc* test for Analysis of Variance (ANOVA) – A12

FACTORS	SUB-POP.	N	ANOVA	DEVIATION		EFFECT SIZES	
	Language Groups		p-value	Mean	Standards	Setswana	IsiXhosa
F2: Misconduct	Setswana	79	0.000	2.6370	0.60813		
	IsiXhosa	45		2.6895	0.70246	0.07	
	Afrikaans	107		2.2382	0.58451	0.66	0.64
F5: Educator professional status	Setswana	79	0.002	3.0184	0.63630		
	IsiXhosa	45		3.2081	0.51548	0.30	
	Afrikaans	107		3.2911	0.42868	0.43	0.16
F10: Knowledge of labour law	Setswana	79	0.000	3.3038	0.57535		
	IsiXhosa	45		3.4926	0.41126	0.33	
	Afrikaans	107		2.9283	0.54422	0.65	1.04
F13: Educators' strikes – impact on education	Setswana	79	0.005	2.3443	0.62347		
	IsiXhosa	45		2.4067	0.80556	0.08	
	Afrikaans	107		2.0977	0.52828	0.40	0.38
F14: Inadequacies and defects in legislation	Setswana	79	0.000	2.7749	0.63853		
	IsiXhosa	45		2.9963	0.68025	0.33	
	Afrikaans	107		3.1604	0.46267	0.60	0.24
B25: Educators' right to strike	Setswana	79	0.001	3.1642	0.61784		
	IsiXhosa	45		3.4634	0.67445	0.44	
	Afrikaans	107		3.0198	0.59967	0.23	0.66
B28: Striking is unprofessional	Setswana	79	0.000	2.3108	1.03269		
	IsiXhosa	45		2.2093	1.30125	0.08	
	Afrikaans	107		2.9065	0.98606	0.58	0.54

- *F5 - Educators' Professional Status*: The issue whether the educators were accorded respect and acknowledgement as professionals by the public revealed a medium statistical significance (0.43) with the Afrikaans group believing that the professional status of educators is under siege by the public and the media. The IsiXhosa group indicated ambivalence on this issue. The findings confirmed that the respondents were aware of how the image of educators had been dented over the years by, *inter alia*, their behaviour during industrial strikes. The test also revealed that the respondents

themselves were not certain if they were workers or professionals. This implies that professionalism is not quite entrenched into educators' work lives.

- *F10 - Knowledge of Labour Law:* The large, statistically significant variance revealed by the IsiXhosa group (1.04) and the Setswana group (0.65) confirmed, once again, how uncertain the Afrikaans group was of its knowledge of Labour Law. This was probably due to the fact that some Afrikaans speaking South Africans did not readily accept change and were reluctant to transform. Transformation is actually not easy for everyone and requires sacrifices of self (Brijraj, 2010). Accordingly, adapting to legislation has not been easy for all South Africans. The poor knowledge of labour law could be due to a lower prevalence of misconduct and disciplinary hearings at their schools. The reduced exposure could have led to the belief that it was less necessary to acquire this knowledge in practice. It is commonly known in South Africa that there is comparative absence of an activist culture or protest tradition within the Afrikaans speaking population. Generally, the Afrikaans speaking educators are less prone to protests and, therefore, do not have much practical everyday use for labour law provisions. In contrast, the other language groups (Blacks) have had to protest to get attention for anything during and after the apartheid era. Thus, if employees frequently have to protest, they need to arm themselves with legislation.
- *F13 - Educators' Strikes and Impact on Education:* The Setswana group (0.40) and the IsiXhosa group (0.38) agreed on average that the educators' strikes do impact negatively on education. The Afrikaans group registered a lower mean which meant that their schools did not usually feel the impact of public servants' strikes. It is notable that educators in their schools do not desert classrooms and take to the streets. This is confirmed by the quality and quantity of their grade 12 results yearly (Bloch, 2009:60-61).
- *F14 – Inadequacies and Defects in Legislation:* The *post hoc* test revealed that the different language groups did not perceive legislation in a similar manner. The Afrikaans group, with the effect size of 0.60, differed greatly from the Setswana group as the former held the strong opinion that legislation that impacts on the education system was lacking and defective. The significant

effect of 0.60 in the Afrikaans group confirmed that this group was in favour of a concerted effort to review and amend the legislation that impacts on education. The IsiXhosa group, with the effect size of 0.33, held ambivalent views on this matter. In essence, the *post hoc* test confirmed that if debates among South Africans were to be held, they would help identify gaps and defects in legislation and encourage further debates for amendments to legislation. The fact that legislation is essential to enhance a stable, democratic education arena is indisputable, yet it does not. Legislation has been found lacking in addressing undemocratic behaviour by striking educators towards learners specifically (Zengele, 2009:56). The rule of law and the constitutionality of the children's right to basic education were ignored during the strikes of 2007 and 2010. The limitation clause is seemingly not understood by the government; consequently, it has become defective.

- *B25 – Educators' Right to Strike*: This controversial factor elicited a large, statistically significant effect size of 0.66 between the Afrikaans group and the IsiXhosa group. Apparently, the Afrikaans group of educators believed that the right to strike should be limited; whereas the effect size of the IsiXhosa group indicated a medium significant effect size of 0.44 as opposed to the Setswana group regarding the right to strike. The *post hoc* test did not only confirm the existing belief that the Batswana has a remarkably more peaceful nature compared to the fierce and more militant nature of the AmaXhosa but also revealed the difference between the majority groups and the minority groups regarding the resolve to strike. It could be surmised that the socio-cultural differences were also revealed in the findings whereby the Afrikaans group's high regard for education and the **"child's best interests"** principle transcend the right to strike.
- *B28 – Striking is Unprofessional*: The *post hoc* test yielded results of medium, statistically significant effect of 0.58 between the Afrikaans group and the Setswana 0.54 between the Afrikaans group and the IsiXhosa group. The Afrikaans group agreed that the strike is unprofessional. The variance pertaining to this factor confirmed the ambivalent stance of the majority of the Setswana group and the IsiXhosa group with regard to professionalism and

unionism in education. In essence, the medium effect sizes seemed to suggest that these groups were of the opinion that the strike action could be a tenet of a profession. The effect sizes have also confirmed the significant prevalence of opinions by the Setswana group and the IsiXhosa group who are more in favour of strike actions. The possible explanation for the divergent opinions of the Afrikaans group (not in favour of strikes), the Setswana group and the IsiXhosa group (in favour of strikes) is that the culture of taking to the streets within the majority language groups overrides the right of the learners to be taught. The historic culture of protesting during the struggle against apartheid has played a role in the proneness to strike (Zengele, 2009:58). However, in a democratic South Africa, it is not expected of people to protest in a political instead of a democratic manner. Transition from revolutionary protesting to democratic protesting within the black communities (isiXhosa, Setswana, Sesotho language speakers) has not occurred. This incites the question whether aggrieved educators will ever reach a stage of professionalism whereby they will be willing to protest after working hours and protect learning and teaching time. If this is attained in future, educators would garner support from the public (Salim, 2011).

5.14.8. Tukey's *post hoc* test for ANOVA (A14 Geog. Situations)

The findings of the *post hoc* test yielded quite interesting results that further confirmed the difference in attitudes and opinions of educators in different geographically situated South African Schools. The table below illustrates these differences:

- *F.2 - Misconduct*: This factor elicited very large, statistically significant variances of 1.08, 1.07, 0.99 and 0.78 whereby the township schools differed from urban, rural farm, suburban and rural mine schools respectively on the prevalence of misconduct. The large effect sizes spell out concretely that misconduct is the norm in township schools. There could be differing reasons to the explanation of such prevalence, one being the fact that township schools are predominantly occupied by members of SADTU, a teacher union which is known to protect and defend its members even when they have done

Table 5.10 Tukey's *post hoc* test for Analysis of Variance (ANOVA) – A14

FACTORS	SUB-POPUL.	N	ANOVA	DEVIATION		EFFECT SIZES			
	Geo. Situations		p-value	Mean	Standard	Rural - Farm	Rural-mine	Suburb	Township
F2: Misconduct	Rural – farm	24	0.000	2.7361	0.62237				
	Rural – mine	32		2.2661	0.39165	0.76			
	Suburban	57		2.7284	0.50232	0.98	0.27		
	Township	140		2.7704	0.64688	0.05	0.78	0.99	
	Urban	41		2.0689	0.46774	1.07	0.42	0.12	1.08
F7: Legislation and policies	Rural – farm	24	0.008	3.3333	0.68630				
	Rural – mine	32		2.7969	0.71684	0.75			
	Suburban	57		2.7632	0.80237	0.71	0.04		
	Township	140		3.0330	0.80342	0.34	0.32	0.36	
	Urban	41		2.8415	0.65612	0.72	0.06	0.10	0.27
F8 : Prevalence of bureaucratic control	Rural – farm	24	0.000	3.4167	0.65386				
	Rural – mine	32		2.8750	0.58199	0.83			
	Suburban	57		2.7544	0.70155	0.94	0.17		
	Township	140		3.2101	0.71433	0.29	0.47	0.61	
	Urban	41		3.0732	0.54269	0.53	0.34	0.45	0.19
F10: Knowledge of labour law	Rural – farm	24	0.000	3.6042	0.42510				
	Rural – mine	32		3.1042	0.53840	0.93			
	Suburban	57		2.8392	0.53263	0.44	0.49		
	Township	140		3.4202	0.51882	0.35	0.59	1.09	
	Urban	41		2.9024	0.47284	0.48	0.37	0.12	1.00
B24: Polarisation of unions by politics	Rural – farm	24	0.024	3.3333	0.70196				
	Rural – mine	32		2.7500	0.95038	0.61			
	Suburban	57		2.8000	0.80277	0.60	0.05		
	Township	140		3.0407	0.77246	0.38	0.31	0.30	
	Urban	41		2.8947	0.60580	0.62	0.15	0.12	0.19
B25: Educators' strikes and impact on education	Rural – farm	24	0.000	3.0870	0.79275				
	Rural – mine	32		3.2069	0.49130	0.15			
	Suburban	57		2.8929	0.73059	0.24	0.43		
	Township	140		3.3629	0.60263	0.35	0.26	0.64	
	Urban	41		2.8919	0.51552	0.25	0.61	0.00	0.78

wrong. Another explanation could be poor management and poor leadership in most schools where there are no administrative systems and policies in place to direct the activities of every single school day (Van der Westhuizen *et al*, 2002:49 & Taylor, 2006:8). There are all kinds of misconduct; consequently, there is poor professional productivity. The general attitudes of disinterest, ignorance and non-participation of township parents contribute to poor performance of both educators and their children. If parents were more demanding and stood up to the rights of their children (section 28 & 29 of the Constitution), the propensity of township educators to strike would probably be less.

- *F.7 - Legislation and Policies:* The *post hoc* test yielded results of large, statistically significant variances. Large effect sizes of the respondents of rural farm schools (0.75, 0.72 and 0.70) between the rural farm schools and rural mine schools, urban schools and suburban schools respectively emphasised the difference of opinions/attitudes of these schools as opposed to the opinions/attitudes of the rural farms schools regarding legislation and polices. The major differences were mainly about the creation of School Governing Body's posts and accountability in terms of professional productivity. The explanation could be that farm schools have School Governing Bodies who are not well empowered to execute their duties; accordingly, circuit managers often make decisions for them. The respondents of the rural farm schools were also strongly opposed to the educators taking responsibility for poor productivity in grade 12.
- *F.8 - Prevalence of Bureaucratic Control:* The large effect sizes attested to the vast differences in opinions and attitudes regarding bureaucratic control in schools. The rural farm schools' respondent strongly held the belief that the department of education's officials abuse their power. The *post hoc* test yielded effect sizes of 0.94 and 0.83 in which the rural farm schools' respondents differed from the respondents of the suburban schools and those of the rural mine schools respectively. The explanation could probably be attributed to the fact that some departmental officials interfere more in rural farm schools where the School Governing Bodies are almost non-existent

and that the rural farm schools are the ones that are done most disservice in South Africa (Joubert & Bray, 2007:66).

- *F.10 – Knowledge of Labour Law:* The *post hoc* test elicited both large and medium effect sizes. The differences between the township schools' respondents and the respondents of suburban schools (1.09) and the urban schools' respondents (1.00) were more pronounced. It remains unclear whether this claimed legal high ground on labour law is real, overrated or imagined. The explanation could lie in the fact that educators who protest are more aware of their labour rights. This could be due to their union leadership that informs and politicise their members. Good knowledge of labour law is, therefore, necessary for strikes, protests and making legal demands.
- *B24 – Polarisation of Unions by Politics:* The respondents of rural farm schools were more convinced that unions were polarised by politics. The effect sizes of 0.62, 0.61 and 0.60 as opposed to the urban, rural mine and suburban schools' respondents respectively attested to this conviction. The explanation for this strong conviction could be the neglect by the unions (whilst in pursuit of politics) that the farm schools' respondents experience. The plight of educators in farm schools needs more attention from union leaders as well as from the departmental officials.
- *B25 – Educators' Strikes and Impact on Education:* The *post hoc* test yielded large, statistically significant variances in which the urban schools' respondents differed greatly from the township schools' respondents yielding an effect size of 0.78. The suburban schools' respondents also recorded a large difference of 0.64 with the township schools' respondents. The rural mine schools' respondents also agreed (0.61 and 0.43) that they were affected more by the educators' strikes than the urban and suburban schools respectively. The dichotomy of this situation could be due to the fact that educators in these schools react differently to strikes, with educators in urban and suburban schools more circumspect about their clients' education. In essence, these large effect sizes have confirmed the prevailing situation during strikes whereby schools attended by black children only are more affected by the strikes than the schools attended by mixed races, namely

urban and suburban schools. It is quite interesting that the children of educators who are SADTU members are in the latter schools where there is less disruption or no disruption at all (Jansen, 2008:14 & Khoabane, 2010:2). It is the children of the poor that are removed from schools, and the schools of the poor that are closed during strikes.

5.15. SYNOPSIS AND DISCUSSIONS ON EFFECT SIZES

The effect sizes that indicated little or no statistical significance meant that there were no differences in opinions or attitudes among the respective sub-population groups. All factors analysed, some of which revealed small effect sizes, were not tabulated or referred to in the discussions of effect sizes. However, it should be realised that the absence of significant effect sizes does not imply the non-importance of these issues. The effect sizes merely indicate that there is, in practice, no difference on the contentious nature of these issues. Factors that elicited effect sizes of little or no statistical significance during Tukey's *post hoc* and Levene's *t*-test for equality means are the following:

- F3 – Nature of professionalism in education;
- F6 – Political inclination in trade unionism;
- F12 – Effects of strikes on professionalism;
- B40 – Management of learners' progress reports;
- B42 – Legislation on learners' progress reports; and
- B58 – Creation of SGB posts.

The attitudes of the respondents pertaining to the above issues were very similar, and the absence of variances indicates that there was a general consensus. However, significant effect sizes were identified that confirmed the following trends:

- Attitudes or opinions of SADTU members, black respondents and the younger generation of educators in favour of strike actions;

- Attitudes or opinions of SADTU members and respondents in township schools confirm that the frequency of incidences of misconduct was more in their schools;
- Attitudes or opinions of non-affiliates favour the professionalisation of education;
- Attitudes or opinions of SAOU members and NAPTOSA members confirmed that there were inadequacies and defects in current legislation;
- Attitudes or opinions of all the sub-population groups confirmed acknowledgement of adverse effects of educators' strikes on education.

To summarise, ANOVA effect sizes revealed differences in attitudes and responses among teacher unions, age groups, language groups and different geographically situated sub-populations. There were medium to large variances among these respective groupings with regard to factors pertaining to professionalism, unionism (labour issues) and legislation in education. In essence, ANOVA results confirmed that SADTU members the younger generation of educators, the Setswana and IsiXhosa groups would not sacrifice their right to strike but would rather infringe upon the learners' right to education. ANOVA results also revealed the uncertainty that SAOU members, the Afrikaans group and the suburban and urban schools' respondents had regarding their knowledge of labour law.

Levene's *t*-test for equality means also revealed differences in attitudes between gender groups and race groups regarding professionalism, unionism (labour issues) and legislation in education. The *t*-test revealed that white respondents strongly believed that strike is unprofessional. Other major differences between race groups were on misconduct and knowledge of labour law. Black respondents confirmed prevalence of misconduct in their schools; whereas white respondents experienced less prevalence of misconduct in their schools. The *t*-test also revealed that black respondents were more confident of their knowledge of labour law.

5.16. SYNOPSIS OF QUANTITATIVE RESULTS AND FINDINGS

The results of the quantitative studies have been tabulated and discussed in this chapter. The statistical techniques established the high reliability to acceptable reliability of the measuring instruments and the findings. The equivalence of the results of the descriptive percentages and frequencies in comparison with factor analysis, analysis of variance (ANOVA) and the effect sizes confirmed the strong internal validity of these results.

Tukey's *post hoc* test and Levene's *t*-test results yielded quantifiable evidence of the following main findings:

- The majority of the population (67.4%) had more than 10 years of career experience in the education field;
- It was found impressive that 62.9% of the respondents were qualified beyond the basic requirement (REQV 13) for entry into the teaching field;
- The results attested to the fact that trade unionism has become a noticeable phenomenon in the education system as the majority of educators (87.8%) were unionised;
- There was a statistically significant variance in the knowledge of labour law within different sub-population groups: SADTU members, black respondents, males and the IsiXhosa group regarded their knowledge of labour law to be of a higher level than that of other teacher unions, white respondents and the Afrikaans group respectively;
- With the exception of SAOU members and white respondents, the majority of the respondents had ambivalent attitudes or opinions regarding the inadequacies and defects in the current legislation that regulates education and educators' activities;
- The majority of the respondents (82%) acknowledged their right to strike, though the results proved that SADTU members, the younger generation of educators (20-40 years of age), would exercise the right more willingly than other sub-population groups;

- The attitude of the majority of the respondents admitted that educators' strikes impacted negatively on education, especially in township schools;
- The majority of the respondents admitted to just having average knowledge of Education Law and policy;
- Ambivalent attitudes and uncertainty of the respondents aged between 20 and 30 years regarding the roles of professionalism, unionism and legislation in their lives of teaching practice were revealed in their responses to various questions;
- Contrary to what was expected, 71.4% of the respondents agreed and strongly agreed that the educators' right to strike should be limited. However, this could be misleading because a large portion of the participants were Afrikaans speaking and, thus, it does not necessarily indicate a national trend;
- In another unexpected result, a strong majority (79.3%) of all the respondents strongly agreed that education should be declared an essential service;
- Misconduct, according to the results, featured in the responses of the majority of the sub-populations as a problem in public schools generally; though prevalence was higher in the township schools;
- All the respondents acknowledged the prevalence of bureaucratic control which amounted to arrogance by departmental officials and interference in managerial and governance affairs in public schools;
- The ANOVA test and the *t*-test confirmed significant variances among the sub-population groups and also indicated significant effect sizes pertaining to issues related to professionalism, unionism (labour issues) and legislation in education.

In essence, therefore, the statistical analysis of the quantitative results has confirmed the following research propositions:

- There is significant evidence that there are inadequacies (gaps) and defects in legislation that impacts on education and on educators' activities;
- The respondents demonstrated poor knowledge of what professionalism entails;

- The analyses of effect sizes among the sup-population groups revealed a prevalence of unprofessional conduct and misconduct in public secondary schools of the KOSH Area, especially in the township schools;
- There was also significant statistical evidence that trade unionism in education has adverse effects;
- The respondents demonstrated that there was a prevalence of bureaucratic control and poor management in the education system.

It is of key importance to state that all the research propositions were established by the statistical analysis of the quantitative results. However, the research proposition that there is inadequate knowledge of legislation that regulates educators' professional and labour activities was not confirmed entirely. The majority of the respondents regarded their knowledge of labour law, specifically, as good which was found untrue as certain items in Appendix F (items 25, 32, 42, 47 and 48) assessed the correctness of their responses. The instrument revealed that the majority of the respondents had a poor understanding of legislation generally and were ignorant of what was legal and what was not.

5.17. THE QUALITATIVE STUDY

The bulk of Chapter 5's previous sections reported the quantitative results of this research. Hereunder, this section presents and discusses the results of the qualitative study. Analysis of data was done for each individual participant and in terms of the group dynamics (Maree *et al.*, 2009:108). The perceptions and comments of the participants as expressed in written responses to the two open-ended questions were analysed and coded (Maree *et al.*, 2009:109).

5.17.1. Results of the analysis of the written qualitative data

All participants were requested to answer open-ended questions in writing in the questionnaires and to give their perceptions of professionalism in education (B10) as well as on unionism in education (B65.2). Ethical standards were adhered to, and

questionnaires were completed anonymously and confidentially. As the questions were open-ended, no limitations were set in terms of responses and no manipulation or construction was done on responses by the researcher.

Qualitative data in terms of the general perceptions of educators regarding professionalism and unionism in education revealed the following:

- The majority of the participants stated that professionalisation of education in South Africa was still in an infant stage, citing low salaries, poor working conditions and bureaucratic “control” as reasons;
- The majority of the participants declared their despondency regarding the political inclination that SADTU has assumed (Chapter 3, par; 3.3.1 & 3.3.2);
- Participants preferred unionism that purely addresses the interest of educators and education matters;
- There was much agreement among the participants that educators should remain unionised, unionism was perceived as an armour (“protection”) against bureaucracy;
- The participants confirmed that teaching was not yet a profession in the true sense of professionalism;
- The South African Council for Educators was largely regarded as being a professional body that was only interested in educators’ registration fees and has done very little to professionalise education;
- SADTU was viewed by many participants (mainly SADTU members) as too tainted by politics and, thus, a ticket to the “gravy train”, meaning, an admission to a life of opulence (Chapter 2, par; 2.4.4.2 - Khoabane, 2010:2);
- Participants would like to be professionals and also be unionised in a democratic manner, that is, *“not to be made to feel compelled to behave barbarically just because one is a member of SADTU.”*

It was evident from the results of the qualitative study that some educators are professionals, and they would like to see the professionalisation of education advanced by both the government and the South African Council for Educators.

Educators would want to remain unionised to deter bureaucracy. As the literature study revealed (Jansen, 2008:14; Khoabane, 2010:2; Zengele, 2009:56), politics is perceived by many as a deterrent to the advancement of education.

5.17.2. Comments from qualitative study

After applying the methods of axial coding, selective coding and open coding; the following themes were identified and organised into coherent categories (Maree *et al.*, 2009:110) as shown below with comments extracted directly from Appendix F:

5.17.2.1. Professionalisation of education

The following extracts from the qualitative data affirm opinions of the participants:

- F
 failure to professionalise education, *“Education is partly professionalised; there are educators who are very ethical still.”*
 “Education is not professionalised that is why young people go overseas.”
 “SACE is only collecting money; it’s not interested in professionalising education. SACE does not care about the plight of the educators.”
 “Onderwysers is onderbetaald, wat beteken dat die onderwys dept self die professie ondermyn!” (Educators are underpaid, which means that the department of education itself; undermines the profession. – own translation)
- B
 bureaucracy, *“Educators are told how to teach, how to mark, how to record because someone ‘up there’ has long decided that educators are not professional enough to initiate and do things on their own.”*
 “Officials of the DOE are proud and not supportive, all they know when questioned is to pull ranks and do what they like in schools.”
 “Principals are treated like zombies not leaders; they dislike professional principals and educators because they expose bureaucracy and ignorance.”

The gist of the attitudes and opinions displayed in the above comments is that educators are quite despondent about the treatment and attitude of the employer towards them. It is apparent from the comments above that educators expect SACE to do more than just registration. SACE should be the voice of the profession (Chapter 2, par. 2.3.2). Oosthuizen (2007:56) hints at the arrogance displayed by departmental officials towards educators instead of being supportive. The comments above support Oosthuizen (2007:56) when he declares that such arrogance is in contrast with section 8 of the Constitution which advocates protection of civilians against abuse by the state or the state organs (Chapter 3, 3.5).

Bureaucracy can never be completely eradicated from the state and its organs but it is de-professionalising the teaching fraternity as educators' duties and how they should be executed is bureaucratically prescriptive. Bureaucracy has probably become more prevalent during the post-apartheid era because some officials who occupy positions of power are not adequately qualified (Zengele, 2009:2, Barbeau, 2009:15), accordingly, to conceal their ignorance, they resort to pride and arrogance and "pull ranks" to demand respect.

5.17.2.2. *Unionism in education*

The following extracts from the qualitative data affirm opinions of the respondents:

Negative impact of unionism, *"There is no place for trade unionism in a profession. Government created themselves the stick that is hitting the employers in this country."*

Politicisation of education, *"Due to massive political interference the education system has not been adequately professionalised and more is expected."*

Unionism - an underlying cause of misconduct, *"Trade unionism is vital in the development of education, however, the conduct of 'the union' and its members can equally be detrimental to the development of education."*

“Van die unies gaan oor tot intimidasie en geweld. Die wet behoort effektief toegepas te word.” (Some of the unions go over and start intimidating and cause violence. The law should be applied effectively. – own translation)

Abuse of unionism by members, *“Unionism is baie belangrik (very important) but it is definitely misunderstood and abused in some circles as a result it has a negative impact on education.”*

“Unions are politicising the teaching profession. This has resulted in most union teachers using their unions to settle personal scores.”

Betrayal, *“To hell with professionalism and unionism! Our leaders are sell-outs”*

The respondents’ comments above have painted a bleary picture and a bleak prospect for education in public schools. The comment about “no place for trade unionism in a profession” needs to be viewed in a serious light. Questions elicited by this comment could be:

1. Would the schooling system be better if professional organisations were stronger than labour organisations?
2. Could there be a better alternative for educators to protect their interests except unionism?

Comments have confirmed the intimidation and violence Malala (2007:9) reported about in Chapter 2 (par; 2.4.4.4.2). It is evident from the comments above that union membership and positions can be used to harm others and trade unionism in South Africa has become so powerful that it renders the education arena lawless. Unionism, as reflected in Chapter 3, is abused not only for “settling scores” but even more to get promotional post for loyal members. Loyal members are probably those who eagerly leave learners to attend all union activities (Zengele, 2009:67). As Manuel (2011b:2) submits, education could thrive well if teacher unions could all be apolitical and concentrated on professional matters and on developing education programmes that would improve learner attainment.

The participants were despondent with both teacher unionism and educator professionalism. Both phenomena occur within education and the manner in which they are practised could mar the success of education delivery in schools. The participants were educators in public schools and if they can be so unhappy in their practice, how can they deliver quality education and yield the desired results?

The last comment indicates that educators feel betrayed by both the employer by failing to professionalise education as well as by the union leaders by failing to address their issues satisfactorily. "Sell outs" could be interpreted to be referring to these failures. As indicated by the results of the qualitative study, educators have many genuine complaints, none of which can be ignored. However, allowing themselves (skilled people) to be led to the streets by union leaders, some of whom lead opulent lifestyles without even a respected education qualification is illogical.

CHAPTER 6

FINDINGS, RECOMMENDATIONS AND CONCLUSION

6.1. INTRODUCTION

In this final chapter, a general overview of this study has been given to indicate that the research objectives, as stated in paragraph 1.7, have been addressed. The aim of this chapter was also to provide deductive and inductive reasoning on the findings of the study after the analysis and interpretation were completed, as indicated in chapter 5. This was followed by discussions on the key concepts (professionalism, unionism and legislation), recommendations and conclusions drawn from the findings of the study. Recommendations have been made to:

- Encourage and improve professionalism in education;
- Regulate and improve the involvement of teacher unions in the professionalisation of education;
- Improve and enhance proper utilisation and enforcement of the rule of law; and
- Encourage the SACE to apply stringent methods to ensure that the profession is not put into disrepute and that professional productivity is enhanced in public schools.

Likewise, possible areas for further research have been identified, while limitations and challenges regarding this study conclude this chapter.

6.2. SYNOPSIS OF THE INVESTIGATION

The provision of a summary of the study was made in order to highlight its aims and to provide a rationale for the study. The summary has enabled the researcher to revisit the main aspects that were deliberated upon and to provide a general overview of the contents of each chapter. This has assisted in arriving at suitable conclusions and recommendations for the regulation and improvement to enhance

legitimate educator professionalism and unionism. The second step highlights and relates the major themes that emerged from the literature review and empirical quantitative findings in order to suggest a manner in which challenges can be addressed.

6.2.1. Summary of the research study

It is important to reiterate the ultimate goal of this study, namely to investigate the extent to which the utilisation of the existing legislation that impacts education can be instrumental in enhancing professionalism and in regulating both professionalism and unionism so that the quality of teaching and learning in public schools is not compromised.

In chapter one, the background of the dissertation has been set out. This comprised a description of the context and the rationale of the problem statement, the aims of the study, research questions and research methodology. In general, the dissertation has dealt with teacher unionism (labour relations) and educator professionalism from an Education Law perspective. The problem statement emphasised the expected professional conduct and distinguished trends of unprofessional conduct displayed by educators in public schools of the KOSH Area. It also highlighted the uncertainties and misunderstandings that exist with regard to legislation as an instrument to regulate professionalism and unionism in education. The specific objectives of this study were to:

- Establish what educator professionalism entails;
- Determine the extent to which unprofessional conduct by educators occurs in the KOSH Area;
- Identify the underlying causes of educators' unprofessional conduct; and
- Determine the extent to which the existing legislation that relates to education can be utilised effectively or reinforced to regulate unionism and enhance professionalism.

Accordingly, chapter 1 explained the focus of this study, namely professionalism in the field of education and unionism as the major underlying cause of unprofessional conduct. The study also focused on a consideration of theories of professionalism, unionism and legislation and on an empirical investigation of the relationship between professionalism and unionism from the Education Law perspective.

Chapter 2 gave a synopsis of the salient theories and debates on professionalism in education. The literature study has covered professionalism extensively in chapter 2, explaining the tenets of professionalism, debates relating to professionalism in education and the pull factors into and the push factors out of the education profession and the education system. The literature study confirmed the need to restore the dignity of education by professionalising it. The chapter also clarified the key concepts and analysed the debates of various orientations to substantive professionalisation of education.

A literature study on the origins and historical overview of trade unionism in South Africa followed in chapter 3. The aim was to indicate the origin of the need for committed and dedicated unionism in South Africa that would guard and protect the interests of the workers who had a history of subjugation and domination during the apartheid regime. Chapter 3 also discussed how trade unionism developed and extended to the education arena in South Africa. The discussion entailed the status of unionised educators and the jurisprudence that has developed over the years to regulate labour matters. The premise was that once educators have proper representation and protection at school level, they would be better able to provide effective and quality education. The literature study also highlighted the current international trends of trying to use union mechanisms and professional adjustments in order to create synergy to enhance education. The literature review also confirmed the political inclination which characterises trade unionism in South Africa. Other underlying causes of unprofessional conduct, apart from trade unionism which is viewed as the major reason, were also discussed in chapter 3. These are poor education management and lack of discipline and self-respect.

Chapter 4 identified, described, analysed and critically viewed legislation that impacts on education and educators' professional and labour activities. The study in this chapter was underpinned by the Constitution of the Republic of South Africa, specifically the Bill of Rights. The chapter focussed mainly on the rights that relate to education, the interpretation thereof and examples of case law emanating from the alleged infringement of some of these rights.

Chapter 5 presented empirical quantitative research which involved the development of a data measuring instrument. This chapter also displayed and analysed the quantitative data emerging from a survey and reported findings regarding the knowledge, attitudes and opinions of the participants.

6.2.2. Summary of the main findings emanating from the literature study

Chapter 2 provided a literature review of the salient concepts, tenets, debates and theories of professionalism generally and professionalism specifically in education. The literature review included definitions and discussed the progressive development of professionalism as South Africa transformed. Some of the major developments towards professionalising education confirmed by the literature study are the establishment of:

- The South African Council for Educators (SACE) Act of 2000 which made it compulsory for educators to be registered before taking up any teaching post;
- The Employment of Educators Act of 1998 under which educators' terms and conditions of employment are stipulated; and
- The SACE Code of Conduct which is embedded within the SACE Act.

The literature review confirmed that professionalism is generally viewed as an embodiment of a distinguished class of people with esoteric knowledge acquired through years of training in tertiary institutions. The SACE Act depicts educators in a vocation/calling theme which compounds aspects of the other themes and creates a single holistic image of what an educator should be. However, the literature study revealed (par. 2.4.1) that quite a number of South African educators lacked

specialised knowledge (subject content) and pedagogical content knowledge (content presentation skills) (Taylor, 2006:9). Accordingly, it is difficult for educators to be afforded professional authority and acknowledgement by the communities in which they work if they are found lacking in their areas of expertise. It is also clear from the debates emanating from the literature review that the professional identity of educators has become complex and dynamic as the majority of unionised educators today perceive themselves as ordinary workers. It is important to state that the debate on whether education is a profession or not has been partially addressed through the establishment of SACE which is a professional registration council.

Furthermore, chapter 2 clarified the professional identity of South African educators as dented and flawed. The common conceptions emanating from the literature review indicated that the frequency and extent of misconduct amongst educators further damaged their already tarnished professional image and identity. Failure to adhere to SACE's prescribed code of ethics was heavily cited in the literature review. Chapter 2 disclosed the prevalence of bureaucratic control which contributes to de-professionalisation of education. Educators are allegedly stripped of their inherent professional autonomy and accountability. Consequently, due to their bureaucratically diminished status, they indulge in misconduct, such as dereliction of duty, which amounts to a breach of contract conditions. Breach of contract conditions, as revealed in the literature study, mainly involves repeatedly being absent without taking leave for parts of a whole working day or insubordination to a manager. The literature review further confirmed how absenteeism runs at chronic levels in South African public schools mainly because of abuse of sick leave and time-off by union office bearers and site stewards. The vocation/calling theme of SACE is unique in the sense that it advocates the notion that teaching involves personal sacrifice. The literature study, however, revealed that educators in South African public schools, year after year, desert their clients (learners) during public servants' strikes in pursuit of their socio-economic interests.

Despite the bleak prospect that the literature review depicted pertaining to professionalism in education, the researcher asserts that there are many South

African public schools that are filled by beacon educators who are self-sacrificing and hardworking, who are surrogate parents (since the law stipulates the *in loco parentis* principle) and who serve as moral examples to the learners and in the communities they serve.

In chapter 3, the literature was reviewed with regard to unionism and its facets as well as poor management in public education. The study examined the historical overview of trade unionism in South Africa, the definition and characteristics of trade unionism, aims and objectives of organised labour, labour relations and the alleged political edge to the activities of teacher unions. A comparison between the goals and objectives of the largest teacher union, SADTU, and the second largest teacher union, SAOU, was made in order to indicate the similarities as well as the differences that have an impact on the teaching and learning cultures of the schools where members of these teacher unions predominantly serve.

The literature study also investigated and confirmed the alleged political edge to the activities of teacher unions, specifically SADTU. The form of vigilance that the largest teacher union has over its members was also examined in this review. The intention was to verify whether the vigilance was properly directed or applied when educators needed to be protected from victimisation by the employer. In essence, the question is whether the vigilance is used to protect educators who are members of the union or only for those educators who are more active in union matters and who possibly neglect their classroom responsibilities as a result of their union activities. The same vigilance was confirmed by the literature review regarding the union's involvement in the filling of promotional posts.

The literature review further confirmed the strength of SADTU's political muscle which seems to have given it the erroneous notion that it has a hold on public schools' education. This notion is fed by its affiliation to COSATU which forms part of the tripartite alliance with the ruling party, the ANC, together with the SACP. Within the ruling party, there is a system of redeployment of loyal comrades to key positions in government structures, departments and parliament (Barbeau, 2009:15; Zengele,

2009:2 – chapter 3, par. 3.2.6). As chapter 3 disclosed, a number of SADTU activist educators has been deployed to senior positions within the provincial education departments and the national offices since 1994, regardless of suitability, experience, qualifications and capabilities. This policy has since been cascaded down to district offices, thus permeating through the positions of area office managers, circuit managers, school principals, deputy principals and subjects departmental heads.

The literature review does not allege that all the management positions are occupied by SADTU activists, but most of them indeed are. The study also does not allege that all SADTU activists appointed to key positions are not suitably qualified, inexperienced or incapable, but it is an indisputable fact that there are many poorly qualified, less experienced and incapable persons who occupy positions of power within the bureaucratic structure of the Department of Education. It then would be an unreasonable expectation not to find prevalence of bureaucratic control in public education. The question that remains to be answered is: At what stage did SADTU abandon its democratic nature?

The literature review further revealed the prevalence of unprofessional conduct displayed by members of SADTU in schools and during public servants' strikes. Unaccepted conduct was confirmed by a journalist in the literature review: intimidation, vandalism and violent actions inflicted on learners and other educators who did not want to participate in strike actions. This, as evident in the literature review, tarnished the image of educators in the eyes of the public. The revelation of the study also spelt out concretely that it would be difficult to accord educators professional authority, acknowledgement and respect under these conditions. Again, the question remains to be answered: What happened to SADTU's democratic character?

The literature review revealed that the public education system is at an advanced ailing stage as a result of, *inter alia*, the undemocratic nature of SADTU, poor management in schools and lawlessness encouraged by senior managers who have

been appointed on the SADTU mandate, resulting in them being unable to discipline their own (Zengele, 2009:2). The pursuit of selfish interests by union members, lack of discipline and self-respect on the part of educators and poor education management from top to bottom are detrimental to the education of the South African learners (Bloch, 200:106). The role of South African politics in the conception of unions was confirmed by the literature review. This, unfortunately, has left the education system with the scourge of militancy, bullying, intimidation and lawlessness. Chapter 3 also revealed the influential history of unions in the policy domain. The literature review further confirmed that education is quite a contested arena in as far as politicians, unions and society all demand to have a say. However, education legislation is a convenient system to provide a regulatory framework for lending support to democratising the education system.

In chapter 4, literature was reviewed with regard to legislation that impacts on education and on educators' professional and union activities. An analysis of the constitutional sections (Bill of Rights) that relate to education legislation was done. Through this exercise, it was proven that education and the law are inextricably linked, and for education to thrive, they need to exist co-dependently. Education, like all other public government departments, is guided by the framework established by law. The literature review illustrated the supremacy of the Constitution in the sense that all forms of legislation are subordinate due to their subjectivity to the Constitution.

The influence of the Constitution in the field of education was further confirmed in the literature review by other education legislation that was established to support the rights entrenched in the Constitution, e.g. the South African Schools Act (SASA), the National Education Policy Act (NEPA) and the Employment of Educators Act (EEA). Sections of the Constitution's Bill of Rights that have a direct influence on education were discussed and analysed, and a synthesis within the education sphere with case law followed, where the latter stemmed from the impingement of these rights by either educators or departmental officials. These rights are:

- Equality – Section 9;

- Freedom of expression – Section 16;
- Labour relations – Section 23;
- Children – Section 28;
- Right to basic education – Section 29;
- Just administrative action - Section 33;
- Limitation of rights – Section 36;
- Interpretation of the Bill of Rights – Section 39.

The review of case law in the literature study emphasised certain bureaucratic practices that infringe upon the educators' right to just administrative action. Some case law that was reviewed in chapter 4 was the *Pudulogo Primary School v MEC of Education North-West* (chapter 4, par. 4.7). The literature review also explained and discussed the South African Schools Act (SASA), the National Education Policy Act (NEPA), the Employment of Educators Act (EEA) and the South African Schools Act (SASA) at length, relating the law to the actual practices in public schools. According to the literature review, even though the personnel administration measures (PAM) prescribes the terms and conditions of educators' services, it is flouted by the real education scenarios in public schools.

To summarise, the literature review provided a synopsis of theories of professionalism and those of unionism, as well as an exposition of the legalities that impact on education in South Africa. Therefore, all the research objectives as set out in paragraph 1.4, viz. to establish what educator professionalism entails, to determine the extent to which educator misconduct occurs, to identify the underlying causes of misconduct and to determine the extent to which the existing legislation can be utilised effectively and reinforced to regulate unionism and enhance professionalism, were attained by means of this review.

6.2.3. Summary of the main findings emanating from the quantitative study

The quantitative study of the empirical research was undertaken in order to accomplish the following research objectives (1.7):

- To establish what educator professionalism entails;
- To determine the extent to which educator misconduct occurs;
- To identify the underlying causes of educators' unprofessional conduct;
- To determine the extent to which legislation can be utilised effectively and reinforced to regulate unionism and enhance professionalism.

The quantitative study determined the attitudes and knowledge levels of respondents regarding professionalism, unionism and legislation. To this end, the quantitative study surveyed public secondary school educators (including principals) of the KOSH Area. The random sampling yielded a satisfactory response rate of 86.47%. Out of the 340 expected returns, a total of 294 participants completed and returned the questionnaires which were submitted to the Statistical Consultation Services of the North-West. Accordingly, the validity and reliability of the quantitative data was confirmed by means of statistical methods such as the oblimin rotated pattern matrix with Kaiser normalisation, the Cronbach alpha coefficient in factor analysis (Table 5.3. and Table 5.4.), Tukey's *post hoc* test and Levene's *t*-test for equality means to determine effect sizes (Tables 5.5, 5.6, 5.7, 5.8, 5.9 and 5.10).

6.2.3.1. *Summary of biographical data and knowledge levels*

The results of the quantitative data confirmed the following findings:

- The majority of the respondents (67.4%) had more than 10 years of career experience in the teaching.
- Though it was impressive that 62.9% of respondents were qualified beyond the basic requirement (REQV 13) for entry into the teaching field, their knowledge

of what professionalism entails, as well as of Education Law and policies, as is evident in their responses in Section B, was not as impressive.

- The majority of practising educators (53.4%) are women. These findings corroborate results of other studies by various researchers.
- The majority (47.61%) of the respondents were attached to township schools, and the quantitative study confirmed that this was where educator misconduct was most prevalent.
- The quantitative study revealed that 87.8% of educators were unionised, and this is confirmation that trade unionism has found its niche in the education arena.
- The majority of the respondents, 82% (Appendix G), acknowledged their right to strike, though the quantitative results proved that the younger generation of educators (20-40 years of age) would exercise the right more readily than the other age groups.

6.2.3.2. Opinions and attitudes towards professionalism, unionism and legislation

The analysis of the descriptive statistics confirmed the following:

- There was a statistically significant variance in the knowledge of different sub-population groups. Members of SADTU, black respondents, males and the IsiXhosa group regarded their knowledge of labour law to be higher than that of other population sub-groups. However, this was proven wrong as certain questions in the questionnaire (Appendix F, items: 25, 26, 32, 57 and, 58) assessed the correctness of their responses and actually revealed that the majority of the respondents had a poor understanding of Education Law and policies pertaining to education. The majority of educators were ignorant of what professionalism entails, being unionised within a profession and the behaviour thereof.
- The analyses of effect sizes among the sub-population groups revealed a prevalence of unprofessional conduct and misconduct in public secondary schools of the KOSH Area, especially in the township schools.

- There was also significant statistical evidence that trade unionism in education is disruptive and has adverse effects, especially in township schools. This was further substantiated by the unexpected majority of respondents, 79.3% (Appendix G), who believed that education should be declared an essential service (Appendix F: item 43) and another majority of respondents, 71.4% (Appendix F: item 47), who believed that the right to strike must be limited through the law.
- With the exception of members of SAOU and white respondents, the majority of the respondents had ambivalent attitudes or opinions (uncertainty) regarding the inadequacies and defects in the current legislation that regulates educators' professional and labour activities.
- Misconduct featured as a problem in the responses of most of the sub-population groups generally; though, evidently, township schools were the most affected. The extent to which unprofessional conduct occurred was shown in the extract from the SACE legal department (Table 2.1).
- The majority of the respondents acknowledged prevalence of bureaucratic control which amounts to arrogance by departmental officials and interference in managerial and governance affairs in public schools.
- A comparative statistical analysis also revealed that the analysis of variance (ANOVA) test and the *t*-test confirmed significant variances among the sub-population groups generally and also indicated significant effect sizes pertaining to issues relating to professionalism, unionism/labour and legislation in education.

6.2.3.3. *Statistical confirmation of research hypothesis*

In essence, the statistical analyses confirmed the following research hypotheses:

- There is significant evidence that the majority of educators were ignorant of what professionalism entails. In particular, attitudes and bureaucratic appointments of educators who are incompetent (a kind of bureaucracy practised by former SADTU loyalists who now occupy senior positions) results in poor professional productivity in schools (Zengele, 2009:2).

- The copious evidence of the prevalence of misconduct (unprofessional conduct) in township schools was statistically confirmed by the analyses of effect sizes between the sub-population groups (Tables: 5.5 to 5.10).
- The majority of the respondents indicated that unionism was an underlying cause of misconduct in public schools (Appendix F; item 21).
- The analyses of effect sizes between sub-population groups revealed that there were gaps and inadequacies in the current legislation that needed to be attended to in order to protect the learners' education. Legislation does not provide a detailed interpretation of democratic principles, even the supreme law of the country. In public schools, it was evident in the sense that SADTU does not seem to acknowledge nor practise its supposed democratic nature.

Therefore, the quantitative empirical research accomplished all the research objectives by determining the indicators of knowledge of educator professionalism and by establishing the degree of prevalence of educators' unprofessional conduct in public schools of the KOSH Area. Unionism has been determined as a major underlying cause of unprofessional conduct in education, especially at school level. The empirical evidence has established that the current legislation needs to be reinforced to regulate teacher unionism, thereby enhancing educator professionalism.

6.3. TRIANGULATION: INTERNAL VALIDITY AND CONVERGENCE OF FINDINGS

It was of key importance to verify the findings reported in 6.2. To achieve this, the results obtained from the various research methods were compared by means of triangulation. Triangulation, according to Maree *et al.* (2009:39) and Crano and Brewer (2002:161), is the process of verification whereby the results of analysed and interpreted data from different sources are compared. According to Maree *et al.* (2009:39), triangulation is critical in facilitating interpretive validity and establishing data trustworthiness. It helps to check the extent to which conclusions based on qualitative sources are supported by quantitative perspective and vice versa. It was

from the convergence of similar points of agreement that verification of the conclusions occurred. In statistical terms, triangulation refers to the laying out and accurate measurement of a network of data surveyed (Maree *et al.*, 2009:262). The application of triangulation confirmed that data and interpreted facts of the literature study and empirical study converged in respect of the following aspects:

- Lack of specialised knowledge was confirmed by the literature review (par. 2.4.1 and 2.4.2) as well as by the quantitative findings (Appendix G: items 39 and 45).
- Overwhelming evidence was also yielded by the literature study (par. 4.3, 4.3.1 and 4.3.6) as well as the empirical study (Appendix G: items 42, 47, 48, 57, 58; par. 5.15.3, 5.15.4, 5.15.5 and 5.15.7) which confirmed that the majority of educators' knowledge of legislation was very poor, general and superficial.
- The literature review confirmed that the professional status/identity of educators has become complex and dynamic since the majority of unionised educators today perceive themselves as ordinary workers (par. 3.2.6 and 3.2.8). The quantitative findings (Appendix G: items 22, 36 and 51) as well as qualitative findings (Appendix F: item B10) confirmed the same.
- Increasing inclination towards politics by the majority of SADTU members was confirmed by the literature review (3.2.5, 3.2.9 and 3.2.10) as well as the quantitative findings (par. 5.15.6 and 5.15.8; Appendix G: items 24 and 64) and qualitative findings (Appendix F: item B65.2).
- Incidences of misconduct in public schools were confirmed by the literature review (par. 2.4 and Appendix A), the quantitative findings (Appendix G: items 35, 38, 53, 55 and 59) as well as qualitative findings (Appendix F: item B10).
- The literature review (par. 3.2.5 and 3.2.10), the quantitative findings (Appendix G: items 38, 55 and 62) as well as the qualitative findings (Appendix F: item B65.2) confirmed that teacher unionism as well as the juristic powers of unions is misconstrued by the majority of educators.
- The literature review (par. 2.3.5.1, 2.3.5.2, 4.3.5 and 4.3.7), the qualitative findings (Appendix F: item B10) and the empirical evidence (Appendix G:

items 41, 44 and 65.1) confirmed the prevalence of bureaucratic control within the Department of Education and the bureaucratic attitudes of senior officials.

- Overwhelming evidence was yielded by the literature study (par. 2.4.4.1, 2.4.4.2, 3.2.5 and 3.2.9), the qualitative findings (Appendix F: item B65.2) as well as the quantitative findings (Appendix G: items 27, 57, 62, 63 and 64; par. 5.15.3, F1 and F13) that confirmed the effects of unregulated unionism. Unionism, as the qualitative comments of the participants confirmed, is unregulated and self-serving.
- Qualitative findings in the form of comments in item B10 confirmed that professionalisation of education in South Africa was still in an infant stage. The evidence from the literature study was overwhelming (bureaucratic control – chapter 2).

In summary, the method of triangulation verifies the internal validity of the most significant findings of this research study.

6.4. DISCUSSIONS OF KEY CONCEPTS AND RECOMMENDATIONS

The evidence from the findings clearly indicated that professionalisation of the South African education system was still an unrealistic dream; just like labour peace in South African schools may never be attained if the largest teacher union, SADTU, maintains its unhealthy political stance. These are the shortcomings that plague the education system and make professional productivity very poor; in consequence, learners' academic performance is affected as well as the entire holistic development that is the by-product of properly implemented curriculum. The findings have also confirmed an undesirable state of affairs whereby the government has:

- Failed to take advantage of transformation to totally professionalise education;
- Given so much leeway to SADTU members, in an effort to show gratitude for continued support, that the unionists have become demagogues who are causing further damage to the already impaired South African education system;

- Allowed lawlessness within the education system by appointing their own who, in most cases, are not suitable for positions they occupy: Khoabane (2010:2), Zengele (2009:2) and Barbeau (2009:15) concurred on this issue in chapter 3.4.6;
- Suffered (and still does) the repercussions of its own (the government's) gross miscalculation of the alliance with COSATU: From the literature review and the quantitative findings it is evident that COSATU has no genuine interest in education and in the wellbeing of the workers; the union is more interested in a political agenda. Furthermore, SADTU showed reluctance and unwillingness to support whole school evaluation and the developmental appraisal system in 2000. Jansen (2004:52) asserts that these two policies would have seen education changing for the better if SADTU had not rejected them. Schools and school principals would have benefitted greatly from whole school evaluation. SADTU, instead, supported the bureaucratically awarded integrated quality measurement systems which has not as yet correctly or reliably measured any quality of educators.

Consequently, there is prevailing turmoil in the education system emanating from historical deficiencies, the historically inherent culture of labour militancy, inappropriate structures and appointments, erroneous policies and conceptions and, above all, the mere lack of commitment by government itself to the professionalisation of education and to adherence to legislation and policies that regulate activities in education. The number of cases of educators' unprofessional conduct and misconduct extracted from SACE's legal documents (Table 2.1) depicts the failure of the South African government to transform education, and this has resulted in a chaotic schooling system. The empirical findings of this study have confirmed how little effort the government has made to professionalise education, the contribution of teacher unions to de-professionalising education and the turbulence emanating from the prevailing political climate in South Africa.

In an attempt to provide explanations and recommendations, this discussion examined the constraints that have hampered progress in the education system

despite the democratic dispensation. Such constraints include challenges to the theory of **unionism towards professionalism**, prevalence of bureaucratic control, lawlessness, the status accorded to education as a public service and flawed educator recruitment process.

6.4.1. Challenges to the theory of unionism towards professionalism

Recommendation 1 – To restore the culture of service and delivery in schools, educators must take responsibility for their own conduct as professionals. Attaining a professional stance is not only about how well one is remunerated: The concept “professionalism” also encompasses knowledge which does not only enable educators to yield quality results but should accord them professional acknowledgement and authority. In addition to all the other tenets of professionalism, a professional educator is expected to have an intact moral fibre which constitutes the ability to behave well, to be honest and to show diligence. A professional educator must work hard at **self**: self-motivation, self-discipline, self-respect and self-improvement.

During the post-apartheid era, as Govender (2004:268) avers, the country perceived a government-unions relationship that went beyond just engaging on labour issues; rather, teacher unions were actively involved in the broader policy domain. However, that relationship was later strained by contests on policy domain and social change which elicited the underlying issues pertaining to power relations and control, redress and policy ownership. Policies that were developed in an effort to professionalise education were later met with resistance and criticism from, specifically, SADTU (Jansen, 2004:64). One such policy was the development appraisal system (DAS) and whole school evaluation (WSE). In response to this rejection, the integrated quality management system (IQMS) was later introduced. The teacher unions played a major role in the formulation of this policy as well as its advocacy, nationally and provincially.

As the government became deeply immersed in policy development, the relationship with teacher unions became more ambiguous as differences emerged regarding legislation and policy. SADTU became more concerned about educators' appraisal and political dynamics in education; whilst SAOU's and NAPTOSA's concern was jointly on matters of professionalism, school governance and funding. Nonetheless, teacher unions' promising relationship with the government has, over the years, waned to such an extent that teacher unions have assumed a confrontational relationship with the government again, and the prevailing political climate is not aiding the situation. Teacher unions like SAOU and NAPTOSA have ideologies in their constitutions that underpin education professionalism. Due to the department of education's failure to support and enhance professionalism, acknowledge educators as professionals, pay them a living wage and recognise their professional autonomy and accountability, even SAOU and NAPTOSA joined the 2010 public servants' strike. The majority of members of these teacher unions as confirmed by the quantitative study, view striking as unprofessional. This argument is premised on the assumption that SAOU and NAPTOSA would not have joined the strike were they not pushed by the arrogance of the employer. It is difficult to argue SADTU's participation in the strike along the same lines. Government officials and officials from the department of education are their comrades; the same people who took to the streets prior to 1993 against similar issues. Now that these comrades occupy top positions, labour issues that used to send them to the streets no longer matter. The comments in Appendix F: 65.2 lament the betrayal that SADTU members experience with regard to their comrades in senior positions and in positions of political power on the SADTU mandate. This, to a large extent, is believed to be the logical explanation for the quantitative findings that confirmed more prevalence of unprofessional conduct amongst blacks revealed by their acts of misconduct. This does not necessarily mean that the black educators' morality is more bent than that of other population groups. It could, *inter alia*, be pointing at other contributing factors like poor management and lack of accountability, political inclination, a misconstrued version of democracy, hunger for high positions and political power, the victim-attitude of entitlement, the dysfunctional equilibrium phenomenon, *et cetera*. However, this is a matter for further study as it falls beyond the focus of the present study.

The findings are limited to the focus of educators' professional and labour activities from the perspective of Education Law in the public schools of the KOSH Area. Accordingly, the recommendations of this research are limited to the focus of this study.

6.4.2. Unionism towards professionalism

Recommendation 2 – South African educators must begin to take responsibility for their own professional development in order to enhance productivity in public schools. The IQMS, which is a staff development instrument designed by the Department of Education and educator union and bureaucratically rewarded, is manipulated and depicts an unrealistic scenario regarding the quality of educators the Department of Education has.

The shift of **unionism towards professionalism** has suffered a setback, and the empirical study attested to this. The damage is so much that the novices have no clear understanding or position regarding unionism and professionalism. These are the many young entrants who have entered the teaching field with expectations of becoming professionals but were, instead, treated as ordinary workers. If teacher unions were not so preoccupied with salary negotiations annually, they would have by now found time to think of a model or plan they could use in collaboration with the Department of Education to contribute towards the professional development of their members. Education as a profession must yield good academic results; the fact that it does not should be of major concern for both the employer and the teacher unions. The time has come for both to take responsibility for poor academic performance in public schools. The public would support educators in negotiating for better salaries if such negotiations were substantiated by good learner performance. The educator appraisal instrument that the teacher unions seem to favour, the IQMS, encourages leniency and complacency. For fear of denting relationships within the schools, the Developmental Support Groups tend to affirm the educators' self-assessment high scores which never really tally with their academic outputs (learner achievement).

Therefore, it is in the light of the above that it is believed that staff development instruments designed by the Department of Education and teacher unions, like the IQMS, have indeed been a lost cause. Educators' professional growth has not been taken seriously; it lacks tangible systemic methodology, and it has been managed with astonishing clumsiness. It is not surprising, therefore, that educators have grown accustomed to its impotence and that even the administrators at departmental level have come to regard it as just an annual routine exercise in futility. Professional development, when done successfully, would yield positive results, viz. learners' improvement in basic skills, learners' improvement in standardised test scores, learners' improved attitudes towards school, improvement in learners' school attendance and a decrease in educator absenteeism. Perhaps the greatest challenge that the education department is faced with is changing educators' attitudes towards professionalism and the development thereof.

6.4.3. Prevalence of bureaucratic control

Recommendation 3 – The government and the department of education need to establish a more transparent and participatory type of governance that will allow participative and deliberative stakeholder forums, involving teacher unions, educator, parent and learner representatives.

Empirical evidence has confirmed the prevalence of bureaucratic control and behaviour in public education. There seems to be no end to the bureaucratic trend of employer interference in schools with professional and governance matters. This, according to the empirical evidence, often leads to flouting of legislation and policy by the education department's officials. Case law that has led to government officials facing charges in South African courts has been cited in chapter 4.

Inter alia, one example of cases that involve administrative injustice is that of the *Centre for Child Law v the MEC for Education – Gauteng, 2008(1)* (chapter 4:4.3.5). The case of *Moletsane v Premier of the Free State* (chapter 4:4.3.7), too, displayed the arrogance of the employer and the deliberate misinterpretation of legislation. The

employer's interference in matters pertaining to governance is also clearly evident in the case of *Pudulogo Primary School v MEC of Education in the North-West Province* (chapter 4: 4.4.7). All these cases depict a government that is arrogant and believes itself to be beyond reproach. This tendency often sees the departmental officials spending substantial amount of money in court battles – money that could be spent on educators' salaries and on improving infrastructure in rural schools. According to the stipulations of the Public Finance Management Act (1 of 1999) (PFMA), this definitely amounts to fruitless expenditure as the defendant often loses these cases and has to pay costs of suit. The willingness to engage in court cases is an indication that the departmental officials and government are not ready to do away with bureaucracy.

6.4.4. Prevalence of lawlessness

Recommendation 4 – Proper regulation of unionism should be applied. This would enable educators to attain professional growth and be more productive in their schools than merely worrying about who SADTU will award the next promotional position to. As a matter of fact, in well-managed schools, SADTU or any other union does not determine who is recommended for a promotional post: the School Governing Body does. Utilisation and re-enforcement of the current legislation as well as the essential application of the rule-of-law principle could curb lawlessness in public education.

Quantitative findings indicated an existing pattern of lawlessness in public education. This is evidenced by educators' unacceptable conduct in schools generally and during public servants' strikes specifically. This pattern is evaluated with regard to:

- The failure by the government/education department to apply the rule of law when it is supposed to;
- The failure to acknowledge democratic principles and diversity in public schools as well as the intolerance of differences.

The literature review has revealed a culture of absenteeism amongst educators (especially on Mondays and Fridays – chapter 2 page 58) in the South African schools. The empirical study has also confirmed how readily the majority of educators would desert their classrooms in preference for taking to the streets when an impasse is reached during salary negotiations. The mere fact that the government does not try hard enough to avert strikes is an indication that it is not perturbed by violence, intimidation, terrorism and outright lawlessness during public servants' strikes. The nonchalant attitude and the reluctance of the department of education (provincially and nationally) to take action against educators who display unprofessional conduct during strikes and in public schools generally are vivid evidence of the prevailing streak of lawlessness within the education system in general.

The empirical study has confirmed that there is hope as quite a number of educators seem to desire that education to be declared an essential service. Although it is not listed as an essential service in the Labour Relations Act (LRA), by its very substantial nature, it is. The department of education has, over the years, undermined the nature of education due to its fear to take action against SADTU. SADTU itself has, according to the empirical study, confirmed that the prevalence of misconduct in schools housing its members has increased. Cases of misconduct are not handled with honesty – from the local offices right up to the provincial offices. There is a culture of “protecting our members” that has developed within SADTU; this culture is further encouraged by the deployment of comrades in these offices. Due to the tripartite alliance that SADTU is part of, as a result of its affiliation to COSATU, this union co-governs the country together with the ANC-led government. If this was not the case, how does the department of education (provincially and nationally) account for allowing schools, educators, learners and parents to be held hostage by one teacher union year in and year out?

The intolerance regarding differences amongst the South African teaching citizenry is an indication of an immature democracy, underdeveloped personalities and a lack of knowledge. It is believed that the current politicised and unhealthy climate that has

been cultivated by SADTU is responsible for poor professional productivity, poor learner performance and dysfunctional schools. The quantitative study (Appendix F: 65.2) confirmed that regardless of the fact that the majority of the educators in public schools are members of SADTU, some could no longer identify with the union in the sense that it has become more politically inclined than being in pursuit of educators' professional interests and wellbeing in the education system.

6.4.5. The status accorded to education as a public service

Recommendation 5 – The researcher strongly recommends that education should be declared an essential service by amending or extending the definition of an essential service in the Labour Relations Act (section).

Further investigation should be conducted into the applicability of such an amendment of section of the LRA to ensure an about turn in South Africa's ailing education system. Essential services, according to the stipulations of the Labour Relations Act, are determined by the Minister of Public Services (section 70). A committee is established to investigate the nature of the service; whether the whole service or a certain part of it can be declared essential, the decision rests with the committee, under the auspices of the Public Service Commission. Parents must be angry enough to take their frustrations regarding education of their children forth and submit written or oral representations to the essential service committee. Education is an empowerment right and, thus, by its very nature, it is essential. The bureaucracy should not consent in order to abuse the legal prohibition to strike; instead, it should support this notion in order to rebuild the schooling system. If education is to be declared an essential service, it would, without doubt, increase educator-learner performance in schools, especially in township schools where the learners' right to a basic education is totally infringed upon during public servants' strikes.

Despite the Labour Relations Act's disregard for education and its essential nature, the Department of Basic Education does not accord teaching a professional status.

To satisfy educators' desire to be remunerated and treated like professionals, the employer has to take the first step. To be able to improve educators' salaries, the provincial departments of education must be willing to trim their expensive workforce structures in higher echelons and to divert those huge salaries towards improving educators' salary notches and creating more educator posts in public schools. This would motivate educators towards professional productivity, enhance learner performance and turn schools into portraits of excellence. This does not imply that extrinsic motivation (better remuneration) could turn an educator into a professional who is dedicated to school work and excellent learner performance. Intrinsic motivation is required too; an educator must desire to meet his/her professional obligations and must have an innate (coming from within) urge to succeed.

6.4.6. Flawed educator recruitment process

Recommendation 6 – It is imperative to determine, at the level of the ELRC, how policies could be structured in a manner that limits personal ambitions from overriding the placement of quality and well-qualified educators in public schools.

The deployment of SADTU comrades into key position (Barbeau, 2009:15; Zengele, 2009:2) is another culture that enhances lawlessness in South African public education. This culture has resulted in quality education and a sense of responsibility towards the nation being totally disregarded. Nepotism in South Africa bears the potential to drive the much needed educator workforce out of the department of education and possibly out of the profession. The South African government should admit that union control over new management positions through nepotism has had undesirable effects on the education system. The powers of the union increase but, simultaneously, professionalism is torn apart since lawlessness becomes rampant.

- Such appointments have yielded managers and administrators loyal to the union and not to the employer, namely the department of education;
- Union leaders control members and can even determine educators' conditions of service as they please due to the executive powers that emanate from the positions they occupy in government;

- The politicisation of the department of education has made it difficult to control performance within the department as supervisors owe their positions to union activism.

It is a fact, as the literature study has confirmed; that in South Africa, many former union leaders are now occupying senior positions in government (Zengele, 2009:2). The government has to start realising that the recruitment of former unionists has not yielded the desired results, whether for the educators or the government itself. Educators at school level are left feeling betrayed (Appendix F: 65.2) as they continue to witness the ascension of SADTU officials to top positions. The feeling of betrayal stems from the fact that hardworking and more deserving educators are disregarded when promotional posts are being advertised. Consequently, educators become resistant to being managed by beneficiaries of nepotism whom they view as incompetent. This leads to low educator morale and misconduct.

To avert the crisis brought about by deployment of comrades through nepotism, the department of education should outsource the recruitment process to an accredited and independent employment agency with personnel seasoned in human relations to manage the filling of posts, especially promotional posts in schools, local area offices, districts offices and even at provincial offices. Only the School Governing Body should be allowed to participate in this process. This, of course, would necessitate that the Employment of Educators Act be amended. This would ensure that educators who serve in the School Governing Body, teacher union representatives and institution heads would be at their posts driving teaching and learning programmes. This is also a step that would reduce the plethora of litigation emanating from the maladministration of appointments and redeployment/transfer of educators.

In essence, to minimise the effects of the constraints above, legislation should be used as an instrument to democratise education as it would provide a regulatory framework for lending support to the democratisation of the South African education system.

6.5. SUGGESTIONS FOR IMPROVING EDUCATOR PROFESSIONALISM

There is a dire need to revisit and revamp the relationship between the department of education, the educator workforce and teacher unions. It is envisaged that the department of education would see this need and engage the educators and teacher unions in areas of responsibility where educator performance is discussed and plans to boost it are hatched collectively. The department of education, educators and teacher unions must begin to take responsibility for poor performance at grade 12 levels. The time has come for the Department of Education in South Africa to accord educators the respect they deserve by paying them well and by reinstating their inherent professional autonomy, responsibility and accountability.

Accordingly, it is imperative to ensure that the current *status quo* in public schools changes for the better. To follow are some of the suggestions that could help to resuscitate the teaching profession in South African public schools:

- Unions could deal with the employer by using alternative methods that do not take educators away from the classrooms. For instance, union members could protest after working hours and away from schools. This is habitually done by members of the health profession unions when they embark on strikes because health professions are essential services.
- Teacher unions can play a stronger role in educating and training their members towards professionalism and empower them with knowledge of Education Law and policies.
- Improved parent involvement and parent protests can place considerable pressure on the government, unions with a political agenda and dysfunctional schools.
- The government should make a concerted effort to depoliticise, de-revolutionise and totally demobilise the politically motivated unions. The government should also honour its obligation to protect the rights of non-participating educators and learners during strikes. Legislation could be highly instrumental in prohibiting political activism in schools, limiting the right to strike when it is

being abused and by disallowing party political affiliations and party political appointments. Adequate stakeholder consultations could elicit debates and more tangible proposals to close gaps and identify defects in the current legislation and encourage further debates for amendments to legislation. The amendment of section 33A of the South African Schools of 2011 is an example of such a legislative provision.

- Education may not legally be an essential service, but by virtue of its significant nature, it is an essential service. Woolman and Fleisch (2009:117) assert that it is a right that empowers people to even realise and exercise other rights. Education liberates the mind, thereby allowing young and old to participate in economic and social activities that alleviate poverty and restore inherent dignity. It is criminal to deny anyone this right, especially someone who is defenceless, such as a child. The time has come for South African parents to exercise their democratic right to make decisions that positively influence quality delivery of education to their children. If parents could be more demanding to the government and stood up to their children's rights (section 28 & 29 in the Constitution's Bill of Rights), the propensity of township educators to strike would probably diminish.
- The Department of Education and teacher unions must devise a plan/tool focussed on effective educator performance based on peer assistance, coaching, monitoring and evaluation.
- The Department of Education could introduce the concept of mentor educators with probably a reasonable number of years' experience in teaching specific subjects. These mentors could be selected by a committee that constitute departmental senior officials, principals and union representatives. The duties of the above could include mentoring novice educators as well as experienced educators who encounter challenges with the demands of professional classroom duties. Such mentors could, in addition to their post level salaries, receive performance-related remuneration, and their workloads could be reduced to be equal to those of subject heads. Mentor educators and educators on probation could sign a performance agreement which has been agreed upon by all stakeholders (including unions represented in the

Education Labour Relations Council). Educators on mentorship programmes could remain on probation until the mentors recommend permanent appointments on readiness. Readiness should be supported by positive attitudes, enhanced content knowledge, improved pedagogical knowledge and improved learner performance. Should an educator subjected to the programme fail to deliver after a specific period, the committee could recommend dismissal on the grounds of incapacity (Employment of Educators Act).

- South Africa should move towards a stage whereby the principal provides support to educators and creates a supportive environment that is conducive to effective teaching and learning in the school. The principal should monitor educators' attendance and conduct, whilst the development part should become the responsibility of mentors.
- All meetings involving principals, educators and union office bearers should be conducted during non-teaching hours to protect teaching and learning time.
- The Department of Education should find a way to involve parents more in the education of their children, without limiting their involvement to governance and funding only.
- An additional compensation for educators varying from educators serving in areas of abject poverty to educators who undertake and complete research projects aimed at enhancing learners' performance could also help improve education services and delivery in such areas.
- Incentives should be given to educators who produce quality results. If this is implemented fairly and procedurally, it would not only enhance individual educator's performance and it would also encourage healthy competition amongst educators.
- Proper induction of novice educators, continuous in-service training and development could promote educator professionalism and divert the inclination towards teacher unionism.
- The national Department of Education should, through the amendment of the South African Council of Educators Act, subject prospective educators to

stringent measures and compel them to write a board examination as it is done by major professions like medicine, law, accountancy and engineering. This examination, unlike the examinations that assess content knowledge that educators have undertaken at tertiary institution; should assess ethical knowledge and qualities in prospective practitioners to detect and eliminate possible traits of unprofessional conduct.

If the afore-going recommendations and suggestions could be adopted and implemented effectively, it could boost educators' performance in South African schools and could minimise the vaulting ambition to occupy promotional posts at all costs. However, practising and integrating new behaviours, skills and attitudes into one's teaching takes considerable time and patience. Maintenance could be ensured through continuous monitoring by the committee to support the adoption of new practices. Educators in the mentoring programme could also monitor their own performance through learner feedback. Evaluation of such a programme should be ongoing, and if the objectives of the programme have been composed alongside measurable outcomes, evaluation should be relatively easy. The extent to which educators are assisted to grow and develop professionally will determine the extent to which schools themselves can be effective in providing for learner needs.

6.6. LIMITATIONS AND CHALLENGES OF THE STUDY

This research study was designed to be exploratory, descriptive and empirical, based on grounded theories and quantitative empirical evidence. It was impossible to generalise findings to other provinces in South Africa. This limitation was evidenced in the sample size of the population surveyed which only constituted 34 public secondary schools in the Klerksdorp, Orkney, Stilfontein and Hartebeesfontein (KOSH) area of the North-West Province.

The distribution of the research instrument presented the following challenges to the researcher:

- The exercise was met with suspicion as it coincided with the period immediately following upon the public servants' strike. Consequently, the recruitment of participants was almost impossible in some township schools.
- Even school principals were reluctant to assist; although the researcher took pains to explain that the instrument was informed by the literature review; all that was needed was to validate the literature review through participants' responses.
- Not all the intended respondents (10 per school) could participate. The reasons ranged from unavailability due to writing examinations, busy schedules or sheer disregard for the requests to participate.
- Slanted surveying did occur since the population percentage of the Afrikaans speakers was by far in the majority which, in reality, is illogical because the percentage of the Setswana speakers should have been higher. It was voluntary participation that yielded more responses from the Afrikaans speakers
- Many potential respondents refused to participate due to the controversial nature of the study.
- The results of the study would have been more interesting if it had covered a larger area (whole province). However, that could not be achieved as it would have required more time and financial resources.
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Despite the above limitations, the researcher was surprised by some of the SADTU members who eagerly participated and vented their anger and frustration against the employer and the union in the qualitative research comments (Appendix F: items 10 and 65.2 respectively).

6.7. RECOMMENDATIONS FOR FURTHER RESEARCH

Based on the findings pertaining to teacher unionism, educator professionalism and legislation, the following recommendations for further research may be submitted:

- The SACE could do much more than just registration; this body could, itself, rescue the education profession from disrepute by conducting further research into pragmatic mechanisms to enhance educators' expertise in their subjects' contents
- Teacher unions need to investigate better mechanisms of dealing with the employer and whether such mechanisms could be utilised successfully without their members choosing to compromise the clients' (learners') education rather than sacrifice members' right to strike.
- Mechanisms for proper induction of novice educators need to be investigated. (Ambivalent attitudes of the group aged between 20 and 30 regarding both professionalism and unionism could be attributed to the fact that they are at a career stage where they care more about survival than knowledge. They strive to survive in the classroom and in the staff-room as they satisfy their desire to be accepted and fear being unpopular or holding alternative, unpopular views.)
- Quantitative and qualitative research methodologies could be useful to investigate ways in which legislation, such as the South African Council for Educators Act, the Employment of Educators Act and the South African Schools Act, could curb the educators' expressive rights through amendments and regulate unionism.
- Investigation into the elitist notion of democracy should be explored and mechanisms to eliminate it be developed. The starting point could possibly be the development of training material for educators, teacher unions, parents, learners and education officials to assist with the implementation and demonstration of democracy within the school system and the education system.

6.8. CONCLUDING REMARKS

Most thinking in the education field exhibits graphically the weakness of the non-utopian, common-sense thinking. This is the order of the day from the top to the bottom of the education echelons. This state of affairs cannot be remedied by

spending more money on education or by frequently changing the syllabus, like the announcement made by the Minister of Education, Motshega in 2010 (<http://www.basiceducation.gov.za>) that; the unpopular Outcomes Based Education would be scrapped and a new education curriculum would be introduced. This announcement came barely 100 days before the 2010 grade 12 learners sat for their final examinations. One would recall how, over the years, all stakeholders in education have raised concerns about the poorly researched outcome-based education. OBE has been largely blamed for poor professional productivity and educators' unreasonable workload. The recently introduced new Curriculum and Assessment Policy Statements (CAPS) is yet to be tested. However, it is of key importance to state that there has been minimal involvement of teacher unions, yet educators have to implement this new curriculum. Educators have, once again, been denied one of their significant professional duties; that is, policy development. It is hoped that the prescribed curriculum, as it promises, will tally with the training received by educators who are to implement it. For educators to be fully productive; the curriculum must empower them too and they must experience curriculum ownership.

It is through education that people can be liberated adequately to participate actively in the affairs of the democratic South Africa. The state, government officials and educators owe it to the citizens of South Africa to provide sound education. The government, therefore, must take steps towards the professionalisation of education and take vigorous steps to regulate teacher unionism.

The South African government is in dire need of a paradigm shift regarding education. The opinion of the researcher is that education, like finances, needs to be prioritised. The researcher concurs with many stakeholders in education who are grievously concerned about irregular appointments and, thus, submits that capable people need to be appointed to the higher echelons of education to lead it, people from outside the ranks of politics if necessary. Should the ANC-led government continue to award positions of power to their loyalists, the South African children's education will also continue to be sacrificed on the altar of political patronage or

“cadre deployment”. To cite an example; since 1994, the ANC-led government has never appointed any ANC loyalists to positions within the ministry of finance, the commissionership of the South African Revenue Services (SARS) and the governance of the reserve bank. The implication here is that the government views these positions as vital and would not compromise these services by rewarding comrades for loyalty. It is evident that the government appointed people of unquestionable integrity to such positions, some with no political inclination at all, like Derek Keys and Chris Liebenberg in the ministry of finance from 1994 to 1996. To date, these services have continued to thrive under the stern leadership appointed by the government. It is regrettable to note that education has not yet enjoyed a similar status. The Department of Education, with its massive budget, is one of the biggest carriages on the government’s “gravy train”. It continues to utilise the biggest chunks of the budget, paying salaries to a huge number of incompetent employees in top management. The term “gravy train” is used in South Africa today to refer to undeserved benefits.

It has become clear that the education system as a whole requires a major overhaul. However, with unions still running rampant in South African public schools, education quality will continue to decline. It is imperative to state that the researcher is by no means against SADTU members or any teacher union member being promoted to managerial posts; the fact being emphasised is that; this must be done fairly and procedurally. To put it in a nut shell, candidates must be suitably qualified to occupy senior management posts. Some of the findings regarding nepotism at the time of filling of promotional posts, both from the literature study and qualitative study surprised even the researcher. Although the researcher undertook the research with an open mind, the extent and details of the qualitative findings could never be postulated.

South African teacher unionism has indeed attained international recognition although the nature of teacher unionism practised at school level is despicable. This practice often does not tally with union leadership aspirations held at provincial and national levels. This makes teacher union involvement in any professional or

governance activity at school level challenging, emphasising the need for senior leadership intervention in order to enhance conditions that are conducive to effective teaching and learning. The researcher, being a SADTU member herself, views some of the current SADTU undocumented policies as foreign to education that SADTU is supposed to promote and support.

Teacher unions are supposed to protect and guard the interests of all their members. Some of SADTU's leadership seem to be only protecting the interests of those prominent members who are perceived as more loyal to SADTU while excluding ordinary educators. The ordinary educators who are excluded from SADTU's protection have been equally disenfranchised by the apartheid regime. These ordinary educators are the ones who remain at their posts, being loyal to the client, whilst SADTU loyalists frequently leave their posts to run union errands. The lawlessness amongst the members of the organisation has tarnished the image of this "once upon a time powerful (positively) and democratic union". For the advancement of South African education, certain characteristics of unionism, such as access to schools, time-off, the right to strike and alliances with political parties, need to be reconsidered and regulated properly. Moreover, the union leaders should not alienate their members who differ with them as this leads to loss of members and unnecessary animosity.

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8. APPENDICES

8.1. APPENDIX A: Development of Labour Relations from 1870 – 1996

(Adapted from Rossouw, 2004:6-9)

Action: - Development	Reaction: Effect on labour Relations	Date
Discovery of diamonds and gold	Commencement of Industrialisation	1870s
Immigrants from United Kingdom did the skilled work. Blacks were the unskilled and exploited workers.	Skilled workers had privileged wage scales	1870s and 1880s
Reducing of wages of black mine workers.	Black workers went on strike	1896
Mechanisation threatened jobs of skilled workers	Demands for white job security and white labour elite developed	1897
Chinese labours introduced to restore gold production	White artisans, including Afrikaners, were threatened	1903 – 1904
Mines and Works Act	32 jobs reserved for white mine workers	1911
Resistance to recognition of white unions by Chamber of Mines	Strike actions by black and white workers and harsh treatment of skilled workers	1913 – 1914
Strike actions by black and white	Martial Law, violence and failure of trade unions	1913 – 1914
Industrial Dispute and Trade Bills	Curtailing of right to strike unless conciliation procedures were followed	1914
New machinery unilaterally introduced. Possibility of 10% of white workforce being retrenched	Rand Rebellion of 22 500 white miners crushed by government (153 killed, thousands injured, 5 000 arrested, four hanged for treason)	1900 – 1922
Organising black labour	First black union, Independent Workers Association (IWA), formed	1918
Industrial Conciliation Act 11 of 1924	Principles of voluntarism and self-governance allowed. Racial discrimination embedded: Blacks afforded no rights	1924
Some unions fought for blacks to be included in legislation	Polarisation of union movement, as Afrikaner unions opposed black inclusion	1930
Underpayment for responsibility level for blacks when white workers served in Defence Force during world War II	Wide-spread strike by black workers	1946
Nationalist Party wins election	Further restrictions to black workers' labour rights	1948

Industrial Conciliation Act that ushered in the Labour Relations Act (28 of 1956)	Job reservation for particular race group; black women now also excluded	1956
Trade Union Council of SA (TUCSA) claimed to represent all workers	Relatively peaceful era	1950 – 1970
New attempts to organise black workers	61 000 black workers go on strike in Natal	1973
Natal strikes	Wiehahn Commission to seek ways to manage strikes	1976
Federation of SA Trade Unions (FOSATU) established	Dominant union force for decade to follow	1978

Basic Conditions of Employment Act (3 of 1983) amended	Minimum conditions for farm and domestic workers added	1983
Government more sympathetic to labour movement than previous government	Labour Relations Act revamped again; Labour Relations Act (66 of 1995) promulgated 11 November 1995	1995
Labour Relations Act (66 of 1995) promulgated	Shift from confrontation to cooperation in the workplace	1995
Basic Conditions of Employment Act (3 of 1983) replaced	Basic Conditions of Employment Act (75 of 1997)	1997
Worsening economy in the country	130 000 jobs lost in 1998. Job reservation and creation of priorities for unions	1998
Employment Equity Act (55 of 1998) promulgated	Greater statutory emphasis on non-discrimination in the workplace. Affirmative action promoted.	1998
Workplace forums created	Cooperation and codetermination emerged because energy is diverted to short-term goals such as survival	2000 and beyond

8.2. APPENDIX B: Letters to the District Manager and the Area Office Manager requesting permission to conduct research in the KOSH public secondary schools

10 Liza Street
Flamwood
KLERKSDORP
2571

7 September 2010

Dr S.H. Mvula
The Executive District Manager
Teemane Building
8 OR Tambo street
POTCHEFSTROOM
2520

Dear Sir

REQUEST FOR PERMISSION TO COLLECT DATA FOR MASTERS STUDY

I am currently conducting a research study for my Masters in Education Law, the dissertation is entitled: TEACHER UNIONS AND EDUCATOR PROFESSIONALISM – AN EDUCATION LAW PERSPECTIVE.

Accordingly, in order to establish what professionalism entails; to determine the extent to which teacher unions affect education; the extent to which the existing legislation related to education can be effectively analysed or reinforced to regulate professionalism and unions; I would like to distribute a questionnaire in secondary schools in the district to collect data.

I presume that the research findings will contribute towards proper regulation of educators professional and union activities at school level in the district and eventually in the whole province.

Your kind assistance and response in granting me this rare opportunity in your district will be highly appreciated and feedback will be gained in the form of a copy of a complete dissertation.

Yours in education
Nontsha Liwane-Mazengwe
Researcher and educator
018-4772108 / 0795163022

10 Liza Street
Flamwood
KLERKSDORP
2571

7 September 2010

Dr M.A. Motaung
Matlosana Education Area Office
Klerksdorp
2520

Dear Madam

REQUEST FOR PERMISSION TO COLLECT DATA FOR MASTERS STUDY

I am currently conducting a research study for my Masters in Education Law, the dissertation is entitled: TEACHER UNIONS AND EDUCATOR PROFESSIONALISM – AN EDUCATION LAW PERSPECTIVE.

Accordingly, in order to establish what professionalism entails; to determine the extent to which teacher unions affect education; the extent to which the existing legislation related to education can be effectively analysed or reinforced to regulate professionalism and unions; I would like to distribute a questionnaire in secondary schools in the district to collect data.

I presume that the research findings will contribute towards proper regulation of educators professional and union activities at school level in the district and eventually in the whole province.

Your kind assistance and response in granting me this rare opportunity in your district will be highly appreciated and feedback will be gained in the form of a copy of a complete dissertation.

Yours in education
Nontsha Liwane-Mazengwe
Researcher and educator
018-4772108 / 0795163022

8.3. APPENDIX C: Letters from the District Manager and the Area Office Manager granting permission to conduct research in KOSH public secondary schools

 **education**
Lefapha la Thuto
Onderwys Departement
Department of Education
NORTH WEST PROVINCE

Teemane Building
8 OR Tambo Street
Private Bag X1256
POTCHEFSTROOM 2520
Tel: (018) 299 8299
Fax: (018) 299 8290
Enquiries: Ms Oorabie Mokubung
E-mail: emokubung@nw-pg.gov.za

DR KENNETH KAUNDA DISTRICT

OFFICE OF THE EXECUTIVE DISTRICT MANAGER

To : Ms N.L Mazengwe
10 Liza Street
Flamwood
KLERKSDORP
2571

From : Dr S.H Mvula
Executive District Manager

Date : 09 September 2010

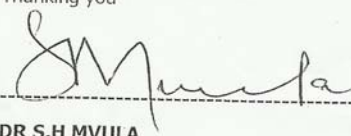
APPROVAL TO CONDUCT RESEARCH

We hereby acknowledge receipt of your letter dated 07 September 2010. Please note that your request to the above subject has been granted on the following conditions:

1. Participants selected should not be coerced;
2. Teaching and learning should not be compromised; and
3. A copy of the thesis to be donated to the District upon completion of your studies.

These conditions should be accepted in writing before you proceed.

Thanking you



DR S.H MVULA
EXECUTIVE DISTRICT MANAGER



education

Lefapha la Thuto
Onderwys Departement
Department of Education
NORTH WEST PROVINCE

Alabama Secondary School Hostel
1 Nieuwenhout Street,
Alabama 2577
Klerksdorp
Private Bag A23, Klerksdorp
Tel. No.: (018) 467-9300
Fax No.: (018) 467-9306
e-mail: mot@lantic.net

DR KENNETH KAUNDA DISTRICT

MATLOSANA AREA OFFICE

TO: THE PRINCIPALS
FROM: THE AREA MANAGER
DATE: 15 SEPTEMBER 2010
SUBJECT: PERMISSION TO CONDUCT RESEARCH

This memo serves to confirm that **MRS LIWANE-MAZENGWE** has been granted permission to conduct research *in the Area Office Schools*. Her research title is: *"Teacher Unionism and Teacher Professionalism – an Education Law Perspective"*.

MRS LIWANE-MAZENGWE is currently studying for a *Masters Degree in Education Law* at the North West University. She is given permission on the following conditions:

1. Teaching and learning must not be compromised.
2. All research ethics must be observed.
3. The results of this research must be shared with the DoE on completion.

I take this opportunity to wish her well in her self-improvement efforts.



DR. MA MOTAUNG
THE AREA MANAGER

"Together, through Education, doing more, better!"

8.4. APPENDIX D: Letter to public secondary schools' principals requesting permission to conduct research in their schools

10 Liza Street

Flamwood

KLERKSDORP

2571

17 September 2010

Dear Principal

I am currently conducting a research study on **"TEACHER PROFESSIONALISM and TEACHER UNIONISM – AN EDUCATION LAW PERSPECTIVE"** in the KOSH Area. Permission has been granted – please see attached letters.

For the purpose of this research, I would therefore request that 10 educators in your school complete the questionnaire as your school forms part of the sample. However, no one should be coerced into responding.

The topic may be perceived as sensitive and controversial but educators are assured that all research ethics will be adhered to. They are kindly requested to be as honest and open as possible. The success of the research rest solely on their willingness to divulge required information, especially in section B which also allows an individual to air his/her personal experiences or feelings.

Your cooperation and support will be highly appreciated. I thank you and your staff in advance.

Yours in education



N. Liwane-Mazengwe

8.5. APPENDIX E: Consent form

CONSENT FORM COMPLETED BY

I, the undersigned.....(full names & surname)

declare that:

- I am aware of the nature of this research as it has been explained to me;
- I voluntarily consent to participate in the completion of this anonymous questionnaire;
- I do not have any personal interest in this research;
- I give the researcher permission to use the data for scientific purposes.

_____ Date:_____ Signed at__(place-
town/city)

Witnesses:

1. _____
(Signature and name in print)

2. _____
(Signature and name in print)

8.6. APPENDIX F: Questionnaire on Educator Professionalism, Unionism and Education Law in Education

NB! This questionnaire will remain anonymous. Your name will not be mentioned or linked to the information you supply – it will be treated confidentially. Confidential information about a person or an individual school/organisation will not be publicised.

SECTION A: BIOGRAPHICAL AND DEMOGRAPHICAL INFORMATION

Make a cross in the appropriate block to provide answers to the following questions:

Example for completing Section A.

Question 1: Gender...

E.g. If Female

Male	1	
Female	2	X

1. At what level of school management are you involved?

Educator PL₁

HOD PL₂

Deputy Principal PL₃

Principal PL₄ - PL₅

1	
2	
3	
4	

2. Number of years of experience in the above position:

0 to 5 years

6 to 10 years

11 to 20 years

21 years >

1	
2	
3	
4	

3. Career experience – total number of working years:

0 to 5 years

6 to 10 years

11 to 20 years

21 years >

1	
2	
3	
4	

4. Your highest academic qualifications:

Secondary Educators Diploma

National Diploma or Certificate (tertiary)

Bachelor's degree or equivalent

B.Ed / Honours degree

Masters degree

Doctorate in...

1	
2	
3	
4	
5	
6	

5. Did you study any module related to the following Acts:

The Constitution of the RSA

Employment of Educators Act

National Education Policy Act

South African Council for Educators Act

Labour Relations Act

Yes	No

6. As an educator at your level, have you ever received training in Education Law?

Training course in education law
Teaching certificate in education law (e.g. ACE)
B. Tech (Module in Education Law)
B. Ed (Module in Education Law)
B.Ed. Hons (Module in Education Law)
Masters or Ph.D in Education Law

Yes	No

7. Do you affiliate to any of the teacher unions below?

SADTU
SAOU
NAPTOSA
Other (Specify)
None

1	
2	
3	
4	
5	

8. Do you belong to any of the professional bodies below? *(You can cross more than 1.)*

AMESA
SACE
SAELA
SAASTA
Other (specify)

Yes	No

9. Race:

Black
Coloured
Indian
White

1	
2	
3	
4	

10. Gender:

Male
Female

1	
2	

11. Age:

20 to 30 years
31 to 40 years
41 to 50 years
51 to 60 years
61 years >

1	
2	
3	
4	
5	

12. Home language (cross one option only):

SeTswana
SeSotho
Afrikaans
IsiXhosa
English

1	
2	
3	
4	
5	

13. Type of school:

Technical High School
General Secondary School
Commercial Secondary School
Comprehensive Secondary School

1	
2	
3	
4	

14. Geographical situation of your school (*cross one option only*):

Rural – farm
Rural – mine
Suburban
Township
Urban

1	
2	
3	
4	
5	

15. Language of learning and teaching (LOLT) of your school:

Afrikaans
English
Both English and Afrikaans

1	
2	
3	

SECTION B: LEGISLATION THAT REGULATES EDUCATORS' ACTIVITIES

This part of the questionnaire is a survey of your opinions and relates to all matters concerning legislation and education. Please note that the questionnaire is not a test of your competence though the statements require careful and critical thinking before answering.

Cross the answer/code that best matches the description of what you regard to be the most appropriate. The 4 point scale signifies the following:

Poor	Average	Good	Excellent
1	2	3	4

	How do you rate your knowledge of :				
1.	...Education Law and Policy?	1	2	3	4
2.	...the Bill of Rights as embodied in the Constitution of RSA 1996a?	1	2	3	4
3.	...the Employment of Educators Act, 1998	1	2	3	4
4.	...the Labour relations Act, 1995?	1	2	3	4
5.	...the SACE Code of conduct?	1	2	3	4

1	2	3	4
I strongly disagree	I disagree	I agree	I strongly agree

To what extent do you agree/disagree with the following statements?

6.	Teaching is a profession.	1	2	3	4
7.	The professional authority of educators is acknowledged by the society.	1	2	3	4
8.	The South African Council of Educators (SACE) addresses professional issues sufficiently.	1	2	3	4
9.	The teaching profession is plagued by the increasing negative public image.	1	2	3	4
10.	Do you think that the education system has been professionalised? Please motivate: 				

11.	Educators with inadequate specialised knowledge are incompetent.	1	2	3	4
12.	Education is an intellectual labour.	1	2	3	4
13.	Educators are professionals because of their specialised knowledge and skills.	1	2	3	4
14.	Most educators fail to adhere to professional ethical code.	1	2	3	4
15.	Educators have the right to strike.	1	2	3	4
16.	Corporal punishment is administered in our school.	1	2	3	4
17.	Do you consider being a member of a union to be more important than your responsibility as an educator?	1	2	3	4
18.	Defamation of one another's character is common among educators.	1	2	3	4

19.	Educators get involved in theft.	1	2	3	4
20.	Alcohol abuse by educators is a problem in our district.	1	2	3	4
21.	Trade unionism contributes to educators' unprofessional conduct.	1	2	3	4
22.	The public perceives educators as workers.	1	2	3	4
23.	Union activities are adequately regulated.	1	2	3	4
24.	The current political climate is polarising major unions.	1	2	3	4
25.	The Labour Relations Act 66 of 1995 gives civil servants/educators the freedom to strike.	1	2	3	4
26.	The South African Council for Educators (SACE) has succeeded to professionalise education.	1	2	3	4
27.	Unions are associated with lawlessness.	1	2	3	4
28.	Striking is unprofessional.	1	2	3	4
29.	Teacher unions encourage professionalism.	1	2	3	4
30.	The public acknowledges educators as professionals.	1	2	3	4
31.	The employer treats educators as professionals.	1	2	3	4
32.	Educators in public schools are employed in terms of the Employment of Educators Act.	1	2	3	4

33.	Educators in South Africa enjoy professional autonomy.	1	2	3	4
34.	Poor educator training results in unprofessional conduct.	1	2	3	4
35.	Sexual harassment of learners continues to be a problem at our schools.	1	2	3	4
36.	Educators perceive themselves as workers.	1	2	3	4
37.	My principal is conversant with laws that regulate education.	1	2	3	4
38.	Our school is run by the site steward of the union with more members.	1	2	3	4
39.	Education will improve if parents take educators to court for poor performance.	1	2	3	4
40.	It is policy at our school to withhold learners' progress reports if the school fees are outstanding.	1	2	3	4
41.	Abuse of power by senior management goes unchallenged in our province.	1	2	3	4
42.	Withholding learners' results is in line with the provisions of the South African Schools Act.	1	2	3	4
43.	Education must legally be declared as an essential service.	1	2	3	4
44.	The Department of Education must be accountable for the deterioration of the standard of education.	1	2	3	4
45.	Educators must take responsibility for the poor performance at grade 12 level.	1	2	3	4
46.	Refusing learners access to their progress reports is illegal.	1	2	3	4
47.	The educators' right to strike can be limited.	1	2	3	4
48.	Education is by law an essential service.	1	2	3	4
49.	Unions place delivery of quality education first.	1	2	3	4
50.	A strike is in the best interest of the learners too.	1	2	3	4
51.	There is an increasing negative public image about the teaching profession.	1	2	3	4
52.	Unions pursue socio-economic interests of their members.	1	2	3	4
53.	It is unethical to abuse school property.	1	2	3	4
54.	Educators are obliged to observe their code of ethics.	1	2	3	4

55.	Striking educators may force learners and non-striking staff to vacate the premises.	1	2	3	4
56.	Striking educators respect the learners' right to learn.	1	2	3	4
57.	Educators' conditions of services are documented in the Personnel Administrative Measures.	1	2	3	4
58.	SGB posts are created by the circuit managers.	1	2	3	4
59.	It is ethically correct for educators to raise funds at school to pay their debts.	1	2	3	4
60.	Educators may drink liquor within the school premises after hours.	1	2	3	4
61.	It is ethically correct to copy the principal's signature to sign documents on his/her behalf.	1	2	3	4

62.	In your province/district/circuit, teachers' union/s interfere/s with managerial matters.	1	2	3	4
63.	The SADTU over-politicises public schools.	1	2	3	4
64.	Departmental officials are reluctant to address the unlawful activities of educators.	1	2	3	4

65.1.	The central power in schools rests in the hands of:			
	Education Department	SGB	SMT	Educator Union/s
	1	2	3	4

65.2. Please state your views on trade unionism in education:

Thank you for taking the time to complete this questionnaire. For enquiries please contact N. Liwane-Mazengwe at 018 477 2108/9 or 0795163022.

8.7. APPENDIX G: Combined data of the respondents' knowledge of education legislation.

SECTION B ITEMS	Combined data of respondents' knowledge of education legislation							
	Poor f	Poor %	Average f	Average %	Good f	Good %	Excel F	Excel %
1....Education Law and Policy?	37	12.6	150	51.0	89	30.3	12	4.1
2....as embodied in the Constitution of RSA	35	11.9	99	33.7	121	41.2	34	11.6
3....the Employment of Educators Act, 1998?	32	10.9	93	31.6	127	43.2	37	12.6
4....the Labour relations Act, 1995?	49	16.7	136	46.3	79	26.9	25	8.5
5...the SACE Code of conduct?	24	8.2	82	27.9	125	42.5	58	19.7

SECTION B ITEMS	Combined data of respondents' knowledge of education legislation, professionalism and unionism.							
	Poor F	Poor %	Average f	Average %	Good F	Good %	Excel F	Excel %
6....is a profession.	6	2.0	10	3.4	68	23.1	204	69.4
7... ..is acknowledged by the society.	52	17.7	108	36.7	93	31.6	37	12.6
8....SACE addresses professional issues	15	5.1	119	40.5	129	43.9	31	10.5
9....plagued by the negative public image.	18	6.1	28	9.5	108	36.7	137	46.6

SECTION B ITEMS	Combined data of respondents' knowledge of education legislation, professionalism and unionism.							
	Poor F	Poor %	Average f	Average %	Good F	Good %	Excel F	Excel %
11. ...inadequate specialised knowledge	15	5.1	70	23.8	103	35.0	104	35.4
12. ...an intellectual labour.	7	2.4	11	3.7	126	42.9	141	48.0
13. ...their knowledge and skills.	7	2.4	17	5.8	118	40.1	150	51.0
14. ...to adhere to professional ethical code.	24	8.2	75	25.5	113	38.4	78	26.5
15. ... have right to strike.	13	4.4	38	12.9	86	29.3	155	52.7
16. ...is administered in our school.	112	38.1	92	31.3	79	26.9	5	1.7
17...important than your teaching responsibility.	172	58.5	92	31.3	17	5.8	11	3.7

18. ...another's character is common among educators.	33	11.2	106	36.1	113	38.4	35	11.9
19. ... get involved in theft.	68	23.1	65	22.1	100	34.0	54	18.4
20. ... is a problem in our district.	65	22.1	87	29.6	63	21.4	76	25.9
21. ...to educators' unprofessional conduct.	47	16.0	82	27.9	87	29.6	75	25.5
22. ... perceives educators as workers.	13	4.4	43	14.6	152	51.7	82	27.9
23. ... are adequately regulated.	48	16.3	113	38.4	117	39.8	9	3.1
24. ... political climate is polarising major unions.	14	4.8	47	16.0	146	49.7	65	22.1
25. ...Act 66 of 1995 gives.	7	2.4	19	6.5	167	56.8	76	25.9
26...succeeded to professionalise education.	24	8.2	123	41.8	119	40.5	23	7.8
27...Unions associated with lawlessness.	45	15.3	99	33.7	85	28.9	59	20.1
28. Striking is unprofessional.	61	20.7	87	29.6	61	20.7	77	26.2
29...Teacher unions encourage professionalism.	35	11.9	89	30.3	131	44.6	30	10.2
30...acknowledges educators as professionals.	60	20.4	120	40.8	89	30.3	18	6.1
31...employers treat educators as professionals.	35	11.9	114	38.8	106	36.1	28	9.5
32...Employment of Educators Act.	7	2.4	11	3.7	122	41.5	146	49.7
33...in South Africa enjoy professional autonomy.	44	15.0	155	52.7	77	26.2	11	3.7
34...poor training results in unprofessional conduct.	22	7.5	58	19.7	124	42.2	84	28.6
35...Sexual harassment is a problem in schools.	56	19.0	67	22.8	71	24.1	94	32.0
36...perceive themselves as workers.	14	4.8	64	21.8	145	49.3	67	22.8
37...principal is conversant with laws of education.	9	3.1	37	12.6	157	53.4	84	28.6
38...site steward of the union with more members	95	32.3	112	38.1	60	20.4	23	7.8
39...take educators to court of poor performance.	94	32.0	107	36.4	55	18.7	36	12.2
40...if the school fees are outstanding.	143	48.6	94	32.0	43	4.6	11	3.7
41...goes unchallenged in our province.	39	13.3	80	27.2	114	38.8	58	19.7
42...provisions of the South African Schools Act.	180	61.2	75	25.5	22	7.5	10	3.4
43...legally be declared as an essential service.	15	5.1	42	14.3	99	33.7	134	45.6
44...the deterioration of the standard of education.	15	5.1	42	14.3	99	33.7	134	45.6
45...the poor performance at grade 12 level	47	16.10	95	32.3	86	29.3	63	21.4
46...their progress report is illegal	22	7.5	16	5.4	88	29.9	164	55.8
47...the right to strike can be limited.	30	10.2	51	17.3	143	48.6	67	22.8
48...an essential service.	36	12.2	74	25.2	111	37.8	71	24.1
49...delivery of quality education first.	84	28.6	88	29.9	92	31.3	25	85
50...best interest of the learners too.	139	47.3	71	24.1	66	22.4	16	5.4
51... public image about the teaching profession.	15	5.1	44	15.0	113	38.4	121	41.2
52...socio-economic interest by their members.	28	9.5	62	21.1	140	47.6	60	20.4

53...to abuse school property.	13	4.4	9	3.1	74	25.2	196	66.7
54...obliged to observe their code of ethics.	3	1.0	18	6.1	100	34.0	162	55.1
55...force non-striking staff to vacate the premises.	182	61.9	66	22.4	28	9.5	16	5.4
56...respect the learners' right to learn.	123	41.8	51	17.3	74	25.2	43	14.6
57...documented in the Personal Administrative Measure.	17	5.8	55	18.7	138	46.9	53	18.0
58...created by circuit managers.	124	42.2	118	40.1	37	12.6	1	0.3
59...to raise funds at school to pay their debts.	217	73.8	46	15.6	19	6.5	11	3.7
60...liquor within the school premises after hours.	193	65.6	52	17.7	28	9.5	20	6.8
61...to sign documents on his/her behalf.	255	86.7	25	8.5	7	2.4	6	2.0
62...educators union/s interfere/s with managerial matters.	49	16.7	114	38.8	61	20.7	64	21.8
63...over-politicises public schools.	30	10.2	82	27.9	79	26.9	95	32.3
64...reluctant to address the unlawful activities of educators.	16	5.4	72	24.5	110	37.4	89	30.3

