

**HOW SCHOOL GOVERNING BODIES UNDERSTAND AND IMPLEMENT
CHANGES IN LEGISLATION WITH RESPECT TO THE SELECTION AND
APPOINTMENT OF TEACHERS**

by

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DECLARATION

I, Sharon Thabo Mampane, student number 9176004, hereby declare that the thesis: 'How school governing bodies understand and implement changes in legislation with respect to the selection and appointment of teachers', has not been submitted by me before at any other university. It is my original work and I have acknowledged all the sources consulted and quoted in the bibliography.

SHARON. T. MAMPANE

OCTOBER 2008

DEDICATION

This research is dedicated to all the following people who played an equally important role to me:

My late grandmother, Wilhelmina, Mathabe Mampane, my role model and a real woman of substance. Her motivation and love for education led me to where I am today, my mother.

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ABSTRACT

This study investigated the legislation (the Education Laws Amendment Act, Act 24 of 2005) dealing with teacher selection and appointment. It focused specifically on the principles equity, redress and representivity changes in legislation. Not only do these principles encourage the equal advancement of everybody's interests but they also serve as a means of establishing an appropriate balance between conflicting interests. The primary purpose of the study was to determine whether or not the racial group to which the school governing body members belong had an effect on the way in which they interpreted and implemented legislation, and if so, to what these could be ascribed.

Five schools' governing bodies in the Tshwane South District of the Gauteng Province were interviewed using semi structured, open-ended interviews to investigate the extent to which their staff composition has changed as a result of the new legislation. A qualitative research paradigm allowed me to adopt a constructivist/interpretivist approach to data collection and analysis. Indications from data were that the understanding and interpretation of SGBs across racial divides are influenced by their different cultural and linguistic preferences, their different political and educational histories and the contexts in which they work. These differences indicated that deeply entrenched racial stereotypes and strong attachments to a specific school culture, language or ethnic traditions could be influencing the final decision on short listing taken by the SGBs represented in my study.

Suggestions are that legislation implementation should be addressed at all stages; that is, reviewing performance, considering reasons for governance difficulty or failure, designing alternative interventions, and interpreting evaluation results as an intervention practice for legislation success. Based on my research findings I would therefore suggest that the key reason for the lack of transformation in the staff composition of public schools is the short period of time that has elapsed since the promulgation of the Education Laws Amendment Act of 2005. Given that transformation is a social process and that stereotypes are key obstacles to transformation, I believe that, as far as the schools in my sample are concerned, their staff compositions will eventually change.



KEY WORDS

Democracy

Equity

Integration

Legislation

Redress

Representivity

School authority

School culture

School governance

Staff composition

Teacher selection process

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ACRONYMS	
CRSA	Constitution of the Republic of South Africa
DA	Democratic Alliance
EEA	Employment Equity Act
ELA	Education Laws Act
ELRC	Education Labour Relations Act
LLA	Labour Legislation Act
LRA	Labour Relations Act
NEPA	National Education Policy Act
SACE	South African Council for Educators
SADTU	South African Democratic Teachers' Union
SASA	South African Schools Act
SGB	School Governing Body

CHAPTER 1

RESEARCH PURPOSE AND PARAMETERS

1.1 Background to the study

When the African National Congress (ANC) became the ruling power in the Republic of South Africa in 1994 one of its goals was to create a unified national education system (White Paper, 1996). In terms of this goal and contrary to past apartheid practices, all schools would in future be fully integrated. By implication any learner and any teacher, irrespective of race, ability and gender would be given the opportunity to attend or work at any school of his/her choice.

Informing this goal was the vision of a new, truly united, South Africa where all people would be equal. Both the goal and the vision required a commitment to the key values of equality, non-discrimination and social justice, which lie at the heart of the Constitution (Section 195(1)) of the newly established South African democracy. The key instrument that the then new ANC government used to ensure that it would attain its goal of a unified national education system was the promulgation of a series of Acts that prohibited the use of unfair discrimination on the one hand and promoted affirmative action on the other. Key amongst these Acts were, in order of appearance, the Labour Relations Act (LRA), Act No. 66 of 1995; the National Education Policy Act, (NEPA), Act 27 of 1996; the South African Schools Act (SASA), Act 84 of 1996; the Employment of Educators Act (EEA), Act 76 of 1998 and the Education Laws Amendment Act (ELAA), Act 24 of 2005. Together, these Acts opened the door of equal opportunity to all

educators, irrespective of race or gender, to apply for any position at any school provided that they satisfied the requisite employment criteria.

An intrinsic part of the ANC ethos that was meant to infuse legislation and policy development at all levels was the ideal of participative governance. In the case of education this implied that all those with a stake in education should have a say in the way it is governed. By implication, power for school governance would be devolved to those most closely associated with the school. In terms of the South African Schools Act (SASA), Act 84 of 1996 the governance of public schools would, therefore, be the responsibility of elected school governing bodies comprising parents, educators, non-educator staff and learners. One of the responsibilities devolved to such school governing bodies was the selection and recommendation of staff for appointment at the schools they governed on behalf of the State. There was a proviso, though. The selection and recommendation of staff by school governing bodies had to adhere to specific procedures and requirements determined by the Minister of Education. One of these requirements was that selection procedures and criteria should reflect a commitment to equity, redress and representivity¹ in the workplace (SASA, 1996).

If school governing bodies were committed to conducting their business in terms of these principles, it was assumed, the devolution of the responsibility to select and recommend teachers for appointment at public schools would contribute to racial integration in the staff components of schools (Jansen, 2005). Without such integration, according to Soudien (2004:95), members of different cultures and races might never have the opportunity of interacting with one another on an equal footing. By implication, they might never come to realize that they are all

¹ This means, not only advancement through the same qualifications and merits, but, advancement in a situation where society emerges from a history of unfair discrimination.

equal and, therefore, entitled to equal opportunities and equal treatment. Notwithstanding legislative stipulations to this effect, very little has changed with regard to staff composition of public schools. Black schools, previously under the administration of the Department of Education and Training (DET), were still primarily appointing black teachers; white schools, previously under the administration of the Department of Education and Culture, House of Assembly (DEC: HoA), were still primarily appointing white teachers, while schools previously reserved for Indian and Coloured learners, although appointing a few teachers of other races, also remain mostly mono-racial as far as staff composition is concerned (Motala & Pampallis, 2001; and Naidoo, 2005). This is especially disturbing given that the learner composition of all these schools, with the exception of black schools, has become increasingly multi-racial (DoE, 2004).

Noticing that initial legislation did not seem to have had the desired effect that the staff composition of public schools remained largely mono-racial, the South African government, used its power to amend the Employment of Educators Act (Act 76 of 1998) in such a way that the State would have a greater say in the selection and appointment of public school educators. These amendments, first submitted to Parliament in the form of an Education Laws Amendment Bill (2005), were promulgated in the Education Laws Amendment Act (ELAA), Act 24 of 2005. In terms of this Act, the provincial Head of Department (HoD) would not necessarily have to accept the recommendation of a school governing body concerning the educator or educators regarded as most suitable for a specific post. It is these amendments that lie at the heart of my study.

1.2 Problem statement

As indicated in 1.1, the primary reason given for amending earlier legislation on teacher selection and appointment was the lack of transformation in the staff composition of public schools. Although school governing bodies could appeal against the decision of the HoD, it was clear that Section 7(3) of the ELAA would inevitably curtail the relative autonomy these bodies had had as far as the selection and recommendation of school educators were concerned. Given that the South African Schools Act (Act 84 of 1996) gave school governing bodies the authority and power to decide what was in the best interest of their respective schools (Beckmann, 2002), the removal of this right by the Education Laws Amendment Act (Act 24 of 2005) could be construed as an attempt by the State to undermine parental rights and/or powers. This was the line taken by many of the governing bodies of (formerly white) schools, previously under the administration of the Department of Education and Culture: House of Assembly. According to these governing bodies, Section 20 of the South African Schools Act of 1996, which required them to submit one name, namely that of the best candidate, to the provincial Head of Department, had signaled respect for parents' democratic rights. The amendments contained in the Education Laws Amendment Bill (Act 24 of 2005) - the precursor to the eventual Act - on the other hand, undermined this right by requiring them to submit three names and allowing the Head of Department to unilaterally decide who was the best candidate for the post. In this sense, they argued, the amendment could be construed as State interference in school affairs (Naidoo, 2004).

Another argument put forward against the eventual proclamation of the amendments contained in the Education Laws Amendment Bill of 2005, was that

the State was forcing governing bodies to sacrifice educational merit, that is, educational standards and quality, on the altar of racial integration (DoE, 2005). Zille (News 24, 2005), the former education spokesperson of the Democratic Alliance (DA) described the proposed amendments – as they were in the Bill - as ‘rotten at the core’, arguing that the Bill would be remembered ‘as a significant marker in the ongoing decline of public education’.

In some cases governing body resistance to the amendments resulted in lawsuits between them and the State regarding selection and appointment procedures on the one hand and the legitimacy of administrative decisions made by the Head of Department² (HoD) on the other. Cases that come to mind are the one between the Head of the Western Cape and the governing body of Point High School (Case number 584/07 of 31 March 2008) as well as the one between a rural (black) school in Mpumalanga and the Head of Department (Mpande, 2005). (See Chapter Three for more detail in this regard).

While it was commonly assumed that the reason for the lack of transformation was reluctance on the part of school governors to adhere to the principles of equity, redress and representivity as regards the staff composition of schools, this might not have been the only reason (Jansen, 2005). According to Wong (2000) and Jansen (2005), research has shown that people typically interpret legislation in terms of their own unique frames of reference. It is not impossible, therefore, that the lack of transformation could be the result of different interpretations of the law, interpretations informed by different histories, different cultures and different contexts.

Given my own experience as a black educator in apartheid South Africa I started off with the assumption that the lack of transformation was the result of white

² ‘‘Head of Department’’, means the head of the provincial department of education

racism, that is, unwillingness on the part of white South Africans to share their resources with others less advantaged than themselves. Informed by this assumption I first wanted to include only white schools in my study. However, insights gained from literature, coupled with my own observation that township schools had not changed either, I not only had to adjust my initial assumption but also had to reconsider the exclusion of black schools from my sample. Informed by these insights I adopted as my working hypothesis the assumption that differences in the interpretation of the ELAA amendments regarding teacher selection and appointment may well be the result of past governance traditions and/or expectations. More specifically, I suspected that differences in the operational contexts of white and black schools respectively, different school cultures, the different education histories of those who serve on formerly white and black school governing bodies and the differences in white and black governing body members' capacity to govern their schools, could all play a role in the way legislation is interpreted and/or implemented. I decided therefore, to investigate for myself whether or not there were, in fact differences in the way the governing bodies of formerly white schools and those of formerly black schools interpreted and implemented the amendments to the Educators Employment Act (Act 76 of 1998) as promulgated in the Education Laws Amendment Act (Act 24 of 2005) and if so, to what these could be ascribed.

I would like to point out that interventions aimed at the promotion of equity and redress are not unique to South Africa. Rather, they reflect 'a worldwide trend, featuring specifically in countries with multi-racial/multi-cultural populations' (Bush & Heystek, 2003:127). In these countries school governance not only tends to be hierarchical but is also informed and directed by notions of democracy and school effectiveness on the one hand and the espoused aim of promoting equity and equality on the other (Boyd & Miretzky, 2003:59; Gilmour, 2001). While current government actions in South Africa were meant to enforce equity,

representivity and redress in the selection and appointment of public school teachers might well have been fuelled by injustices and inequities of the past, the limited devolution of power to school governing bodies suggest that the South African government is in step with what is happening in the rest of the world (Levin, 1998:132).

1.3 Research purpose and aims

This study is primarily aimed at determining how the understanding/interpretation of legislation on the selection and appointment of teachers by governing bodies of selected Tshwane North public schools affect the way they implement the afore-mentioned amendments promulgated in the Education Laws Amendment Act (Act 24 of 2005).

In pursuing this purpose I first wanted to investigate the reasons for assumed differences in the way governing bodies interpreted the latest changes effected to the Employment of Educators' Act. More specifically I wanted to determine the ways in which the school governing bodies of historically white and black schools respectively experienced the South African government's intent of the amendments to this Act, which is to enforce equity, redress and representivity in the selection and appointment of school educators. I particularly wanted to determine whether or not these amendments, which were promulgated in the Education Laws Amendment Act of 2005, had as yet had any effect on the staff composition of sampled schools.

1.4 Research questions

Informed by my research purpose and aims, I formulated the following research questions which, I believed, would help me focus on the key issues that I wanted to investigate:

- Are there any differences in the way the governing bodies of white schools formerly under the administration of the Department of Education and Culture (House of Assembly) and black schools formerly under the administration of the Department of Education and Training interpret the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005), and if so, to what could these be ascribed?
- Does the way in which the governing bodies of these schools interpret legislation influence the criteria and procedures they use in the selection and recommendation of educators for appointment, and if so, how?
- Is there any evidence that the amendments promulgated in the Education Laws Amendment Act have led to greater diversity/representivity in the staff composition of the schools in my sample, and what does such evidence indicate about the alignment between government expectations and the capacity of school governing bodies?

My research objectives, derived from my research questions were, therefore to:

- Determine whether or not there are differences in the way that the governing bodies of white selected schools, formerly under the administration of the Department of Education and Culture (House of Assembly), and their counterparts in black schools, formerly under the administration of the Department of Education and Training, interpret the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005), and if so, to identify the reasons for these differences.
- Determine whether or not the way in which the governing bodies of the schools in my sample interpret legislation influences the criteria and procedures they use in the selection and recommendation of educators for appointment and, if so, to describe the way this happens.
- Determine whether or not the amendments promulgated in the Education Laws Amendment Act have led to greater diversity/representivity in the staff composition of the schools and to infer from this the alignment or not between government expectations and the governance capacity of school governing bodies.

1.5 Rationale

My interest in the manner in which SGBs understand and implement teacher selection and appointment legislation was, in the first instance, personal: I noticed that the staff composition of the schools my children attended did not reflect the diversity of the South African population. In the second instance my interest was professional: I teach educational management and educational law

to under-graduate teacher education students, practicing teachers and school principals at university level. Student discussions of the new legislation on teacher selection and appointment indicated that they interpreted various pieces of legislation in different ways. These discussions also indicated that the differences in interpretation were often the result of differences in the operational contexts of the schools and the histories of school governing bodies. This made me think that perhaps there was a link between school culture, governing body members' cultural orientation and/or educational past and the way in which they interpreted legislation on education.

During class discussions on the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act of 2005, those students who were also school principals and/or who served on the governing bodies of their schools, indicated that they had a number of reservations regarding the intention informing the amendments and the efficacy with which these could be implemented. They talked openly about their fears - possible cultural conflict if teachers from different racial groups had to be appointed to all schools; a lowering of educational standards because merit was no longer the sole criterion for appointment, and the implications that the curtailing of school governing body decision-making powers had for effective school governance. As regards the efficacy of implementation these students indicated that selection procedures were often inconsistent and/or lacked transparency. Consequently there was a disjuncture between legislation and practice. They suggested that the changes to legislation were symbolic rather than real attempts to restore imbalances in the staff composition of public schools.

Having taken cognizance of the views of my education management students I started wondering whether stereotyped racial attitudes had in fact changed. Were governing bodies across racial lines really committed to nation building or

were they using loopholes in legislation to discriminate against certain racial groups? The issues that my students raised, and the questions their discussions awakened in me, prompted me to investigate school governing bodies' understanding and interpretation of education legislation, specifically their understanding of those sections of the Employment of Educators Act (Act 76 of 1998) and the Education Laws Amendment Act (Act 24 of 2005) that dealt with the selection and appointment of school educators. My main aim at the onset was to find an answer to this critical question: 'Why, notwithstanding the fact that these sections of the two Acts emphasize equity and representivity is there still so little evidence of transformation in the staff composition of public schools? This question led to more specific ones, such as, 'Are school governing bodies deliberately ignoring legislation and/or implementing it on ad hoc basis?' 'If this is the case, can we be sure that the mechanisms for transformation at institutional level are functioning as they should?

In thinking about these questions I realized that I had very definite opinions as to what the answers to these questions would be. Fortunately I was not involved in the compilation of either of the afore-mentioned Acts and was therefore able to consider research participants' interpretations of, and attitudes towards said legislation, relatively objectively (McMillan, 2000:9). This was not enough, though. I therefore decided to take specific steps to prevent data being contaminated by my personal bias. As a first step I decided to explicitly acknowledge my own bias/perspective whenever I became aware of it. As a second step I decided to use multiple instruments for data collection, and to interview different categories of governing body members with different perspectives on the legislation concerned. As a third step, I decided to conduct my investigation in an ethical way, handling people with the requisite respect and data with the necessary rigour and scrutiny. As a final step, I decided to lay

an audit trail of my investigation so that I could be held accountable for what I did and found.

1.6 Conceptual framework

Given the focus of this study, namely the effect that school governing bodies' understanding and interpretation of legislation has on the way they select and recommend educators for appointment to their respective schools – one of their governance functions - the conceptual framework within which the study is lodged is school governance. In adopting this framework as my knowledge base I was able to explore the issue of school governance, with specific reference to the selection and appointment of teaching staff at schools. In the first instance it gave me the leeway to analyze legislation that has a direct impact on school governance. In the second instance it allowed me to interrogate the appropriateness of centralization and decentralization as forms of governance in the South African context. In the final instance it enabled me to assess the criteria and procedures used by school governing bodies in the selection and recommendation of educators for appointment against universal school governance criteria on the one hand and democratic principles on the other.

The inclusion of democracy as a key feature of my investigation of school governance was based on the assumption that the principles of representivity, equity and diversity, key to the Acts considered in this study (see Chapter 3), are intrinsically fair. Not only do these principles encourage the equal advancement of everybody's interests but they also serve as a means of establishing an appropriate balance between conflicting interests. By implication, regardless of whether a particular school governing body prioritized the interests of their schools or the interests of individual persons (Christiano, 2004:269) I could,

within the parameters of these principles, determine whether or not their selection processes were racially biased or not. As long as the procedures followed were genuinely democratic, the outcomes would not only be justifiable but also just, because authority would be grounded in the decision-maker/s (Naidoo, 2004).

By devolving the authority to take decisions with regard to the appointment of teachers in their schools to school governing bodies (SASA, 1996), legislators assumed that school governors understood their roles and responsibilities and would take appropriate action to ensure effectiveness, efficiency and transformation. Implied in this assumption are, firstly, that governing bodies are legally responsible for the decisions they make, and, secondly that, as legal entities, they are obliged to implement state law and policy even when they are in disagreement with it. As pointed out by Sayed (2002a), and confirmed by my investigation, not all legislation necessarily promote greater participation, equity and representivity. Equity, in particular, might be jeopardized if either of the parties involved – that is, legislators or school governing bodies - disregards individual rights. Not only could this cause tension and/or conflict between school governors and the department as regards the definition of powers and functions but school governing bodies might well find themselves entrapped in bureaucratic legal battles that undermine their effectiveness as agents of equity and representation.

In also assessing the effectiveness of school governing bodies against democratic principles – equity and representivity in particular - I was able to compare the perspectives of persons who are quite different from each other with one another. I assumed that their having lived their lives in quite different political, socio-economic, and educational contexts would influence the way they interpreted and implemented legislation, and the principles informing such, in

their own selection processes. Given that people tend to interpret the interests of others in the light of their own understanding, I could use their notions of equity and representivity as basis for determining their cognitive bias towards their own interests (Christiano, 2004). It follows that the ways in which members of school governing bodies participating in my study understood and felt about equity and representivity would reflect their interests, indicating whether or not a particular group was ignored (Christiano, 2004). Such revelations could, in turn, contribute to insights regarding the causes of differing interpretations of the same legislation and controversies in this regard.

1.7 Theoretical framework

Given my epistemological/ontological position (a social constructivist and interpretivist position), that context and experience influence the way that school governing bodies interpret and implement legislation, it followed that I would be most comfortable conducting my research in this theoretical paradigm. Resting on the premise that the world is made up of multiple realities, a constructivist/interpretivist paradigm recognizes the importance of context in the way people experience events and each other (Cohen, Manion & Morrison, 2000:3; Guba & Lincoln 1998:206-207; and Henning, Van Rensburg, & Smit, 2004:21;). As such it allows for the consideration of multiple meanings of individual experiences, meanings that are often socially and historically constructed (Creswell, 2003:18 and Patton, 2002:96).

Since my study was aimed at uncovering school governors' understanding, interpretation and implementation of legislation on the selection and appointment of school educators on the one hand and the factors that influenced their stance on the other, I regarded this theoretical framework as particularly useful. It enabled me to enter into conversations with research participants from

very different contexts in ways that allowed them to convey their perspectives in their own words and in their own way. It also enabled me to holistically compare the multiple meanings research participants attached to legislation and the implications that these interpretations had for school governance, taking cognisance of their different cultures, histories, fears and expectations (Cohen, Manion, & Morrison, 2000).

1.8 Research paradigm and design

Given my social constructivist/interpretivist position, namely that (a) knowledge is constructed through social interaction, (b) the ways in which individuals interact with their social worlds differ, and (c) the realities they construct would therefore reflect these differences (Merriam, 1994:6), I opted to conduct my research in a qualitative rather than a quantitative paradigm. Qualitative research focuses on the examination of phenomena in their 'real life' contexts (Yin, 2003:22-23) – the implementation of legislative changes in public schools in South Africa, in my case.

It was only within the qualitative paradigm that I was able to use a case study design, a design most appropriate to the comparison of different views, understandings, interpretations and beliefs typical of the multi-cultural South African society. Specifically, I planned to study five cases - that is, the governing bodies of three formerly white and two black schools in the Tshwane North District of Gauteng, South Africa. I specifically did not include any schools formerly reserved for Indian and Coloured learners because I was interested in comparing the understandings and interpretations of the two racial groups in South Africa that were most and least advantaged in the previous apartheid

dispensation. In this sense my cases were chosen by means of the kind of purposeful sampling typical of qualitative research (Merriam, 1994:6).

Because case study designs are flexible (Merriam, 1998:9), allowing for the use of different data collection instruments, and different ways of analyzing and reporting data, it enabled me to use multiple data collection instruments and to ask not only *'what'* and *'how'* questions but also *'why'* ones. Because the comparison of data is intrinsic to case study designs I could compare research participants' understandings and interpretations with each other as well as with the understanding of legislators as contained in Acts dealing with educator employment. Most importantly, in using a qualitative research paradigm and a case study design I created the opportunity for research participants to share their experiences and interpretations of legislative changes in their own *'voices'* (Miles & Huberman, 1994).

My original research design was tentative in that I allowed for the possibility that I would have to adjust it as and when the results of inductively analyzed data indicated that this was necessary. As it happened, I had to change my original plan to conduct focus group interviews with selected school governing bodies to one in which my primary data collection instrument was one-on-one interviews with available governing body members. I also had to add an additional data collection instrument – telephonic conversations – to those I planned to use initially because I realized that I did not have sufficient data to answer all my research questions. I also had to reorganize my raw data for coding purposes when I realized that the way in which I had planned to do it would not enable me to compare the perspectives of people from different *racial groupings* represented in the school governing bodies that participated in my study.

1.8.1 Data collection

Given that I chose to conduct my research in a qualitative research paradigm I used a range of instruments and strategies to collect data that would enable me to answer my original research questions. Not only does the use of more than one source contribute to the 'truth value' of data (Tellis, 1997) but it also reveals more and 'deeper' facets of the 'phenomenon' being studied (Kallioneimi, 2003:185).

- In the first instance I analyzed various pieces of legislation dealing with education in general and the selection and appointment of school educators in particular. This analysis served a threefold purpose. Firstly it provided me with a basis for the formulation of questions that I could use in my one-on-one interviews with selected school governing body members. Secondly it clarified my own understanding of legislation, which was sometimes 'coloured by emotion and moral judgment' (Clandinin, 1986:29). Finally it served as a frame of reference against which I could corroborate evidence from data provided by research participants (Bell, 1999), specifically as regards emotionally charged interpretations offered by interviewees which I could assess against the content of the legal document concerned. This in itself sharpened my awareness of the fears, expectations, bias and stereotypes that might well influence the way in which different schools governing bodies and different individuals and groupings represented on those bodies interpreted and implemented legislation on the employment of school educators.

- In the second instance I decided to conduct interviews with selected school governing body members who volunteered because interviews lent themselves not only to the collection of factual information but also to the uncovering of hidden fears, expectations, bias and tensions (Denzin & Lincoln, 2000:8). I first planned to use focus group interviews with the majority of school governing body members of a specific school being present at the same time so as to pick up on group tensions and dynamics (Yin, 2003:89). However, given the incompatible time schedules and unavailability of school governing body members I had to settle for individual one-on-one interviews (Denzin & Lincoln, 2000:8; Terre Blanche & Durrheim, 2002:6; and Yin, 2003:89) with available governing body members. Information from the available SGB participants will not be generalized since it is contextual.

All School Governing Body members were asked the same questions regarding legislation and the selection of teachers but, where applicable, the common set of questions was supplemented with specific probes that not only enabled me to clarify my understanding of their responses but also to uncover hidden motives and/or bias (Mason, 2002:64-65). While research participants had the opportunity of sharing their feelings of and experiences with appointment equity during interviews any insights about the group dynamics of the different governing bodies therefore had to be inferred from the responses of individual governing body members. These interviews, while not being what I had initially planned nevertheless allowed me to follow interesting lines of enquiry and to learn more about selected school governing body members' attitudes towards, as well as their understanding, interpretation and implementation of legislation on, the selection and appointment of school educators (Grieves & Hanafin, 2005:31; Creswell, 2002:457).

- In the third instance I planned to conduct follow-up interviews with participating governing body members to clarify issues that emerged during the initial interviews (Crotty, 1998:75). Due to governing body members' hectic personal and professional schedules this was not, however, possible. I therefore had to rely on follow-up telephonic conversations with school principals to fill gaps in the data already collected as well as to clarify and/or verify data collected during interviews. One of the gaps I identified after I had left the field was that I had not validated information on the racial composition and socio-economic status of the schools concerned; I therefore conducted telephonic conversations with the principals of these schools, who willingly provided me with the necessary information.

1.8.2 Data analysis

Typical of qualitative research data analysis was inductive and ongoing (Miles & Huberman, 1994:68). Using two approaches (see Chapter Two, figure 1), one for legal documents and another for interviews, I analyzed collected data on a daily basis. In both cases, though, I used a deductive approach, considering the content and tone of the text and then inferring from the results of the analysis whether or not (a) white and black SGB members understood and interpreted legislation on teacher selection and appointment differently; (b) why this might be so; (c) whether or not there was a clear alignment between legislative requirements and the way these were implemented, and (d) to what such alignment or not could be ascribed.

All the interviews were tape-recorded and the recordings were transcribed as soon as possible after the interview had taken place. Data analysis started immediately the transcripts were ready. I then restructured the data in each

transcript in terms of content categories derived from my original research questions, as well as from the questions included in the interview schedule (see Chapter 5 for details) prior to coding the data. In coding the data I took cognizance of the totality of selected school governing body members' contexts, orientations, emotions and thoughts (Ary, Jacobs & Razavieh, 2002:27 &: 441; Crotty, 1998:42; Denzin & Lincoln, 2003:250; Wotherspoon, 2004) with a view to gaining a holistic insight into the motives for their actions.

1.9 Reliability and validity

In qualitative research the terms, 'reliability' and 'validity' are very seldom used. Instead, qualitative researchers strive to enhance the trustworthiness, credibility, comparability and transferability of their research findings. Informed by this difference between qualitative and quantitative research I strove to ensure that my research procedures and findings were accepted as trustworthy and credible. I used triangulation (using different sources and instruments), engaged with research participants (in interviews and telephonic conversations), and supported my claims with reference to related research literature.

To enhance the credibility and dependability of my findings I piloted the interview schedule (see Chapter 2, figure 1) with school governing body members of other non-participating schools before using it. This enabled me to fine-tune questions and/or eliminate those that did not seem to lend themselves to the generation of rich or relevant data. Moreover, the information provided by participants at the different research sites and the detailed notes I took to supplement the tape-recorded interview data, coupled with multiple episodes of

cross-referencing, confirmed that my data and the inferences I drew from such were dependable.

As regards the transferability of my research findings and/or of the methods I used to investigate differences in the understanding, interpretation and implementation of legislation on educator employment in selected schools in the Tshwane South District of Gauteng, South Africa, I would argue that, while the findings of this study cannot be generalized, the study could be replicated. Should future researchers use the same instruments, the same data collection procedures, the same interview schedule and the same categories of research participants, they may well find that their research findings would replicate mine. Should such replication happen on a large enough scale, the eventual findings could well be generalized to school governing bodies across the country.

Being sensitive to my personal biography and how it shaped my study, I tried to be as objective as possible. It was not; however, easy to avoid filtering data through a personal lens shaped by my specific socio-political and historical background (Creswell, 2002: 182). What is real to me might be relative to others because people interpret reality as it presents itself to them at a specific time and in a specific context (Schwandt, 1998:243). I did not therefore formulate predetermined outcomes or limitations (Patton, 2002). Neither did I in any way manipulate research contexts or participants (Berg, 2001; Creswell, 2003). The truths of my findings as a researcher are therefore based on the most informed constructions available to me.

Although my research findings might prevail as the truth for a specific time period, this truth will most probably change as other researchers discover new truths that either negate or supplement my findings. In this sense my research does not represent uncontested accumulated facts. Rather, it represents truth in

the making, truth in a constant process of evolution (Kuhn, 1970, cited by Mouton, 1996:16).

Concept clarification

For the sake of clarity key concepts used in this study are briefly defined here in advance of the discussion of insights I gained into the problem being researched.

- In the first instance, I use the word '*teacher*' rather than '*educator*' when talking about selection and appointment procedures because of the narrow focus of this study on the employment of classroom teachers, heads of department, deputy principals and principals – teaching staff, in other words. The word, '*educator*', while applicable to all of these, is also applicable to education officials working at departmental offices and includes school psychologists, curriculum advisors, and other support personnel. This study does not focus on them, only on those who are involved in teaching at school level, hence the preference for the word, '*teacher*'.
- In the second instance, while acknowledging that the abbreviation, *SGB*, is also used to refer to those tasked at national and other levels with the generation of educational standards, that is, Standards Generating Bodies, this study focuses on school governance. In this context everybody uses the term, *SGB*, to refer to school governing bodies, *not* to standards generation bodies. When I use the term in my study it therefore refers to school governing bodies only.
- Thirdly, the term '*Head of Department*' - abbreviated as HoD - is used at school level to refer to a teacher who is in charge of a specific learning area at school

phase. At provincial level the same term is used to refer to the departmental official who acts as the representative of the national government or department of education in the province. This person is also a member of the executive council and has the final say in the appointment of teachers at school level. Also, s/he and the school principals are jointly responsible for the effective management of day-to-day activities at schools. When I use the term, 'Head of Department', or its abbreviation, 'HoD', I am referring to the provincial Head, not to the HoD of a learning area or phase at school level.

- Finally, while I originally wanted to use the terms, 'formerly white' and 'formerly black' schools I realized during the course of my investigation that these terms are misnomers. While many 'formerly' white schools are fully integrated as far as the racial compositions of learners go, there are many white schools that are still lily white. Also, black schools do not seem to have changed at all. With a few exceptions, where one or two learners from other races attend black schools, all black schools are still black as far as learner and teacher compositions go. I decided, therefore, to refer to white schools as those formerly under the administration of the Department of Education and Culture (House of Assembly) and to black schools as those formerly under the administration of the Department of Education and Training. When I use these terms they therefore refer to what we commonly call 'formerly white' and 'formerly black' schools respectively.

1.10 Significance of the study

The study is arguably a significant and ground-breaking study in that it makes a contribution to existing scientific knowledge because it provides information on an area in which no research has been published to date, namely school

governing bodies' understanding, interpretation and implementation of legislation on teacher selection and appointment at public schools in South Africa. In this regard my study, therefore, adds to existing literature on school governance and has important implications for legislation analysis in South Africa and elsewhere.

In the second instance, insights into the ways that the governing bodies of different schools interpret legislation suggests that the implementation of legislation requires that the issues of language, school culture and ethnic traditions be addressed if equity and representivity is to be achieved in the workplace, with specific reference to public schools in South Africa.

Finally, and most importantly, given the results of my investigation, empirical data indicate that racism and resistance to change is not, as many people assume - myself included - the primary cause for the lack of transformation in the staff composition of public schools in South Africa. The results of my study, albeit with a very small sample of schools and SGB participants, suggest that there is a whole range of factors that affect the way in which governing bodies of selected public schools in South Africa interpret, respond to, and implement legislation related to school governance in general and the selection and recommendation of teachers for appointment in particular.

1.11 Limitations

Yin (1989:22) argues that, because of the intricacies and the rigour involved, good case studies are very difficult to do. Typical limitations of case studies include researcher bias, restricted generalization, and the generation of large amounts of data that have to be reduced, coded and categorized prior to analysis.

The limited generalizability of case studies is due to their being context-specific. In my study the generalizability of my findings is even more limited because they reflect the perceptions of a small sample of school governing bodies seen through the eyes of available members only. Also, my sample was limited to schools in the Tshwane D4 region of the Gauteng Department of Education. By implication my findings are applicable only to those schools in the Tshwane D4 region of the Gauteng Province that participated in the investigation. However, should SGBs at other schools identify with these findings, thus suggesting the possibility of transfer; this limitation would have been minimized to some extent. In this sense the findings may be 'generalizable to theoretical propositions' only (Yin, 1994:10).

A final limitation of the study is that it may be difficult to reproduce it in other contexts given the constant evolution of people's understanding of and attitudes to legislation, specifically legislation aimed at the transformation of society in general and education in particular. It is possible, though, to reproduce the study in other contexts similar to the ones I included in my study if changes to the broader (national) context are factored into the replication.

1.12 Research programme and chapter outline

The following section provides a description of my research programme in terms of a chapter outline.

- In **Chapter One** I present my research purpose and parameters. I state my thesis, explain the rationale for the study, stipulate the specific and general aims of the study, explicitly state my ontological and epistemological

positions, describe my research design and the measures that I took to establish credibility, acknowledge the limitations of the study, and indicate the possible significance of the study to the greater research community.

- In **Chapter 2** I provide a more detailed ex post facto description of my research design and methodology so as to lay an audit trail that could be followed by future researchers who might want to replicate this study in other contexts. More specifically I justify the choices I made with regard to research instruments and strategies in terms of theoretical paradigms as well in terms of my research purpose, questions and objectives.
- In **Chapter 3** I present my analysis of legislation on teacher appointment in South African schools, indicating how various stakeholders in education interpreted and responded to the changes promulgated in the Education Laws Amendment Act (Act 24 of 2005) when it was first submitted to Parliament as a Bill. In discussing these interpretations and responses I also indicate, with reference to relevant literature, the possible implications of the new teacher appointment legislation on school governance.
- In **Chapter 4** I discuss, with reference to literature on the topic, the principles that underpin the changes to teacher selection and appointment as promulgated in the Education Laws Amendment Act (Act 24 of 2005), namely equity, redress and representivity. In doing so I explain why I think these principles are intrinsically fair and why their promotion is crucial to the creation of a unified education system in South Africa. In justification of my claims I refer to similar interventions in other countries and the effect they had on school governance there.

- **In Chapter 5** I present my research findings in the form of rich comparative descriptions that indicate differences in the understanding, interpretation and implementation of different categories of school governing body members as well as different racial groupings represented on those bodies. In doing so, I indicate some of the possible reasons for these differences, suggesting that the common assumption that there is more resistance to racial integration in white schools than there is in black schools may be nothing more than a myth.
- **In Chapter 6** I present the conclusions I reached as a result of my research enterprise. Informed by these conclusions I offer a few tentative suggestions on the way forward as regards the promotion of equity, redress and representivity in the staff composition of public schools in South Africa as well as in the building of greater school governance capacity.

1.14 Summative conclusion

The primary purpose of this chapter is to provide readers of my report with something akin to a road map, something that will give them an indication of my research focus, purpose and methods on the one hand and my theoretical and personal stance on the other. In describing the parameters within which my research was conducted I indicated that my interest was in determining whether or not the racial group to which school governing body members who participated in my study belonged understood, interpreted and implemented legislation in different ways and if so, to what could these be ascribed. I indicated, moreover that I conducted my investigation within a qualitative research paradigm that allowed me to adopt a constructivist/interpretivist approach to data collection and analysis. I then briefly justified the terms I use in this study and the meanings I attach to them and described the steps I took to

ensure that my research was ethical, credible and trustworthy. Finally, I gave some indication of the limitations and possible significance of my study.

The chapter that follows is dedicated to a description of my research methodology, describing in some detail how I went about collecting and analyzing data and why I followed this specific route.

CHAPTER 2

RESEARCH METHODOLOGY

2.1 Introduction and purpose

As indicated in Chapter One, this qualitative study is directed by my research purpose and the research questions posed in the first chapter. In order to ensure that I would be able to achieve my purpose and answer these questions I had to focus on collecting data that would provide me with the requisite answers. To this purpose I had to select data collection instruments that would enable me to collect the appropriate data and use data analysis strategies that would ensure that I would be able to determine not only the level of understanding of the school governing body members in my sample but also to uncover hidden predispositions, bias, expectations and fears as regards legislation on teacher selection and appointment. I therefore collected data from more than one source and used more than one data collection instrument. Also, in selecting my research participants, I had to ensure that they had the requisite knowledge and expertise to provide me with information-rich data (McMillan, 2000).

In this chapter I describe in some detail the sources and instruments I used for data collection, the method I used to select research participants, and the techniques I used to reduce, analyse and interpret collected data. In providing reasons for my choices I discuss the benefits and limitations of each with regard to my study and indicate the extent to which I followed or deviated from my original research design/plan. In this sense Chapter Two serves as an audit trail of the empirical part of my inquiry.

In addition to laying an audit trail that could be used to assess the credibility and trustworthiness of my inquiry I also reiterate my philosophical stance on knowledge and its production, that is, the philosophical underpinning of this study. Specifically, I clarify my epistemological viewpoint and ontological stance since these framed the way in which I engaged with research participants, literature and the data generated during my empirical investigation (Denzin & Lincoln, 2000).

2.2 Research purpose and aims

As indicated in Chapter One, my study is aimed at determining the way in which governing bodies of selected public schools in the Tshwane North District of Gauteng, South Africa, understand, interpret and implement changes in legislation relating to the appointment of teachers. In pursuing this purpose I specifically focused on three aspects namely (a) the recently promulgated Education Laws Amendment Act (Act 24 of 2005), described by Education Minister Naledi Pandor as one of the last steps towards complete transformation in education; (b) the stiff opposition by the Democratic Alliance, who claims that, since the Act is 'rotten at the core', it is a 'significant marker in the ongoing decline of public education', and (c) the shift of decision-making power as regards the selection of public school teachers for appointment from school governing bodies to provincial Heads of Department as a change stipulated in this piece of legislation.

In investigating these three inter-related issues, I focused on the extent to which the staff composition at schools has or has not changed as a result of the new legislation. In doing so I could deduce the way in which the governing bodies of selected public schools implemented legislation, inferring from the outcome of this exploration to what extent they understood the intent of the Education Laws

Amendment Act of 2005. In analysing their responses to the questions I posed during one-on-one interviews with individual governing body members, I attempted also to identify their feelings about the changes to legislation and their ability to effect these changes in the way they selected and recommended teachers for appointment at their schools. In doing so I was able to draw certain conclusions not only about their ability to govern their schools but also about their willingness to promote equity and representivity in the staff composition of the schools for whose governance they accepted responsibility. More specifically I strove to determine whether or not the criteria and procedures selected governing bodies used in the selection and recommendation of teachers for appointment at public schools matched those stipulated or implied in the relevant Acts.

2.3 Philosophical foundations of the study

In the sense that my study is implicitly aimed at the identification of factors that influence School Governing Body members' understanding of and ability to implement the latest legislation on teacher appointment, it reflects elements typical of both the naturalistic and logical positivist paradigms. These paradigms are particularly appropriate to the explanation of social, behavioural and physical phenomena since they guide researchers to a better understanding of a particular action (Denzin & Lincoln: 2000; and Terre Blanche & Durrheim, 2002). However, since the primary purpose of this study is to gain a deeper, critical understanding of school governing body members' interpretations of, attitudes towards and ability to implement new legislation on the appointment of public school teachers in South Africa, the study leans more towards the interpretivist paradigm. This paradigm postulates that individuals interacting with their social world construct their own realities. In other words, in terms of this paradigm, human activity and institutions are 'social constructions', not

products of external forces that mould individuals and institutions in predictable ways (Vulliamy, Lewin & Stephens, 1990:9). Truth can therefore only be found in the consideration of multiple socially and historically constructed meanings of individual experience and in the determination of the possible implications that those constructions might have on the behaviour of individuals and those with whom they interact (Creswell, 2003:18; & Patton, 2002:96).

The interpretivist paradigm was particularly appropriate to my study given its focus on the intent of the Education Laws Amendment Act of 2005, which is specifically aimed at the achievement of 'equity' and 'representivity' in the staff composition of public schools. Of course equity and representivity are also social constructs, created in the course of everyday activities and interpreted against the backdrop of shared understandings, practices, language and so forth (Denzin & Lincoln, 2000). A key feature of the interpretivist paradigm, when framing research, is that it brings to the fore meanings that people assign to their experiences, and by implication, to anything that is socially constructed. Central to this approach is the premise that the researcher constructs his/her own meaning from the research results (Denzin & Lincoln, 2000; Merriam, 1998:6). In this sense the researcher has some control over extraneous factors and/or interpretations that could impact on the research results (Merriam, 1998:9).

2.4 Conceptual framework

For the purposes of this study, the conceptual framework, namely school governance, served as a frame of reference against which school governing bodies' understanding, interpretation and implementation of the Education Laws Amendment Act could be interpreted and evaluated. In devolving certain governance responsibilities to school governing bodies (SASA, 1996) the State was in effect saying that these bodies understood their roles and responsibilities

and would be willing and able to take appropriate action to ensure that their schools were functioning as well as they could. Implied in this assumption is the notion that governing bodies are legally responsible for the decisions they make and that, as legal entities, they are morally obliged to implement state legislation even when they are in disagreement with it.

The recent amendments made to the Employment of Educators Act (Act 76 of 1998), as promulgated in the Education Laws Amendment Act (Act 24 of 2005), stipulate in detail the processes and procedures that should be followed by school governing bodies who are selecting and recommending teachers for appointment at their respective schools. If, however, Sayed's (2002a) claims that amendments like these are indicative of a move towards greater State control are true, it is possible that conflict could arise between governing bodies and the department over the definition of governance powers. Such controversies may have grave consequences for the promotion of equity and representivity since governing bodies might well find themselves entrapped in bureaucratic legal battles that undermine their effectiveness as school governors. Using school governance as my conceptual framework created the opportunity for me to explore claims like these and enabling me to determine whether or not the voices of those most affected are still considered (Christiano, 2004; Naidoo, 2004) in the development and implementation of legislation.

The use of a school governance framework also gave me the opportunity to consider other factors that might affect the quality of governance at different public schools. Included amongst these are variations in school structure and culture, governance capacity and resources, all of which have historical and cultural roots. Allied to these, especially in South Africa, are racial and gender attitudes as well as entrenched dispositions towards those with some or other disability. All of these issues can be discussed in a school governance framework:

actions are influenced by disposition, while dispositions lead to specific actions. Individuals are naturally biased towards their own interests (Christiano, 2004). School governors' preferences in respect of teachers most suitable for appointment at their schools could well be indicative of such bias, a bias reflected in a specific group or school culture. The stronger the culture the more difficult it will be for someone with a culture different from the dominant one to gain access into a specific institution.

2.5 Research design

My original research design, rather than being 'an architectural blueprint' was a tentative plan for assembling, organising and integrating information'/data (Merriam, 1998:6). Informing the design were my research purpose and questions. Noting the increased role of the government in promoting equity and representivity in public schools through legislative interventions I wanted to explore differences in the way the governing bodies of (white) schools - formerly under the administration of the Department of Education and Culture (House of Assembly) and hereafter referred to as HoA schools - and those of (black) schools - formerly under the administration of the Department of Education and Training and hereafter referred to as DET schools - understood, interpreted and implemented amendments to legislation on the selection and appointment of teachers at public schools.

Focusing specifically on the school governing bodies of five schools in the Tshwane North District of the Gauteng Province, South Africa, I looked for answers to the following research questions:

- Are there any differences in the way the governing bodies of white schools formerly under the administration of the Department of Education

and Culture (House of Assembly) and black schools formerly under the administration of the Department of Education and Training interpret the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005) and if so, to what could these be ascribed?

- Does the way in which the governing bodies of (white) schools formerly under the administration of the Department of Education and Culture (House of Assembly) and (black) schools formerly under the administration of the Department of Education and Training interpret legislation influence the criteria and procedures they use in the selection and recommendation of educators for appointment and if so, how?
- Is there any evidence that the amendments promulgated in the Education Laws Amendment Act (Act 24 of 2005) has led to greater diversity/representivity in the staff composition of those (white) schools formerly under the administration of the Department of Education and Culture (House of Assembly) and those (black) schools formerly under the administration of the Department of Education and Training, and what does such evidence indicate about the alignment between government expectations and the capacity of school governing bodies?

To best enable me to answer these questions I used a case study design because it allowed me to examine a recent or contemporary phenomenon within its real life context (Yin, 2003:22-23) – that is, changes to legislation on teacher selection and appointment as promulgated in the Education Laws Amendment Act (Act 24 of 2005). Given its flexibility, a case study design allowed me to consider multiple and varied responses (Merriam, 1998:9) concerning school governors' understanding, interpretation and implementation of these amendments. Since I

wanted to determine whether or not there were differences in the understanding of former House of Assembly (HoA) and Department of Education and Training (DET) schools I opted for a multiple case design. Such a design enabled me to compare the responses of different racial and governing body membership groupings as well as different operational, cultural, political and educational contexts (Yin, 1994:21). My use of exploratory, explanatory and descriptive questions to determine how the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (2005) were interpreted and implemented constitutes what Berg and Stake, in Denzin & Lincoln (2000), call an *instrumental* case study approach. I regarded this approach as particularly appropriate in that it afforded me the opportunity of answering the three types of questions mentioned above. The answers to each of these types of questions made a very specific contribution to my study.

- *Exploratory questions* helped me focus on the possibility that teachers from different racial groups could be appointed to schools that were previously outside their domain of choice. Answers to exploratory questions emerged from an analysis of the views and opinions expressed by research participants (school governing body members at the five selected schools) during the course of one-on-one interviews. Their responses suggested to me what could be done to promote representivity in the staff composition of public schools.
- *Explanatory questions* assisted me in continually reassessing and refining issues while conducting fieldwork, helping me to interpret data, to frame key findings, and to link theoretical discussions with the data to establish praxis (Denzin & Lincoln, 2000:388-389). In order to be truly explanatory, I related my emerging understanding of the phenomenon being investigated, i.e. SGB members' understanding and implementation of legislation on teacher selection and appointment, to universal school governance principles.

- *Descriptive questions* generated a comprehensive and detailed account of ways in which SGBs implement legislation on teacher selection and appointment. This enabled me to better interpret the significance and impact of the phenomenon's variables on redress initiatives, specifically attempts to advance equity and representivity in staff composition at public schools in South Africa.

Included in my research design were a number of interdependent steps aimed at ensuring that the evidence gathered addresses the research questions in the study (Yin, 1989:27). Since the study is qualitative in nature these steps did not necessarily occur in a chronological sequence; rather, data collection and analysis were integrated, with the results of each analysis informing the next data collection action (Patton, 2002).

2.6 Sampling – research sites and participants

In selecting my cases – that is participating schools and their governing bodies – I made use of purposeful sampling. Given the interpretivist paradigm within which I was framing my investigation, purposeful sampling was most appropriate, in that it enabled me to identify research sites and research participants that would provide me with information-rich data (Merriam, 1998: 61). The three main criteria I used in selecting the cases were (a) previous involvement of individual SGB members in teacher selection processes (b) SGB members' willingness to participate in the study, and (c) ease of access and minimal financial costs to me as regards the location of the schools selected. Hence my decision to limit my study to five Tshwane D4 schools in the Gauteng Province.

In addition to these three general criteria I also selected schools and participants that would be representative of public schools and teachers in general. To this purpose I decided to include in my sample of schools those that were historically advantaged (HoA schools) as well as disadvantaged (DET schools). The inclusion of historically advantaged as well as disadvantaged schools was of importance to me since I wanted to determine the ways different racial groups interpreted recent amendments promulgated in the Education Laws Amendment Act of 2005. The final sample consisted of three former HoA and two former DET schools. Their status as primary or secondary schools was irrelevant since the role functions of all SGBs are the same.

Individual research participants were selected in terms of their knowledge and expertise as members of school governing bodies since I assumed that these factors would contribute to the generation of illuminative and information rich data. To ensure that the perspectives of different categories of SGB members were represented I included principals (ex-officio members), parents (nominated and ad hoc members) as well as teachers in the sample. Learners were not included because they do not participate in the teacher selection and recommendation processes. I initially intended to interview every member of every SGB in the sample; however, due to a lack of consent from some members and their reluctance to be part of this process I could not do so. My research findings are, therefore, based on information gathered from those SGB members who willingly participated in my study.

2.7 Gaining access to research sites (schools)

I was granted permission to do research in schools of the Department of Education in July 2007. It took me three months to obtain this permission. The person responsible for processing the forms was on sick leave and after making

several phone calls I was assisted by someone else, who informed me about the ill person and then speedily processed my application for permission to do research in the schools. I then had to negotiate access – using the database of the Gauteng Department of Education (Tshwane region) – to select schools that satisfied my purposeful sampling criteria.

Gaining access to formerly disadvantaged schools was easy, perhaps because I am a black person. Gaining access to formerly advantaged schools was not so easy. At one of the selected schools the secretary phoned me back to inform me that the principal was not willing to give me the opportunity to conduct research because the school had in the past had a bad experience with students doing research. The details were not given. Some secretaries promised to pass the message to the principal who would come back to me but this never happened. Yet others indicated that they were inundated with requests from aspirant researchers who wanted to collect all sorts of data from them and that this disrupted their activities at school. Finally, some used the extended July teacher strike in 2007 as an excuse for not having enough time to grant interviews to researchers, and so on. Notwithstanding these problems I did gain access to the entire governing body of one of the former HoA schools and to the principals, who are ex officio SGB members, of two more through the assistance of a white colleague at work.

2.8 Data collection strategies

In this study, I carefully scrutinised the different Acts of legislation to get a sense of the intent of these Acts as well as of the criteria and procedures that should legally be followed in the selection and recommendation of teachers for appointment at public schools. Informed by insights gained I designed an

interview schedule (see Figure 1) aimed at the generation of data that would enable me to answer my research questions (see questions below).

INTERVIEW SCHEDULE

Greetings and introductions

Good afternoon My name is Sharon Mampane. Thank you for agreeing to be interviewed by me.

As you know I am conducting research on school governing bodies' interpretation and implementation of the recent changes in legislation on teacher selection and appointment. Since you are serving on the governing body of your school I hoped that you would be able to help me by telling me how you interpret these changes and how your governing body goes about implementing these changes.

I will be asking you a few general questions about school governance and the law. Please feel free to express your real feelings about issues as they arise. I promise that your identity and the identity of your school will not be revealed at any time. You can therefore be as honest and open as you wish.

Are there any questions that you would like to ask me at this moment?

Before we start I would like to ask your permission to tape record the interview. This will make it easier for me to remember everything that was said. The tapes will be destroyed as soon as my thesis has been approved. Is that OK with you? One more question: Is it a problem if I ask the questions in English? You can answer in your own language if you wish but it will be easier if we all speak English.

Questions

1. How long have you been on the SGB?
2. Do you enjoy it? Why / Why not?
3. What do you think led to your nomination or election as an SGB member?
4. What is usually discussed at ordinary SGB meetings?
5. How is a special SGB meeting for short listing and selection of teachers different from an ordinary SGB meeting? Please explain.
6. When you have these meetings on staff selection, what qualities / characteristics would count in an applicant's favour?
7. What are the minimum qualifications and experience that the SGB looks for in determining the short list of possible appointments?
8. To what extent does race, language and gender play a role in the SGB short listing process?

9. Do you think the criteria used by your SGB reflect the criteria in the legislation? Explain your answer.
10. Bearing in mind the thinking behind the legislation, and considering staff composition, do you think your SGB selection process is effective? Give reasons for your answer.
11. Why, according to you, has the legislation been passed?

Closure

Thank you very much. I really enjoyed the conversation I had with you and I am looking forward to seeing you again.

Figure 1: Interview Schedule

Interview data, complemented by information gathered from my analysis of relevant Acts (see Chapter 3) and my own daily reflections gave me a sense of whether the process of teacher selection and appointment was procedurally acceptable or not. This, in turn, enabled me to draw conclusions about differences in and the causes thereof in the teacher selection and appointment processes used at former HoA and DET schools respectively.

Data were collected directly from individual SGB members by means of one-on-one interviews and, in some cases, telephonic follow-ups. Neither the data nor the interview process was manipulated or controlled by me, the researcher. Moreover, following the advice of Lincoln & Guba (1985:210), I did not rigidly adhere to my prepared interview schedule; instead, I allowed the research process to unfold by itself hence the slight deviations from and/or added probes reflected in the discussion of my research findings (see Chapter 5). However, being mindful of the fact that the implementation of recent amendments to teacher selection and appointment legislation was a process, I paid careful attention to system, process and situation dynamics emerging from interviews with individual research participants.

I collected detailed information ethically, showing respect for the humanity of participants, over a sustained period of time (Berg 2001:10; Creswell 2003:179-183), ensuring them of confidentiality and discretion as far as their and their schools' identities were concerned. It was due to the creation of such 'trusting' relationships that I was able to collect information-rich data that reflect a range of divergent views and answers to my original research questions (Tashakkori & Teddlie, 2003:61-77).

To ensure that my research findings would be accepted as credible, I rigorously reflected on the data I collected and analyzed each day, constantly interpreting the situation on the ground, comparing it with insights gained from literature and focusing subsequent data collection activities ever more sharply on the research problem at the heart of my study (Marshall & Rossman, 1999:2-3), i.e. the lack of diversity in the staff composition of public schools in South Africa. In reflecting on data collected I attempted to link the results of data analysis to broader issues of transformation, which fall mainly in the domain of SGB functions in schools. It was at this stage where I gained a sense of SGB members' ability and/or willingness to implement new legislation on teacher selection and appointment, and to find out whether or not they were supported in this process by government institutions in terms of capacity building and resource allocation.

2.8.1 Interviews

Although I was aware of the limitations and weaknesses of using face-to-face interviews for data collection as regards participant cooperation (Marshall & Rossman, 1999) I had little choice in the matter. As indicated in Chapter One (see 2.6 above) it was impossible for all school governing body members to fit my interviews into their schedules on the same day or at the same time. I therefore

had to opt for one-on-one interviews. I was determined to use interviews rather than other data collection instruments because I regarded them as particularly useful for obtaining large amounts of data quickly, with immediate follow-ups and clarification being possible if required (Powney & Watts 1987:6).

A pleasant relationship was established with all the respondents and there was a relative flexibility in handling the interview situation, with each respondent turning out to be unique in terms of his/her experience of teacher selection and appointment related matters. All the participants were given the opportunity to express their views and opinions freely without being coerced into a particular viewpoint, although they were given specific directives in terms of what to provide information on (Mertens & McLaughlin, 2004). To ensure accuracy and to facilitate analysis of interview data all the interviews were tape-recorded – with participants’ permission – and carefully transcribed afterwards.

As indicated earlier (see 2.8) I used an interview schedule rather than a fixed list of chronologically ordered questions (see Figure 1). This option created the opportunity for participants to answer in their own words while allowing me to ask probing questions for clarification and enhancement purposes. It was the probes that enabled me to capture SGB members’ individual perspectives on teacher selection and appointment legislation, adding depth to the data gathered through generic questions posed to all participants (Patton, 2002:40).

Generic questions were posed to all research participants, focusing primarily on their expertise in and experience of school governance and the processes for teacher selection used by SGBs that they served on. These questions were informed by insights I gained from research and related literature on school governance as well as by my own assumptions regarding SGB members’ understanding, interpretation and implementation of legislation. Specifically, I

assumed that, as is common practice in school governance, each school would have communicated legislative changes to its community, including the SGB, by way of information sessions, workshops or publicity materials.

I also used follow-up telephonic interviews with the school principals who participated in my study to supplement information gathered through one-on-one interviews. The telephonic interviews served to clarify issues that emerged during the initial interviews (Crotty, 1998:75) and to provide me with crucial 'missing' data. Included in the 'missing data' was information on school quintiles (socio-economic status of the school) and racial composition (of learners, staff and school governing bodies).

2.8.2 Document review

Since one of my research objectives was to determine whether or not there was evidence of articulation between the criteria and procedures prescribed in legislation on teacher selection and appointment and the way in which participating SGBs select and recommend teachers for appointment at their schools, I had to ensure that I knew exactly what the law says in this regard. With a view to determining what the national requirements/specifications are regarding teacher selection and appointment I consulted a number of Acts dealing amongst others with school governance, educators employment, equity in the workplace and, specifically, with the selection and appointment of teachers in public schools. In this regard an analysis of the Employment of Educators Act (Act 55 of 1998) and the most recent Education Laws Amendment Act (Act 24 of 2005 [GG 28426 of 26 January 2006]) was absolutely crucial since both these Acts focus specifically on the criteria to be used and the procedures to be followed in the selection of teachers for appointment by SGBs.

To further enhance my insights into school governance in general and the relationship between the State and school governing bodies in particular, I also reviewed literature on school governance and equity interventions in other countries (Spillane, Reiser, & Todd (2002); Tikly, 1997; Weber 2002). Not only did this review provide me with a solid base for my investigation but it also enabled me to benchmark the selection procedures and criteria used in the sampled Tshwane North schools with each other.

2.9 Data analysis

One of the analytical challenges confronting me was how best to present the different views, understandings, interpretations/perceptions and beliefs held by different participants given the interpretive notion of multiple realities. I therefore made use of discrepancy analysis (Potter, in Miles & Huberman, 1994) to compare different 'voices' – those of individuals, institutions and legislators – as well as discrepancies between what participants said they did and what actually happened in practice.

As indicated in Chapter One, data analysis was inductive and ongoing (Miles & Huberman, 1994:68), with tape-recorded interview data transcribed immediately after the event and then electronically restructured and coded. The process of data analysis involved scrutinizing the data to identify categories. These categories for data restructuring were determined by my research purpose, namely to find out whether or not governing bodies of former HoA and DET schools respectively understood, interpreted and implemented legislation on teacher selection and appointment differently and if so, why. In using my research purpose as the organizing principle for data restructuring I was able to holistically consider selected school governing body members' contexts,

orientations, emotions and thoughts (Ary, Jacobs & Razavieh, 2002:27 &: 441; Crotty 1998:42; Denzin & Lincoln 2003:250; Wotherspoon, 2004).

I used two strategies in analyzing collected data, one for the review of legal documents and another for the analysis of interview data.

- As regards legal documents – specifically Acts relating to the employment of school educators - I compared relevant sections in a number of Acts (see Chapter Three) with a view to identifying similarities and differences in content, wording and intent. I then related the results of these comparison with the reasons for and implications of centralization and decentralization of educational governance in the South African context. Finally I related the insights thus gained to the implications that various pieces of legislation on educator employment had for the roles and functions of school governing bodies.
- In preparation for the analysis of interview data I first transcribed each tape-recorded individual interview before commencing with the coding process. I did this as soon as possible after each interview had taken place, so as to enable me to focus not only on the content but also on the words/phrases and the tone of voice (indicated in the transcripts) in which these were uttered (Nelson & Wright, 1995). This enabled me to pick up on emotional tension, dissatisfaction, approval and other emotions and attitudes experienced but not voiced by individual research participants.

In coding the data I first utilized deductive logic, carefully reading each transcript to get a sense of the individual's understanding, interpretation and feelings towards legislation on the selection and appointment of school educators. Having done so, I restructured the interview data in terms of different

categories. My first attempt at categorization was based on my original research questions and related questions in the interview schedule.

While my initial analysis gave me a general idea of the understandings, interpretations and attitudes of particular governing body groupings – parents, teachers, principals – this type of categorization did not make any contribution towards a better understanding of differences between governing bodies of schools previously regarded as advantaged (i.e. formerly white schools) and those previously regarded as disadvantaged (i.e. black schools). Maintaining the essence of my initial categorization I then reorganized the data in terms of governance issues, SGB membership and racial groupings (see Annexure B). This done, I did a word-by-word, phrase-by-phrase and sentence-by-sentence analysis (Glasser & Strauss, 1999:76; Strauss & Corbin 1987:55-56) of the responses of each individual in each governing body and racial category (see Chapter 5). The result of this analysis formed the basis of my descriptive discussion of the findings.

2.10 Research report

Given the qualitative nature of my investigation the results of my review of legal documents and the analysis of empirical data, are presented in the form of an information-rich verbal description (see Chapter 6). The report is written in an academically acceptable though not unduly technical style so as to make it accessible to laypersons as well as to academics. Its reader friendliness and accessibility is one of the strengths of qualitative research.

2.11 Trustworthiness

As indicated in Chapter One, qualitative research is judged not in terms of its reliability but in terms of its trustworthiness, credibility, comparability and transferability. In order to satisfy these criteria as regards this study I collected data from multiple sources (documents, Acts, and people), interviewed different categories of SGB members (ex officio members, elected members and ad hoc members, including principals, parents and teachers) and analysed data by first comparing the responses of different participant categories before relating these to theoretical and legislative positions on school governance. This technique, referred to as *triangulation*, is typical of qualitative research and is assumed to enhance the trustworthiness of qualitative research findings and processes.

In order to ensure accuracy of data recording I tape-recorded and transcribed interviews and took them back to interviewees, asking them to check the transcripts for accuracy. I also asked them to comment on the categories emerging from the data. This is called *member checking* and, like triangulation, it is commonly used by qualitative researchers to enhance the credibility of research findings. With a view to checking the logic of my interpretations I made use of peer/expert reviews, using the services of established and reputable academics from the University of Pretoria to critique my research methodology and inferences regarding legislation, its implementation and school governance. I also asked key informants to review various aspects of the research process given the fact that I had used multiple sources of evidence, interviews and document review to establish a chain of evidence. This was done during the data collection as well as the writing up stages.

I adhered to all the prescribed processes at the institution where I studied to ensure that my research was ethical and up to standard. These included

defending my research proposal at Faculty level and getting clearance from the Ethics Committee of the university to embark on the empirical part of the investigation. Finally, as indicated earlier on, I obtained permission from the requisite authorities – the Department of Education and the principals of selected schools – to conduct research at schools in the Tshwane district of the Gauteng Province, and declared my own interest, involvement and possible bias where applicable throughout the research report.

2.12 Summative conclusion

As indicated in the Introduction to this chapter the primary purpose of the chapter was to lay an audit trail for readers of the report and/or future researchers who wished to replicate or add to my own research findings. In laying such a trail I indicated my intention to gain a deeper understanding of legislation on teacher selection and appointment on the one hand and school governing bodies' understanding, interpretation and implementation of such legislation on the other. I then described and justified my approach to and perspectives on the most appropriate way to study this phenomenon. Specifically, I clarified my epistemological viewpoint and ontological stance since these framed the way in which I engaged with research participants, literature and the data generated during my empirical investigation (Denzin & Lincoln, 2000). Finally, I described in detail the instruments and methods I used to collect, analyse and report my data and research findings, taking pains to indicate what steps I took to ensure the trustworthiness of my research outcomes.

In the next chapter I present my analysis of legislation dealing with teacher selection and appointment, focusing specifically on the changes that were promulgated in the Education Laws Amendment Act (Act 24 of 2005) in this

regard. In discussing said legislation I continuously refer to insights gained from my literature review on school governance, indicating the relationship between such and South African legislation on school governance. I also strive, in relating these, to merge the diverse views of education stakeholders on the recent changes to legislation on teacher selection and appointment into my discussion so as to sensitise readers to the complexity of the issue as revealed in my empirical investigation.

CHAPTER THREE

SCHOOL GOVERNANCE, TEACHER APPOINTMENT AND SOUTH AFRICAN LAW

3.1 Introduction and Purpose

As indicated in Chapter One, the conceptual framework within which this study is lodged is a legislative/governance one. More specifically, the study examines the impact of amendments to the Employment of Educators Act 55 of 1998 regarding teacher selection and employment. These amendments, as already indicated in Chapters One and Two, were promulgated in the Education Laws Amendment Act (Act 24 of 2005).

In this chapter I discuss the notion of school governance in general, relating this to the system of school governance adopted in South Africa. In this regard I focus specifically on the devolution of certain powers to school governing bodies as stipulated in the South African Schools Act of 1996. With a view to explaining changes to the role of school governing bodies as regards the selection of teachers for appointment at public schools, I also describe the context – social and legislative - that gave rise to the amendments contained in the Education Laws Amendment Act of 2005.

In linking my discussion of governance to a description of legislation related to school education, with specific reference to the selection and appointment of public school educators, I cite the changes to the selection and employment of teachers promulgated in the Education Laws Amendment Act (Act 24 of 2005). My specific focus is on the response of stakeholders to what they perceive to be the intent of changed legislation, namely to impose racial integration on all

schools to the detriment of education of quality. In doing so, I argue that the amendments lend themselves to different interpretations, as evidenced by stakeholder response and various court cases. In discussing these interpretations I argue that they are informed by past traditions and practices on the one hand and by a disjuncture between government expectations and institutional capacity on the other.

3.2 Conceptualizing School Governance

Boyd and Miretzky (2003), having studied various forms of school governance, define it as the kind of relationship established between ‘the people in schools and state legislators’. This relationship, according to Simkins (2002) and Naidoo (2004), involves the devolution, redistribution or sharing of state powers with others, a complex process that typically involves some form of decentralization (Naidoo, 2004). Beckmann (2002) defines decentralization as the devolution of authority to the lowest possible level, while Arnott & Raab (2000) define it as a process aimed at the promotion of greater institutional autonomy, a process that often leads to the strengthening of some management functions at the expense of others.

The notion of decentralization originates from the belief that, since the state alone cannot control schools it should form partnerships with other stakeholders, in particular with those most closely associated with the school (Marishane, 1999:78). The extent to which power is devolved and the forms such devolution takes, are, however, primarily determined by those who have authority over, access to, and influence over education goods (Elmore, 1993). Given the dynamic interplay between the State and those to whom it has devolved powers, according to Vongalis-Macrow (2007), decentralization and the resultant devolution of power typically result in school governors finding themselves in

the position of having to promote State-initiated reforms at institutional level while struggling to make sense of new legislation and conditions at macro-level. This is particularly the case when the State initiates reforms, passes laws and develops policy frameworks and procedural guidelines regarding various school activities in an attempt to retain its power while simultaneously trying to create a balance between centralization and decentralization. When this happens school governing bodies typically find themselves in the curious position of being both servants to and agents for the State, especially as regards State-initiated reforms.

In order to effectively perform these roles, school governing bodies should, by implication, not only have the political will to effect reforms but also the requisite knowledge and capacity to do so. Without these they will find it extremely difficult to live up to the State's expectations on the one hand and those of the school communities they serve on the other. Differing capacity and resources in school communities, and the lack of specific programmes to deal with governance practice and relationships at school level, might according to Kruss (2001:45), result in school governors feeling 'vulnerable'. If, moreover, a school governing body is regarded as nothing more than a 'non-expert body', a part-time, unpaid, volunteer workforce (Thody, 1998) that is 'new' to democracy, it might not stand ready, willing and able to run the institution in its care. After all, 'novice citizens of a democracy do not simply arrive at maturity' (Peters, in Aspin, 1995:56). Rather, they grow into it.

Karlsson, (2002) concurring with these views, points out that a lack of knowledge and expertise, coupled with a lack of resources, time constraints, and disagreement about the means by which results are achieved, may well result in indifference or apathy on the side of school governors. If, on the other hand, school governors have a sound knowledge and accurate understanding of legislation, they might be willing and able to accept responsibility not only for

school maintenance and/or resource management (Thody, 1998), but also for professional decisions related to the performance of the schools they govern (Kogan, Johnson, Packwood, & Walker (1984:184). However, since central government authority for educational decision-making is never actually surrendered, decentralization seldom results in real transfer of power, hence the claim that decentralization affects the redistribution of authority remains moot (Carrim & Tshoane, 2000; Sayed, 1999; Weiler, 1990).

3.3 School governance in South Africa

Given the emphasis on self-determination and the right to freedom of association and democracy (Boyd & Miretzky, 2003) in the South African Constitution and Bill of Rights, the creation of a decentralized education system for South Africa seemed logical at the time. Not only would the devolution of power create opportunities for those at grassroots level to have a say in the kind of education they wanted their children to have, but it would also signal to the rest of the world that South Africa had truly embraced the democratic values of participative decision-making that inform the many decentralized education systems across the globe. To this purpose, amongst others, the South African Schools Act of 1996 devolves the responsibility and authority for the governance of public schools to the governing bodies of those schools. This in itself is an acknowledgement by the State that it cannot control schools by itself: it should form partnerships with other stakeholders, in particular with those closely associated with the school (Marishane, 1999:78).

Beckmann (2002), following the argument of other researchers (Carrim & Tshoane, 2000; Sayed, 1999; Weiler, 1990) that governments seldom surrender real power even when they purport to have done so, claims that any restrictions on the devolution of power serve to safeguard the State's position of power,

allowing it to withdraw, on reasonable grounds, any of the functions allocated as and when deemed necessary. On the one hand the South African Schools Act (SASA, 1996) limits the powers and rights of school governing bodies to those 'functions', 'obligations' and 'rights' prescribed by the Act' [Section 16 (1)], while allowing these bodies to apply for additional functions should they deem themselves competent to perform these, (SASA, 1996;) on the other. It would seem, therefore, that, in South Africa's case, the State uses its authority over, access to, and influence over education goods (Elmore, 1993) to determine how much of its power should be devolved to schools. That the State does not intend to give up its powers as regards the professional management of schools is indicated by the fact that this function is not devolved to school governing bodies. Instead, it is allocated to school principals, who have to exercise it under the 'authority' of the Head of Department [SASA, 1996: Section 16(3)], the State's representative in this case.

As regards the mandatory functions and obligations devolved to school governing bodies, one would assume that the State, in deciding on these, would have considered the capacity of school communities and/or school governing bodies. Instead, according to Bush and Gamage (2001:39), the State seems to have regarded the implementation of legislation by school governing bodies as a 'matter of faith'. Given the vast discrepancies between the capacity of formerly advantaged (mostly white) and formerly disadvantaged (mostly black) schools and their governing bodies one would expect only administrative functions to be mandatory. Since this is not the case one could infer that the State failed to take cognizance of the social reality of different communities in the South African context and/or of the capacity and desire of different school communities to make the kind of decisions expected of them (Beckmann, 2002; Ministerial Review Committee, 2003: iv;). Instead of initially limiting school governing body functions to administrative matters and gradually adding others in relation to

demonstrated performance, the State mandated all school governing bodies to take responsibility for adding subjects to the school curriculum, deciding on extra-curricular activities, purchasing textbooks and other educational materials/equipment [SASA, 1996: Section 21(1)], developing a school vision and mission, adopting a constitution and school code of conduct, administering and controlling school property and finances, and selecting and recommending to the provincial Head of Department (HoD) teaching and non-teaching staff for appointment [SASA, 1996: Section 20(1)] at the schools for whose governance they are responsible.

The effective execution of functions like the ones mandated in the South African Schools Act, assumes that the governing bodies of all South African schools are knowledgeable, competent and committed to do what is required of them. Indications are, however, that this is not the case. The governing bodies of historically black schools, for example, constrained and/or disabled as they are by their historical environment, resources, and lack of governance expertise are hampered in their ability to contribute to transformation, increasing their vulnerability and ‘unbalancing’ their schools even further (Kruss, 2001:45). Historically white schools, on the other hand, having had the experience of ‘managing’ what was formerly known as ‘Model C’ schools, experience relatively few problems regarding governance per se, giving them the opportunity to ‘bask in their superiority’ (Ministerial Review Committee, 2003: iv).

As regards the impact of school governors’ history on their knowledge base and competence, Sayed (2002), following Beck and Murphy (1996), contends that it is not only the knowledge base of school governing bodies that is affected by historical circumstance but also the authority that the governing bodies of formerly white and black schools respectively wield. A case in point is the difference in school governing bodies’ ability to raise additional funds for their

schools. Formerly white (HoA) schools, having both the business contacts and experience gained in the previous dispensation – as Model C schools – are able to raise funds while the majority of black (DET) schools do not. Given South Africa's political history, I would argue that, although social, economic and political conditions are often glossed over in models of school effectiveness/ineffectiveness (Fleisch & Christie: 2004), they constitute a major force in the transformation or not of South Africa's public schools. The status attached to being a school governing body member might not be sufficient motivation for members of poor, primarily black communities to offer their services as unpaid volunteers which, as Thody (1998) points out, is effectively what is expected of them.

Socio-economic circumstances, coupled with historical structures and/or school culture could, according to Fullan (2001) and others (Apple, 2001; Farrell, 1999; Grieves & Hanafin, 2005: 21-22; Rees & Rodley, 1995; Wallace & Pocklington, 2002) lead to different interpretations of legislation, racial bias, limited or enhanced capacity, and the effectiveness or not of school governance activities. Literature on the topic (DiMaggio, 1982; Grant & Motala, 2004; and Hallinan, 2000) and the influence of institutional growth or decline, diversification and bureaucratisation (Baker, 1999; and Baker, Fuller, Hannum & Werum 2004) suggest the existence of various links between school structure, culture, the creation of educational opportunities, class divisions and other forms of stratification. Given the effect that school culture has on decisions in this regard (Baker, et al., 2004:2) legislators need to take cognisance of these inter-relations to ensure that they do not unintentionally exacerbate inequalities (Werum, 2003).

Closely linked to historical circumstance, especially in South Africa, is the political will of stakeholders, school governing bodies in particular, to contribute to transformation. The fact that former House of Assembly (HoA) schools,

although integrated as far as learner population is concerned, are still primarily white as far as teaching staff and governing body membership is concerned (Chabalala, 2005; DoE, 2005) could suggest resistance to transformation (Grier, 2002; Haychock, 2001) as does the Democratic Alliance's vehement objections to the prioritization of equity and representivity in the selection of teachers as proposed in the Education Laws Amendment Bill (News 24, 2005:1). However, it could simply be that the governing bodies of these schools, like their counterparts in former Department of Education and Training (DET) schools, are merely democratically 'immature', making them 'novice citizens of a democracy' (Peters, in Aspin, 1995:56) who have not had sufficient time to change their historical mindsets.

As regards the capacity of governing bodies to live up to the expectations that the State seems to have of them, it could also be argued that there is a link between school governors' understanding of legislation on education and their ability to ensure its effective implementation at school level. The reality in South Africa is that governance posts are filled with people with little/no understanding and no experience of what it means to run an education system (Davies, 2003). Given that the promulgation of new legislation is a feature of new governments, one could argue that school governing bodies struggle to keep up with new legislation. If, as argued earlier, these bodies are moreover handicapped by historical circumstances they might battle to understand the legal jargon and/or to relate legislation to their particular circumstances. Consequently they might, as Vongalis-Macro (2007) claims, find themselves struggling to make sense of new legislation that is meant to help them implement State-initiated reforms. This, in turn, could be ascribed to insufficient training in legislative/governance matters (Kruss, 2001:45; Van Wyk, 2006) or to their lack of involvement in legislative processes and/or procedures.

School governors' inability to effectively implement legislation could also be ascribed to the fact that they in no stage had the opportunity of participating in the legislative process, something that could be hampering them in the effective performance of their duties (ELRS, 1999: 2A-18). Not having experienced the democratic process first hand they are unable to imitate it in their own governance practices. This might well be one of the reasons for the seeming disjuncture between government expectations in South Africa, as expressed in legislation, and the reality of its implementation at school level (Nieto, 2005). Such inability could lead to a perpetuation of top-down management and inequality on the one hand and retardation or inhibition of the deracialization of the teaching corps on the other (Jansen, 2005; Wong, 2000). Adams & Waghid (2005: 8), for example, in studying the way in which SGBs in selected schools in disadvantaged communities in the Grassy Park area of the Western Cape went about governing their schools, discovered multiple instances where SGB members misinterpreted government legislation simply because they had little or no understanding of the constitutional principle of freedom of association and were consequently unable to implement said policies as expected. Contrarily, Bush & Heystek (2003), studying the extent to which the principals and other SGB members of six schools in the Gauteng Province understood legislation on democratic practice, found that, despite significant difficulties in understanding legislation, the ways in which they implemented it adequately reflected the requisite democratic spirit.

A final causal factor in the disjuncture between government expectations of what legislation can achieve and the reality of what is happening at schools could be school governors' sense that they are being forced to compromise their own identities and expectations for the sake of legislative compliance, causing frustration and an eventual lack of passion for the task of school governance. It might well be that the struggle to retain their own identities is one of the reasons

for the lack of transformation in former HoA and DET schools. It may also be the basis for the way in which they choose to interpret legislation relating to school governance. Jansen (2005) argues, for example, that the lack of transformation in the staff composition of public schools is a direct result of the way in which governing bodies interpret clauses in the Schools Act (SASA, 1996) that focus on the selection and recommendation of teachers for appointment at their schools. Instead of focusing on the principles of equity, representivity and the need to redress past injustices in conjunction with the ability of the candidate, as intended in the Act [SASA 1996: Section 20(8)], governing bodies use their right to select and recommend teachers for appointment to perpetuate past divides in public education (Motala & Pampallis, 2001). It is the existence of loopholes like these in the Schools Act which, according to Boyd and Miretzky (2003) as well as Hope and Pigford (2002) that led to the promulgation of the amendments to the Employment of Educators Act - stipulated in the Education Laws Amendment Act of 2005.

Given the vast discrepancies between schools as regards capacity and the desire for change, the creation of a more democratic, decentralized education system might therefore not have been such a sound decision for South Africa. Instead of leveling the playing field, this move has served only to highlight the existence of huge differences between the will and ability to change in the different (school) communities in the South African context (Beckmann, 2002; Ministerial Review Committee, 2003: iv). Without clarity on how they should work in practice school governing bodies' task simply became another difficult burden (Farrel, 1999), one that they bore with seeming indifference and apathy (Hope & Pigford 2002). Instead of empowering them the State has, in fact, set them up for the kind of failure that would over-burden and unbalance schools even further (Hope, & Pigford 2002:40). Also, instead of participation and power sharing, decentralization might well have exacerbated inequity and disrespect for human

rights, causing conflict between schools and the department over the definition of powers and functions (Sayed, 2002a).

3.4 Legislation on the selection and appointment of teachers

As indicated in Chapter One, the primary purpose of this study is to determine whether or not selected school governing bodies whose schools were formerly under the administration of the HoA and DET respectively interpret legislation on teacher selection differently and whether such differences are reflected in the way they implement legislation in this regard. It is therefore necessary to briefly summarise the gist of the relevant pieces of legislation prior to discussing various sectors' response to recent changes in this regard.

In terms of education, the following pieces of legislation are aimed at the promotion and advancement of the constitutional values and principles as well as at the protection and advancement of the human rights contained in the Bill of Rights: the National Education Policy Act (Act 27 of 1996), the South African Schools Act (Act 84 of 1996), the Labour Relations Act (Act 66 of 1995), the Employment Equity Act (Act 55 of 1998), and the Employment of Educators Act (Act 76 of 1998). While the focus of the study is on the amendments to the Employment of Educators Act (Act 76 of 1998) regarding the appointment of teachers as promulgated in the Education Laws Amendment Act (Act 24 of 2005), other pieces of legislation related to these amendments are also briefly discussed in this section. Since all legislation has to reflect the values of the Constitution, it follows that a brief discussion of the Constitution should be included here.

3.4.1 The Constitution

The Constitution of the Republic of South Africa (1996), hereafter referred to as the Constitution, forms the basis and frame of reference for the way people conduct themselves in the country, including the way they relate to one another and the rules and regulations they make to ensure that each and every citizen has an equal chance to live a productive and meaningful life.

The values on which the Constitution (1996)³ [Section (1)] are founded are human dignity, the achievement of equality and the advancement of human rights and freedoms; non-racialism and non-sexism; the supremacy of the constitution and the rule of law; universal and adult suffrage, a national common voters roll, regular elections, and a multi-party system of democratic government, which should ensure accountability, responsiveness and openness.

To ensure that these founding values are not simply empty words on paper, Chapter Two of the Constitution, which contains the Bill of Rights, 'enshrines the rights of all people' in the country, 'affirms the democratic values of human dignity, equality and freedom' [Section 7(1)] and declares that the State has no choice but to 'respect, protect, promote and fulfill' these rights for all those inhabiting the country [Section 7(2)]. Not only does the Bill of Rights apply to 'all law', binding the 'legislature, the executive, the judiciary and all organs of state' [Section 8(1)], but it also applies to any and all natural and juristic persons who have to protect and advance these rights, and, if it is applicable, fulfill 'any duty imposed by the right', taking the nature of the right into account [Section 8(2)].

As regards human dignity, Section 10 of the Constitution declares that everyone has 'inherent dignity and the right to have their dignity respected and protected'.

³ Hereafter referred to as the Constitution

As regards equality, Section 9 states that 'everyone is equal before the law and has the right to equal protection and benefit of the law [9(1)], explaining that this includes 'full and equal enjoyment of all rights and freedoms' [9(2)]. While 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' [9(3)], it may take legislative and other measures to 'promote the achievement of equality' and/or to 'protect or advance persons or categories of persons disadvantaged by unfair discrimination' [9(2)]. In other words, national legislation may be used to prevent or prohibit unfair discrimination.

3.4.2 The National Education Policy Act

The National Education Policy Act (Act 27 of 1996), which replaced the National Policy for General Education Affairs Act of 1984, was implemented as of 24 April 1996. Its promulgation was one of many means the State used to 'facilitate the democratic transformation of the national system of education into one which serves the needs and interests of all the people of South Africa and upholds their fundamental rights' (Preamble to the Act). Emphasizing the need to uphold every person's fundamental rights, this Act serves as basis and frame of reference for subsequent Education Acts, including the one that is the focus of this study, namely the Education Laws Amendment Act, 2005, in terms of which specific sections dealing with the selection and appointment of educators in the Employment of Educators' Act (Section 6 of Act 76 of 1998, as amended by section 15 of the Act 48 of 1999 and section 7 of Act 53 of 2000) have now been changed.

The objectives of the National Education Policy Act (Section 2) are to lay the basis for:

- The determination of national education policy by the Minister in accordance with certain principles;
- Consultations to be undertaken prior to the determination of policy, and the establishment of certain bodies for the purpose of consultation;
- The publication and implementation of national education policy, and
- The monitoring and evaluation of education.

In terms of this Act, the Minister of Education not only has the right to 'determine national legislation for the planning, provision, financing, co-ordination, management, governance, programmes, monitoring, evaluation and well-being of the education system' [Section 3(4)] but also to override provincial legislation should it conflict with national legislation [Section 3(3)]. In addition, the Minister may devolve his/her authority to others, if and when required. This is an important point to remember when considering stakeholder response to the amendments regarding teacher selection by school governing bodies later on in this chapter.

3.4.3 The South African Schools Act

The South African Schools Act (Act 84 of 1996), hereafter referred to as the Schools Act, has the creation/establishment of a uniform system for the organisation, governance and funding of schools as purpose. Replacing previous apartheid legislation on education by means of a number of Education Laws Amendment Acts (ELAA 100 of 1997; ELAA 48 of 1999; ELAA 53 of 2000, ELAA 57 of 2001 and ELAA 50 of 2002), the Schools Act defines the legal status of public schools (Bray, 1997) in South Africa and stipulates what such schools may and may not do. In particular, it compels all public schools not only to function

in accordance with what is stipulated in the Act but also to promote the values and principles of the Constitution of South Africa, and to protect the human rights accorded to all individuals in the Bill of Rights (DoE/White Paper, 1995: 67-70).

Informing the promulgation of this Act were three interdependent premises (Preamble to the Act), namely that:

- The 'achievement of democracy in South Africa has consigned to history the past system of education which was based on racial inequality and segregation;
- The 'country requires a new national system for schools that will redress past injustices in educational provision;
- Providing an education of progressively high quality to all learners would lay a strong foundation for the development of all South Africans' talents and capabilities.

The latest Education Laws Amendment Act (Act 24 of 2005), informed by these premises, takes the democratic transformation of society further by specifically addressing the remains of racism, sexism and all other forms of unfair discrimination and intolerance. Of importance to the focus of this study is the emphasis the Act places on the eradication of racial inequality, segregation, and unfair discrimination in the selection and appointment of teachers at public schools. In this regard the Education Laws Amendment Act (Act 24 of 2005), which is also aimed at the promotion of tolerance, the protection of educator rights, the transformation of society, the setting of uniform standards for and the promotion of partnerships between the State and school communities in school governance, strengthens similar principles first stated in the Schools Act.

As indicated earlier (see 3.3), the Schools Act categorically states that ‘the governance of every public school is vested in its governing body’, that these bodies may not perform any functions other than those prescribed by the Act [Section 16(1)] but that they may apply for an extension of these functions should they deem themselves capable of performing these. The Act also states categorically that the professional management of public schools is the responsibility of the principal, who will perform this function under the authority of the relevant provincial Head of Department. Of particular importance to the focus of this study are three provisions contained in this – the Schools Act, namely that:

- The governing bodies of all public schools have the right to make recommendations to the relevant (provincial) Head of Department regarding the appointment of educators to the schools for whose governance they are responsible, subject to certain stipulations in other relevant legislation (i.e. the Employment of Educators Act, 1998, and the Labour Relations Act, 1995).
- Subject to the Schools Act and any other applicable law, school governing bodies may ‘establish’ posts for educators (section 20 [4]) additional to the establishment determined by the member of the Executive Council in terms of Section 3(1) of the Educators’ Employment Act of 1994.
- The provincial Head of Department may, having determined that a school governing body has ‘ceased to perform functions allocated to it in terms of this Act, or has failed to perform one or more of such functions, ‘appoint sufficient persons to perform such functions’ for a stipulated period, ensure that a new governing body is elected, and/or see to it that the necessary capacity is built into the non-performing governing body so that it will be able to perform its governance functions as required.

3.4.4 The Labour Relations Act

The Labour Relations Act, which deals with relations between employers and employees, is aimed at the advancement of 'economic development, social justice, labour peace and the democratisation of the workplace' [Section 1]. Amongst others it gives effect to and regulates the protection of every employee's fundamental rights as enshrined in the Constitution [Section 1 (a)]. Of specific importance to this study is Section 5, which refers to the protection of employees and persons seeking employment. In terms of this section no person may discriminate against an employee for exercising any right conferred by this Act [Section 5 (1)], including the right to belong to a union and to participate in its activities, including lawful strikes [Section 5(2)]. Section 14 (4) allows, moreover, for interventions by labour union representatives in conflicts between employers and employees and/or in cases where employees are victims of discrimination and/or unfair labour practice should employees request such intervention. Such intervention would, it is assumed, also apply in cases of seemingly unfair selection and appointment procedures.

3.4.5 The Employment Equity Act

As indicated in its short title, the Employment Equity Act (Act 55 of 1998) is primarily aimed at restoring imbalances in the workplace, especially imbalances resulting from past discrimination and therefore requiring redress. This intention is explicitly stated in its Preamble, which declares that 'disparities in employment, occupation and income within the national labour market' can be ascribed to 'apartheid and other discriminatory laws and practices' and that such disparities create 'such pronounced disadvantages for certain categories of people that they cannot be redressed simply by repealing discriminatory laws'.

In terms of the Employment Equity Act [Section 2] equity in the workplace could, on the one hand, be achieved by promoting equal opportunity and fair treatment in employment. On the other hand it could be achieved through the elimination of unfair discrimination and the implementation of affirmative action measures aimed at redressing disadvantages in employment experienced by designated groups. Together, these two intentions, if realized, are meant to ensure equitable representation in all occupational categories and levels of the workforce.

The four specific objectives of this Act, as indicated in its Preamble, are particularly crucial to my study since they focus on:

- Promoting the constitutional right of equality and the exercise of true democracy
- Eliminating unfair discrimination in employment
- Ensuring the implementation of employment equity to redress the effects of discrimination
- Establishing a diverse workforce broadly representative of our people

To these purposes the Act categorically stipulates that employers must take deliberate steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice [Section 5]. Moreover, it prohibits unfair discrimination, 'directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth' [Section 6(1)], unless this is done in the interests of affirmative action [Section 6(2)]. In other words, employers are morally and legally obliged to implement affirmative

action in order to achieve employment equity [Section 13(1)], a stipulation that seems to be at the heart of the amendments to the Employment of Educators Act regarding the selection and appointment of teachers at public schools as promulgated in the Education Laws Amendment Act (2005).

3.4.6 The Employment of Educators Act

The Preamble states that the Employment of Educators Act (Act 76 of 1998) serves as the legal framework for the 'regulation of conditions of service, discipline, retirement and discharge of educators and for matters connected therewith'. For the purposes of my study, Chapter Three of the Act is of key importance given that it deals with the appointment, promotion and transfer of educators at public schools.

Prior to the promulgation of the amendments contained in the Education Laws Amendment Act of 2005, the appointment, promotion or transfer of any educator in the service of a provincial department of education was the responsibility of the Head of Department of a province [Section 6(1b)], with the proviso that such appointment 'may only be made on the recommendation of the governing body of the public school' concerned' [Section (3a)]. This proviso may only be ignored if the school does not have a governing body, if the governing body delays making its recommendation by two months or longer, or if it is guilty of one or more of the transgressions mentioned in Sections 6(b) and (d), namely:

- Not following procedures collectively agreed upon or determined by the Minister
- Non-compliance of the candidate with any requirement collectively agreed upon or determined by the Minister
- Non-registration of the educator with the South African Council for Educators

- Evidence of undue influence being exerted on the school governing body or council of the further education institution to recommend said appointment, transfer or promotion
- Indications that the governing body or council did not pay due regard to the democratic values and principles referred to in Section 7(1) of the Act.

In terms of Section 7(1) of this Act due regard shall be paid to equality, equity and the other democratic values and principles which are contemplated in Section 195(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) in the 'making of any appointment or the filling of any post on any educator establishment under this Act'. This includes the ability of the candidate and the need to redress the imbalances of the past in order to achieve broad representation. In terms of the Act the provincial Head of Department may not, moreover, in any way negate or undermine the right of school governing bodies and councils of further education institutions to make recommendations for appointment, promotion and/or transfer of educators, even if there is evidence of procedural or other irregularities. Should the Head of Department decline said recommendations on any of the stipulated ground, s/he is obliged to afford these bodies a further opportunity to submit an alternate recommendation for his/her consideration (Section 6[3c]).

3.4.7 The Education Laws Amendment Act

First introduced in the National Assembly as a Section 76 Bill, and published in Government Gazette No. 27599 of 27 May 2005, the Education Laws Amendment Act of 2005 served as a means of amending some of the criteria and procedures for the selection and appointment of school educators as contained in the Employment of Educators Act (1998). The amendments affected by this Act have indeed impacted on the governing body's role in that: (1) previously SGBs were

required to submit only one name; (2) the HoD was virtually bound to appoint the candidate preferred by the SGB unless it could be proved that the recommendation was not made in good faith or the SGB had undue influence; (3) the matter of any declined candidate by the HoD would be referred back to the SGB to nominate a different candidate.

Of key importance is Section 7 which amends section 6(3)(c) (of this Act), in that: (1) it now requires SGBs to follow the prescribed interview and selection process, that is, convene an interview committee, shift and shortlist candidates, submit a condensed list of at least 3 or more candidates in order of preference, (2) the HoD to appoint the candidate recommended in line with stipulated criteria, that is, equality, equity and other democratic principles coupled with the need to redress past injustices, and that the candidate is registered or qualifies for registration as an educator with the South African Council for Educators (SACE). However, despite the order of preference indicated in the recommendations made by the school governing body, the Head of Department may, in terms of the Education Laws Amendment Act, appoint any suitable candidate on the list unless the school governing body lodges an appeal within 14 days of the Head of Department's having taken this decision.

As regards the conversion of temporary appointments into permanent ones the Head of Department may in future effect such conversion without the recommendation of the school governing body. Also, any vacant post that was advertised before the commencement of this section must be filled in terms of the provisions of the Employment of Educators Act, 1998, as it existed immediately before the commencement of this section if interviews in respect of the vacant post were held before such commencement.

3.5 Public response to the perceived intent of the Education Laws Amendment Bill

A comparison of the previously mentioned pieces of legislation relevant to my study indicates that all of the pieces of legislation discussed claim to have the transformation of South African society as primary purpose, with specific reference to the elimination of racial segregation and other forms of unfair discrimination. The strategies proposed for achieving this purpose are not, while similar, exactly the same, hence the specific intent of each Act is somewhat different.

- The National Education Policy Act focuses on the powers vested in the Minister of Education, giving him/her the right to override provincial legislation where it conflicts with national legislation [Section 3(3)]. In this regard it allows the Minister to take whatever measures necessary to address 'past discriminatory practices' [Section 3(4r)], to protect educators against 'unfair discrimination' [Section 4a(i)], and/or to redress past inequalities, including gender discrimination [Section 4c] in education provision.
- The South African Schools Act (Act 84 of 1996), while affirming the need for redress and the elimination of discrimination in educational provision, emphasizes 'construction' rather than 'deconstruction' in the eradication of past inequalities. The primary means of doing so, in terms of this Act, lies in the devolution of power to school governing bodies [Section 16(1)]
- The Labour Relations Act, focusing primarily on the advancement of 'economic development, social justice...and the democratisation of the workplace' [Section 1] encourages the protection of worker rights in the

workplace as the key means of ensuring the achievement of such advancement.

- The Employment Equity Act, the first piece of legislation that explicitly uses the terms ‘representivity’ and ‘diverse workforce’ [Section 13(1)] is based on the premise that legislation alone is not enough to effect transformation. Informed by this premise the Act proposes that measures should be taken to enforce affirmative action in the workplace. Its primary means would be to compel employers to create work environments that reflect the diversity of the South African population by forcing them to consider equity and representivity in their employment practices. To ensure employer adherence, the Act [Section 5], prohibits unfair discrimination in any employment policy or practice unless this is done in the interests of affirmative action [Section 6(2)].
- The Employment of Educators Act, taking its cue from the Schools Act, regards the devolution of power to provinces and schools as the primary means of effecting transformation. While taking cognisance of the Labour Relations Act and the Employment Equity Act, the Employment of Educators Act makes the provincial Heads of Department and school governing bodies jointly responsible for the transformation of the school environment, with specific reference to the composition of teaching staff.
- The original Education Laws Amendment Bill (2005) and, the eventual Education Laws Amendment Act (Act 24 of 2005) effectively gives the State – in the person of the Head of Department – permission to ignore the recommendations of the school governing body regarding the teacher/s most suitable for the advertised post and to unilaterally decide on subsequent action. It would seem, therefore, as if the Education Laws Amendment Act

subscribes to a key premise of the Employment Equity Act, namely that legislation in itself is not sufficient to effect transformation; that the State of necessity has to use other, more aggressive, measures to do so. The amendments to criteria and procedures for the selection and appointment of teachers in the Education Laws Amendment Act, according to a Memorandum accompanying the original Bill, are administrative and procedural in nature and are aimed at enhancing the efficacy of educator deployment. The relevant clause in the Employment of Educators Act [Section 6(3)(c)] required the Head of Department to refer the whole matter back to the school governing body should s/he decline its appointment recommendations. This, according to the Memorandum, is unnecessarily time-consuming. By according the HoD the right to either consider all the applications for the post concerned so as to make a temporary appointment or to re-advertise the post as proposed, would, according to this explanation, streamline the process.

This is not, however, the way in which stakeholders interpreted the amendment. Responding to the original Bill, they argued that, in the first place, the amendment made race rather than 'competence, quality or ability' the most important consideration in the appointment of teachers (News 24, 2005). In this sense the amendment could well be regarded as unfair discrimination. According to Abelman, Elmore, Kenyon and Marshall (1999), the State could, in forcing school governing bodies to appoint teachers on the basis of race, be undermining citizens' constitutional right to 'freedom of association'. Following this argument, education stakeholders, especially those representing formerly white (HoA) school communities, argued that, in forcing school governing bodies to prioritise race over ability the State was making a political rather than an educational statement (DoE, 2006). Moreover, by giving the Head of Department the right to ignore the recommendation of school governing bodies,

the State was undermining their authority and decision making power (Naidoo, 2004). In this sense, the right and the power to maintain control over decision-making in their schools given to them in terms of the Schools Act (Beckmann, 2002), was being removed.

In the second place, according to Zille (News 24, 2005), who at the time was the education spokesperson for the Democratic Alliance, the amendment would inevitably lead to a decline in the overall quality of education. Consequently it would be recorded in history as the democratic South African government's 'greatest failure'. Reiterating the Democratic Alliance's commitment to transformation of education on the one hand and urging all those with a stake in education to embark on mass action to stop the Bill being passed, Zille (News 24, 2005) argued that the amendment would not contribute to the kind of educational quality that the then Minister of Education, Naledi Pandor, claimed to be working towards.

'On the contrary, it will achieve the opposite: it will destroy the remaining quality in the public education system, without doing anything at all to improve the pitiful quality of education in many disadvantaged schools. Instead of making race the criterion for teacher appointments, the government should encourage the best teachers to teach in the most disadvantaged schools through real incentives, particularly increased salary offers. Instead of encouraging and rewarding competence and quality, the Bill makes these attributes irrelevant in the filling of teaching posts'.

In the third place, Zille, on behalf of the political party she represented, argued that if the Bill were to be passed and promulgated as an Act, it would increase the gap between the 'haves' and the 'have-nots' by using a funding formula that would continue to pour millions into those schools from which parents were

seeking to remove their children, while those schools facing increased demands for access, because they offered quality education, would actually lose money. Jansen (2005) and others (Martin, Ranson, McKeown & Nixon: 1996) concur with Zille on this point, arguing that, in targeting white schools, the South African government was not only trying to 'break what is fixed' - because they cannot 'fix what is broken' - but also to draw attention away from dysfunctional black schools.

While acknowledging that the underlying intent of the amendments as proposed in the original Bill was to redress past (racial) imbalances, the State denied that it was acting undemocratically or that it was undermining due process. In fact, so the State claimed, the fourteen-day window period granted to school governing bodies to appeal against the HoD's decision was evidence of the State's commitment to democracy, due process and devolution of power. School governing bodies responded to the State's seeming attempt to assure them that their powers were not being undermined by arguing that the proposed amendment created the impression that they were being disciplined/punished for not having toed the government line. The State's response to this claim confirmed this sense, explaining as it did, that the purpose of the amendment was to open the door for the State to re-examine the procedures followed by those school governing bodies that seemed to employ only certain categories of teachers at their schools (Surty, 2005). The amendment would, so the State argued, enable it to target, through specific interventions, schools that were previously either privileged or disadvantaged by virtue of race, ethnicity and language orientation. Such interventions could include the deployment of teachers to specific geographical areas where there were shortages and/or to schools that seemed to be faltering because they had difficulty attracting teaching staff (Grieves & Hanafin, 2005:20).

Bipath (2005:20), in support of the State's position, argues that redress of past racial imbalances was necessary given the history of racial discrimination, inequality of provision, resource imbalances, and inadequate black schooling during the apartheid period. It is because of such inequities, she argues, that there is a need to use legislation to restore balance to the system especially since history has shown that social change is seldom achieved without the force of the law. If our education system is to fulfil its promise of equal education for all, she argues, legislation should of necessity focus on the achievement of social justice. It should, therefore, not only define the responsibilities of school governing bodies but should also target schools that perpetuate inequality and segregation. Hargreaves (1994: 61-62) concurs with Bipath (2005) as regards the need for redress but does not regard legislation alone as a sufficient measure to effect change. According to Hargreaves (1994:61-62), the creation of structures that support the achievement of educational goals is useless unless it is accompanied by a commitment to align structure to practice.

Bipath's views are reminiscent of those expressed earlier by Moses (2002:3/4) and Kymlicka (1991:166), who point out that racially-informed policies are critical in fostering the ideal of self determination because they offer a standard of what 'ought' to be desirable. One could therefore argue that, in forcing school governing bodies to prioritise equity, redress and representivity in their selection procedures, the Education Laws Amendment Act of 2005 sets the standard. In raising this point one should perhaps take cognisance of Marable's (1995:186) observation that 'race becomes a social force only when individuals or groups behave towards each other in ways which either reflect or perpetuate the ideology of subordination and patterns of inequality in daily life'. Rather than favour some at the expense of others legislation should therefore seek to promote the autonomy of all citizens (Arnesen, 1998). Should it favour some at the expense of others without taking social context into consideration it would

automatically limit or advance some individuals' real choices (Moses, 2002:3). Howe and Howe (1984) caution that discussions focusing on racial issues tend to be passionate and complicated because they are informed by deeply entrenched views on racial equality and status is also relevant here, suggesting that it is best to base such discussions on philosophically defensible interpretations that have some chance of winning broad acceptance rather than on subjective opinions.

3.6 Relevant Court Cases

It is not only school governing bodies and political leaders who interpret legislation in different ways. Courts do too. This is evident from the Snayer Case, in which the governing body of a rural black school in Mpumalanga recommended a *son of the soil*⁴, who was not the best candidate, for appointment as the new principal of the school (Mpande, 2005). The HoD of the province rejected the recommendation on the grounds that the governing body had acted 'un-procedurally' (Esbend, 2005). The governing body of the school lost the case.

Yet another case illustrating the possibility that the same law could be differently interpreted is the 2003 court case between Kimberley Girls' High School and another versus the Northern Cape Head of Department of Education. In this case the HoD rejected the recommendation of the governing body regarding the appointment of a Post level 1 English educator in 2002 on the grounds that it had not adhered to a process collectively agreed upon, namely to give preference to candidates disadvantaged by the injustices of the past. As justification the HoD argued that suitably qualified candidates from previously disadvantaged backgrounds were overlooked and not even short listed for interviews. They

⁴ Person who was born and schooled in that area

were therefore not afforded an equal opportunity to demonstrate their proficiency in English and their competency as educators.

According to the HoD, the governing body of Kimberley Girls' High School had violated the administrative process that should be followed in the selection and recommendation of teachers for appointment to public schools, the Employment Equity Act (Act 55 of 1998), the Schools Act (Act 84 of 1996), the Employment of Educators Act (Act 76 of 1998) and the Constitution (1996). In doing so, the HoD argued, the governing body of this school showed a disregard for the democratic values and principles that underpin the Constitution and should, therefore, underpin their selection processes. The governing body argued that it had followed the prescribed statutory procedures and that its recommendation should therefore be accepted. The governing body's application was dismissed with costs.

A third case, heard in the Constitutional Court of South Africa, was the 2003 case between the HoD of the Limpopo Department of Education and governing body of Settlers Agricultural High School. Following the HoD's rejection of the SGB recommendation, the court ruled against the HoD because the SGB had followed the correct procedure and the Act. At that stage, that is, prior to January 2006, the HoD was obliged to accept the recommendation of the governing body provided that it was made in good faith and without undue influence.

In lodging an appeal against the High Court decision, the HoD, in referring to the afore-mentioned Northern Cape case, contested the SGB's interpretation of Sections 6 and 7 (1) of the Employment of Educators Act (Act 76 of 1998) and the provisions of Section 195(1) of the Constitution 1996 (Act 108 of 1996), both of which refer to the ability of the candidate and the need to redress the imbalances of the past in order to achieve broad representation. The Constitutional Court

refused the HoD's application for leave to appeal with costs because it was lodged nine months after the High Court had made its decision and the HoD had ignored the order for costs made against him in the High Court case. According to the Constitutional Court, overturning the appointment at that stage would not have been in the interest of justice.

A fourth example involves a case between the Head of Department of the Western Cape Education Department and the governing body of Point High School (Case number 584/07 of 31 March 2008). In this instance the governing body of the school applied to the Cape High Court regarding the legitimacy of two administrative decisions made by the HoD. The governing body argued that the HoD had fallen foul of the provisions of Section 6(2) of the Promotion of Administrative Justice Act (Act 3 of 2000). The HoD insisted that a local person who acted in the post should be employed, a clause which was not communicated before the interview and selection process was done.

In terms of the Promotion of Administrative Justice Act (Act 3 of 2000) the court has the power to review an administrative action if a mandatory procedure prescribed by an employer was not complied with and if relevant considerations were not considered. The school governing body had followed the procedure prescribed in detail by the Department. The short-listing and interview processes had been supervised by the Department's local representative, the Circuit Manager. The court overturned the HoD's decision, dismissing the case with costs. This case is very important to this study because it deals with section 6 of the Employment of Educator's Act amended by the Education Laws Amendment Act 24 of 2005.

A similar yet slightly different case involved the rejection of a district director's recommendation regarding the appointment of two black candidates as principals of formerly white (HoA) schools in the Eastern Cape. According to Mpande (2005), the recommendation of the District Director regarding both teachers was rejected by the Department of Education on the grounds that the District Director, while adhering to equity and redress principles, had acted un-procedurally. The South African Democratic Teachers' Union (SADTU) contested the Department's rejection, arguing that learner enrolment at these two formerly white schools was more than 90 percent black (Carrels, 2006) but the SGB of the school countered that the authority to appoint those people they preferred and needed had been devolved to them, not to the District Director. Once again, the SGB won the case because it had followed stipulated procedure.

The examples cited above clearly indicate that the same legislation and/or principles informing such legislation could be open to different interpretations. School governing bodies and the DoE sometimes apply different criteria in the selection and recommendation of teachers for appointment at the schools for which they are responsible (Wong, 2000; Jansen, 2005). The outcomes of these cases indicate that the interpretation of legislation is socially and legally complex, especially when such legislation touches on the intricate interrelationship between the rights of governing bodies to make decisions and the need for transformation aimed at restoring racial and gender imbalances in education.

3.7 Summative conclusion

In this chapter I discussed various theoretical positions on school governance in general, relating these to the effects that the devolution of certain powers to school governing bodies has had on the transformation of the staff composition of public schools. I also describe the context – social and legislative – within

which changes to legislation are effected, focusing specifically on the reaction of different stakeholders to changes in the Employment of Educators Act promulgated in the Education Laws Amendment Act, of 2005, suggesting that these responses had historical roots. I argued that there seems to be sufficient evidence that legislation aimed at equity, redress and representivity in the workplace has not contributed as much to the transformation of education as was expected and that legislation on education seems to be interpreted differently by different stakeholders. I provided evidence that these differences could result in legal battles, suggesting that regardless of the merit or not of measures taken to speed up processes aimed at racial integration, great care needs to be taken to safeguard the integrity of the process.

In the next chapter I focus on the intent behind the changes to legislation, i.e. the State's commitment to promote equity and representivity in the staff composition of South African schools, using SGB teacher selection process as a redress measure. In doing so, I argue that a number of countries have used legislation as a means of enforcing racial integration in schools and that the relative successes they achieved may well have been the motive behind the South African government's adoption of this strategy for education transformation in South Africa.

CHAPTER FOUR

EQUITY, REDRESS AND REPRESENTIVITY

4.1 Introduction and Purpose

As indicated in Chapter Three, the Education Laws Amendment Act of 2005 and other Acts dealing with the employment of educators has equity, redress and representivity as purpose. Informed by the apartheid practices of the past, which separated learners and teachers along racial/colour lines, these pieces of legislation are aimed at redressing past inequalities by promoting racial integration at school level. The premise on which these Acts rest seems to be that, if the learner population of public schools is integrated, so should the staff composition be.

As already mentioned in Chapters One and Three, while the learner population of former (white) House of Assembly schools is becoming increasingly multi-racial, the same cannot be said of former (black) Department of Education and Training schools. Also, while the learner population of former House of Assembly schools is becoming increasingly black their staff compositions and the composition of their school governing bodies have remained largely white. This, I argued in Chapter Three, is seen as one of the reasons for the changes effected to the Employment of Educators Act (Act 76 of 1998) as regards the selection and appointment of school educators as promulgated in the Education Laws Amendment Act of 2005.

Following the discussion of legislation on teacher selection and appointment in Chapter Three, this chapter serves a dual purpose. In the first instance it is aimed

at clarifying the meaning of the concepts, 'equity', 'redress' and 'representivity'. In the second instance it is aimed at determining why the South African government is so adamant that the selection and appointment of teachers should promote equity, redress and representivity. In exploring these issues I shall be arguing that, given the fragmentation of South African society during the apartheid years, the promotion of equity and representivity in the selection and appointment of teachers at public schools is crucial to the transformation of the education system but that the way in which this is done has to be sensitive to the history and dispositions of those whom it will most directly affect, namely schools teachers and learners.

In presenting my argument I first share insights I gained from reading academic literature and a range of other documents as regards the meanings attached to the concepts equity, redress and representivity. Following the concept clarification, I consider the rationale for and effectiveness of State initiatives to promote equity in its public schools. I then describe some of the strategies used by other countries in their attempts to racially integrate schools as a means of redressing past inequalities and ensuring future equity in education. Finally, using these strategies as benchmarks I identify strengths and weaknesses in the initiatives that the South African government has taken to date as regards the promotion of equity in the public schools for which it is ultimately responsible.

4.2 Concept Clarification

Key to the discussion of equity through the promotion of racial integration, which is the focus of this chapter are a number of closely associated concepts. Naturally 'equity' is one of these concepts. I would, however, argue that any discussion of equity would, by implication, include a discussion of segregation, integration, diversity, representivity and redress. These are exactly the issues that were the foci of the changes to legislation on teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005). Before embarking on a discussion of the fairness of government initiatives aimed at the promotion of equity and representivity in the staff composition of schools it is, therefore, necessary to first clarify and/or define all these concepts.

1.1.1 Equity

The Concise Oxford Dictionary (1961) defines equity as 'fairness'; 'recourse to principles of justice to correct or supplement law'; system of law coexisting with and superseding common and statute law'. In the sense that equity is 'part of a set of legal principles entrenched in legislation and applied strictly so as to achieve natural justice' ([http://en.wikipedia.org/wiki/Equity_\(law\)](http://en.wikipedia.org/wiki/Equity_(law))) it is meant to direct or prevent someone from executing a particular action or actions. What is important in this regard is that equity measures are meant to promote social justice. If such measures are stipulated in legislation they carry with them the power and authority of the enactor – Parliament in the case of the State - and the associated penalties for failure or refusal to obey (<http://www.investorwords.com/1726/equity.html>).

Applied to actions taken by the State it would mean that the State should ensure that all its citizens, irrespective of race, culture, language, or other differences have access to all its institutions, services and programs, and are allowed to participate in all public activities. In short, the State should ensure that *equal opportunity* is available to all its citizens. Applied to actions that the State should *not take* it means that it should in no way discriminate against any of its citizens in any way or on any grounds. By implication legislation passed by a State that wishes to promote equity should protect individual and group rights and punish wrongs. Such laws would be in line with the universally accepted principles of essential justness coupled with the sovereign power of Parliament to enact them (<http://www.investorwords.com/1726/equity.html>).

While most legal systems in the world strive to uphold the ideal of equal opportunity – equity - through fair and proper administration of the laws of the country concerned, unjust laws have on occasion been passed. The South African Constitution (1996), resting as it does, on values such as equality, non-discrimination and social justice, by implication commits the country to the promotion of equity. However, the Bill of Rights in the Constitution allows for ‘fair discrimination’, that is discrimination aimed at restoring previous ‘unfair’ discrimination practices. In terms of this stipulation, the South African government and those who benefit from it regard affirmative action as an equity measure that is aimed at redressing past injustices, especially in the areas of race and gender. To those who feel that they are being disadvantaged by these measures affirmative action is, however, no more than blatant discrimination.

I would argue that it is in these different attitudes towards affirmative action and, by implication, towards attempts to restore historical imbalances, that one of the reasons for the resistance to the changes regarding teacher selection and

appointment promulgated in the Education Laws Amendment Act (2005) can be found. Resting on the same premises as the Employment Equity Act, (Act No 55 of 1998), the Education Laws Amendment Act (2005) ensures that, in future, school governing bodies that do not explicitly consider equity, redress and representivity in their teacher selection processes could be prosecuted in terms of the Employment of Educators Act – the Act to which changes were effected as a result of the promulgation of the Education Laws Amendment Act (Act 24 of 2005).

1.1.2 Representivity

Representivity simply refers to the fact that all those who should be included in whatever activity, situation, or event are visibly there, whether they represent themselves, a constituency or a community (<http://dictionary.reference.com/search?q=Representative>). In terms of race, gender and, at times, even language, this could mean that all races, both genders and all acknowledged/official language groups should be represented. In any employment situation where equity is a principle representivity would therefore imply that the composition of the workforce, including those in management positions, should be representative of the composition of the population at large. This could mean that the workforce should include people from all races, both genders, different language groups and, if possible, people with disabilities at all levels of the organisation or industry concerned. In this sense representivity therefore serves as a benchmark against which the success of equity measures could be assessed. The more diverse the workforce, the more successful it would be in terms of equity criteria; the more homogeneous the workforce, the greater its failure as assessed against the same criteria.

In apartheid South Africa neither racial nor gender equity was considered in the selection and employment of educators. Because the education system was fragmented, with separate schools for people belonging to different racial and language (in most instances) groupings, as well as for those with specific disabilities and, in some cases those of different gender, schools were primarily mono-racial and monolingual. Also, as far as gender was concerned, management positions were typically reserved for males, with females making up the bulk of the 'workers'.

It follows that, in post-apartheid South Africa, representivity would be an important indicator of the State's success in creating a truly united nation where all people have an equal chance to be employed (at any level of the system and in any job) and/or to be productive and prosperous. In terms of education it would mean that the staff and learner composition of all public schools – i.e. those schools that are the responsibility of the State – should be representative of the composition of the South African population at large. If not, the State would have failed in its mission to establish equity.

1.1.3 Redress

Redress is not, strictly speaking, a principle but a strategy or measure that could be used to ensure equity, representivity, integration, et cetera, so as to 'make amends or bring relief to unjust or oppressive treatment' (<http://www.thefreedictionary.com/redress>). Through redress, imbalances can be corrected, retribution from past injuries can be awarded and protection from future harm assured (<http://www.thefreedictionary.com/redress>).

One of the redress measures often used by governments that are committed to the achievement of equity in the workplace is affirmative action. According to Kemp (1992:12), affirmative action is primarily aimed at the eradication of discriminatory practices on the one hand and the promotion of skills development on the other. Fuhr (1994:9), adding to Kemp's definition, emphasizes that affirmative action is also aimed at the creation of a diverse workforce which, at all levels, reflects the society in which it operates. Affirmative action is not and should not be a 'vengeful turning of the tables of oppression', former President Nelson Mandela said.

In South Africa redress would refer to measures that the State would have to take to restore the racial and gender balance in the workplace, to ensure that those who have in the past been disadvantaged are given preferential treatment, creating opportunities for those with disabilities to be productively employed and to ensure that no person or group of persons will in future be excluded from any opportunity to advance him/herself simply because s/he is 'different'. In terms of education this would mean that specific steps – such as the aforementioned changes to the Employment of Educators Act (Act 76 of 1998) - would have to be taken to ensure that no person should, on the basis of his/her race, gender, language or disability be refused the opportunity of being employed at any school under the jurisdiction of the State provided that s/he satisfies the requisite criteria for the position concerned.

To date the South African government has primarily used two strategies to restore balance and to ensure equity in school education (DoE, 2004:1). The role played by legislation in this regard is discussed in Chapter 3. As regards affirmative action a number of mechanisms have since 1994 been put in place to ensure that 'suitably qualified people from designated groups have equal

employment opportunities and are equitably represented in all occupational categories and levels of the workforce of a designated employer' (Employment Equity Act No 55 of 1998). One of these, to which the governing bodies of public schools have now become accustomed, is the checking procedure followed by the Department to ensure that SGB recommendations for appointment are procedurally sound. If they are not, the recommendation is rejected and the selection process has to start from scratch. The most recent mechanism, promulgated in the Education Laws Amendment Act (Act 24 of 2005) is the stipulation that SGBs must in future provide the HoD with the names of three candidates, instead of the previous one candidate. Allied to this stipulation is the right given to the HoD to decide which, if any, of the three candidates s/he wants to appoint without having to consult the SGB concerned in this regard (see Chapter 3 for detail in this regard).

1.1.4 Segregation

Even though many societies throughout history have practiced racial segregation, it was by no means universal, and some multiracial societies such as the Roman Empire were notable for their rejection of this practice. Few modern societies officially practice racial segregation, and most of them officially frown upon racial discrimination. However, anxieties about racial, religious and cultural differences still find expression in many social and political spheres, either as an official pretext for culturally accepted discrimination, or as a socially acceptable way of discussing cultural, religious and economic friction that results from racial discrimination. Controversies in this regard often mask concerns about the culture or racial composition of specific groups. Racial issues also feature in seemingly race-neutral disputes, in the discussion of topics such as

poverty, healthcare, taxation, religion, enforcement of a particular set of cultural norms, and even fashion.

Segregation might seem benign when referring to divisions by colour, but in South Africa's case it created notions of racial inferiority and/or superiority. Schools were not only separated in terms of colour - all-black or all-white schools - but learners and teachers were legally separated by differences in the allocation of academic and financial resources. This segregation, sanctioned by the law, resulted in black teachers teaching at black (DET) schools and white teachers teaching at (white) HoA schools. It also led to black schools being allocated fewer resources and fewer opportunities for advancement than their white counterparts. Segregation therefore not only promoted inequality, but also upset the balance of the entire education system.

1.1.5 Integration

Integration, according to the Oxford Dictionary (1961), is a process whereby the parts of some or other entity are assembled to form a whole. Applied to people, it could mean that the members of a particular group (cultural, linguistic, social, racial, gender) are combined into a whole. It could also refer to a process whereby people from different groups combine to form a new group or where people who have previously been separated are now reunited. In the sense that integration is a process by means of which people of different races who had previously been separated from one another are reunited, racial integration is the opposite of segregation.

Racial integration could essentially take place in one of two ways – spontaneously or systematically. A systematic process of racial integration, typically referred to as desegregation, would include the formulation of specific goals and strategies aimed at ensuring that people from different races will respect and mingle with one another at social and systemic levels. By implication such a process would include the creation of equal opportunities for, amongst others, employment and promotion, also in public schools, which are the focus of my study. The term, ‘desegregation’, is normally associated with the legal/legislative domain and its primary purpose is to ‘drive diversity, and create harmony and order, not only in schools but also in society’ (Organ, 1997). In this sense, desegregation is the legal remedy to segregation. While usually effective in the long run, systematic integration processes are fraught with difficulties and could lead to inter-racial and other forms of conflict because it typically ignores feelings of bitterness, arrogance, inadequacy and victimization experienced by those who are at the receiving end of such actions.

While systematic integration – desegregation – is largely a legal process, spontaneous integration is largely a social one. Spontaneous integration involves much more than merely imposing equity and representivity indicators/benchmarks to ensure that those representing a racial minority would be integrated into a majority group or vice versa. Rather, spontaneous integration implies the creation of an entirely new group, with a new culture that draws on the strengths inherent in the diversity of all its members and the cultural and other assets that they bring with them. What counts is not physical contact but what happens when this contact occurs - how people interact and positively relate to each other (Soudien, 2004:95).

Even when circumstances are ideal racial integration remains a challenge because people have to circumvent inevitable chaos by creating a new order. It requires the expansion of existing value structures to equally accommodate all people, irrespective of particular differences. In an evolutionary process such as this, people of different races, genders, languages and abilities gradually establish social links across barriers, simultaneously bridging and binding people across the spectrum (<http://studentweb.tulane.edu/~mcardin/integrationproject-0.html>). This process, according to Naidoo (1996a: 11), is not a single event or a one-time shift in school conditions: it involves a series of activities and events, and change will only occur over a long period of time. It requires the interaction of people in multiracial settings where everyone has equal status and equal opportunities, that is, the members of the different cultures and races must acknowledge their equality and claim their right to equal opportunity if real integration is to take place.

4.3 Equity and education in South African schools

Referring to a range of studies conducted by different institutions and individuals after 1994, Soudien (2004:89) claims that the only impact education legislation has had on integration is that black children migrated to white schools, with little and mostly no movement the other way. While these black learners might now be experiencing 'equal educational opportunities' their peers who have remained in township schools are still marginalized. Their schools are still overpopulated, remain under resourced, and operate on shoestring budgets and in environmentally poor conditions. By implication, they are being denied the right to equality, non-discrimination and equal opportunity (Bird, 2003; Bird, 2002; & Mangan, 1997:1).

Other studies conducted on racial integration amongst learners indicate that, while assimilation, rather than integration, is taking place in schools, institutionalised racism is still pervasive. Manifestations of assimilation at the classroom level include negative stereotyping of black students, selective empathy, discriminatory seating arrangements, devolution of authority to students on racial grounds, and an aversion to African languages. Evidence of racist undercurrents that explode every now and again, even in so-called 'integrated schools, are often reported in the South African media. Think, for example of the incident in which a black learner stabbed a white learner with a pair of scissors; the incident in which black learners were prohibited from wearing the school's uniform and were separated from white learners for teaching/learning purposes, and the many incidents in which black learners were refused permission to enrol in the school of their choice (Naidoo, 1997:3).

Bird (2003) and Bird (2002), investigating racism and equality, found widespread evidence that many decisions taken by school managers and/or governing bodies reflected resistance to government efforts to ensure equity, equality and quality education for all South Africans. The incidents of racism mentioned in the previous paragraph could also, according to Naidoo (2004:20) signify resistance to racial equality and/or a single-minded determination on the part of a school community to preserve the character and culture of its school under the guise of implementing and utilising the directives of the Schools Act. The Human Sciences Research Council (HSRC), having collected eye-witness accounts of the day-to-day interactions of white and black South Africans in educational contexts came to the same conclusion (McKinney, 2005; Nkomo, McKinney, & Chisholm, 2004; Sekete et al., 2001).

A number of researchers (Adams & Waghid, 2005:25; Apple, 2001; Baker, et al., 2004:2; Boyd & Miretzky, 2003; Fullan, 2001; Gilmour, 2001; Rees & Rodley, 1995; Wallace & Pocklington, 2002), while agreeing that racial integration in South African schools is limited, do not necessarily agree with these reasons. Boyd and Miretzky (2003) ascribe it to the 'hierarchical relationship' between the State and people at schools. Apple (2001) and other researchers (Baker, et al., 2004: 2; Boyd & Miretzky, 2003; Rees & Rodley, 1995; Wallace & Pocklington, 2002) blame the lack of integration on the fact that the State depends primarily on legislation as a redress measure. Grieves and Hanafin (2005: 21-22), building on this argument, point out that the fault is not with legislation but with the way in which people interpret it, something that, according to Thody (1998) is influenced by whether or not people understands the law. Gilmour (2001) as well as Adams and Waghid (2005: 25), taking up this point, suggest that some people's limited understanding of the law is the result of social inequalities while Baker, et al. (2004: 2) argue that it is the result of confusion caused by the plethora of new laws and amendments to laws that have been passed in South Africa since 1994 and the tempo at which this has taken place.

It might well be that, in the light of the afore-mentioned research findings, the South African government realized that it would have to approach racial integration from another angle. As indicated in Chapter Three the government regarded the Schools Act as its primary tool to create a new, national, education system that would not only redress past injustices in educational provision but would also give school communities the opportunity to take responsibility for the governance of their schools. Informing the devolution of governance responsibilities to local school governing bodies was the assumption that it would promote equitable educational opportunities while simultaneously improving teaching and learning (Bird, 2003; Bird, 2002; and Brehony, 1994). Implied in this assumption was the expectation that governing bodies

understood their new roles and responsibilities and would take appropriate action to live up to these expectations (Wohlsetter & Mohrman, & Robertson 1996). According to Naledi Pandor, the Minister of Education at the time the Education Laws Amendment Act (Act 24 of 2005) was passed, school governing bodies had not lived up to these expectations, especially as regards the selection and recommendation of teachers for appointment at their schools. Consequently racial inequalities in the staffing composition of public schools have not as yet been erased (Nieto, 2005; Smith, 1996) and, so the argument goes, the State had no other choice than to take corrective action.

It is clear from this argument that the South African government believes that a diverse, representative teaching staff is crucial to learners' academic performance on the one hand and to the transformation of public schools on the other (DoE: 2005). Finn (2002), Stringfield, Datnow, Ross and Snively (1998) disagree with the assumption on which the Minister bases her argument. According to them, appointing teachers whose culture is incompatible with that of the school might be detrimental to both the school and the person concerned. Adding to this argument, McCarthy and Crichlow (1993) point out that appointing a small number of teachers of other races at a single school may lead to their concentrating on not being offensive or using the wrong language for fear of being marginalized. Abelman, Elmore, Kenyon & Marshall (1999), on the other hand, claim that the imposed inclusion of someone with whom people do not 'freely want to associate' may also be seen as a contravention of the Constitution.

4.4 International Equity Initiatives

Notwithstanding the many problems associated with imposed integration in schools, there is evidence in literature that there are cases where it has been

relatively successful. While international publications do not have much to say on teacher appointment as a means of creating equity and diversity in the staff composition of schools (Frankenberg, 2006), much has been written on the racial integration of learners and, since the reasons for such integration – equity, representivity and redress – are much the same as those for the integration of teaching staff, I include here brief discussions of some international efforts at racial integration at schools. I would argue that, although they focus on the integration of learners rather than teachers, they contain valuable lessons for the South African situation.

One of the reasons given for the lack of racial integration in schools is social stratification, a factor that is as applicable to the integration of teachers as it is to the integration of learners. In this regard Baker et al. (2004:276/7) argue that families, schools and the State inadvertently reproduce class stratification and that such stratification inhibits equal educational opportunities. This adds to Baker's (1999) argument, that schools play a major role in the promotion of social equity and fairness. Based on their findings that schools broaden or narrow educational opportunities a number of international researchers (Buchmann & Hannum, 2001; Lareau, 2002; Lucas & Berends, 2002; Shavit & Blossfeld, 1993) urge governments to actively reduce not only the school's stratifying effect but also that of other stratifying mechanisms.

Research on policy implementation (Ayalon, 1994; Baker, 1999; DiMaggio, 1982; Fuller & Robinson, 1992; Grant & Motala, 1984; Hallinan, 2000; Lareau & Horvat, 1999; Meyer, Rubinson, Ramirez & Boli-Bennet, 1977) emphasizes the school's capacity to exert cultural dominance and influence institutional growth or decline, diversification and bureaucratisation. In this sense, according to Werum (2003), school culture could well undermine legislation and/or policies that are

aimed at enhancing the quality of education and/or the promotion of equal access to quality education, thereby exacerbating existing inequalities.

For the purposes of my study I focus on racial integration initiatives launched in three countries - the United States of America (USA), Israel and Northern Ireland. These countries are included because they were all at some time characterized by discrimination on the basis of colour, ethnicity, and socio-economic status. Also, in their attempts to establish racially integrated schools, obstacles similar to those faced in South Africa hampered their efforts. Valuable lessons for the racial integration of schools in South Africa could be learnt from the identification of what these countries did right and what went wrong.

4.4.1 Racial integration in USA schools

In the United States of America integration did not take just take place instantaneously, probably because not all Americans are convinced that racial integration is the way to improve academic performance at school level. While the proponents of racial integration argue that segregation has a negative impact on learners' academic achievement, its opponents regard government initiatives aimed at the integration of races at schools as a violation of the Constitution's guarantee of equal protection under the law (Kahlenberg, 2008). From the vantage point of America's dominant (westernised white) culture school desegregation is a singular and inevitable event emanating from legislation and principles of democracy. From the vantage point of African American teachers, school desegregation is fraught with complexities and conflicts in which race, social class standing, gender, and personal relationships all play a role (Dingus, 2003; Dixson, 2005).

Eventual school integration in the USA was the direct result of a court ruling, that of a case that appeared in the Supreme Court in 1954. In this case the court ruled that the principle of 'separate but equal' was no longer valid (Orfield, 2004: 95), and that children of all ethnic backgrounds were to be educated together in the same age-appropriate schools (early-civil rights/Emmett/html). Initially processes like bussing black schoolchildren to white schools outside their areas of residence, heightened racial tensions, resulting in resistance, increased violence and disparity in the performance of students. White parents in Arkansas even dispatched the National Guard to prevent black learners from attending the white schools where their children were. ([http://www.watson.org/"lisa/blackhistory/school-integration/lilrock/index.html](http://www.watson.org/)).

Ironically, many years later, the same court rejected a school integration plans in which learners from two schools would be classified by race with a view to enforcing racial quotas as a means of achieving integration. The Court ruled that such quotas would violate the equal-protection clause of the 14th Amendment to the Constitution. As a consequence of this ruling American schools and/or colleges, while still considering race no longer use it as their primary criterion for learner enrolment (Schmidt, 2007). An opinion poll on the matter indicated, however, that the population as a whole still believed that race should be a prime consideration in this regard (Orfield, 2004).

4.4.2 Racial integration in Irish schools

In Northern Ireland schools were segregated in terms of historical religious divisions of religion with Catholics and Protestants attending separate schools (Dunn & Smith, 1988: 3). In 1974 this segregation culminated in violence that left 220 people killed (Cowden, 1999) and resulted in the formation of a movement called ACT (All Children Together), which started a peace initiative aimed at the integration of schools. Pressure exerted by this movement forced the British government to develop an integrated education system (McGlynn, Niens, Cairns, & Hewstone, 2004:151) which, as illustrated in the case from the Legan College - the first integrated educational institution in Belfast (Cowden, 1999) – not only brought together pupils from Protestant and Catholic traditions but also from other cultures and, in addition, appointed teachers and governors from mixed backgrounds (Alvarez, 2004).

4.4.3 Racial integration in Israeli schools

In the case of Israel, school segregation was the result of differences in nationality and religion. Palestinian Arab children were taught in Arabic, with Hebrew taught as a second language. Jewish children were taught in Hebrew only (Human Rights Watch, 2001). All learners followed the same curriculum, fell under the same Ministry of Education and attended similar but not identical educational institutions (Hertz-Lazarowitz, 2003:2). The Israeli government financed and regulated the education of almost all children in Israel and the law also did not prohibit Palestine Arab parents from enrolling their children in Jewish schools. However, in practice, very few Arab parents sent their children

to Jewish schools, hindering the progress of integration in Israeli schools (Human Rights Watch, 2001).

4.5 Lessons for South Africa

It would seem as if, as was the case in the USA, the challenge to integrate schools across racial lines in South Africa, is also a moral imperative. Responding to this imperative, Webster (1992) points out, implies adapting to a new political and social environment, a new way of life, obedience to new laws, which are changed or amended all the time, and a new schooling system. Moreover, in terms of this imperative, education legislation and its implementation should promote social justice.

Insights gained from literature as well as from studying equity initiatives in other parts of the world have convinced me that, while little will change without the force of the law, legislation alone is not enough to effect real integration. Informing my claim is the realization that racial integration is a multi-dimensional complex process that is affected by a multitude of factors. These include differences in the organizational structure, culture and ethos of schools, minimal opportunities for teachers of different races to interact with one another at personal, social and professional levels and fears of having to sacrifice what works and is valued for something unknown. These are the 'soft' or subjective factors. The 'hard' ones include different understandings and, therefore, different interpretations of, responses to and implementation of legislation on education.

Indications from literature are that coercive measures, while perhaps able to change the 'face' of schools do not really change a school's 'soul' or spirit.

According to Caldas and Bankston (2007) coercive desegregation weakens bonds and hurts not only learners and schools, but also entire communities. They cite examples from various parts of the United States to show how parents undermine desegregation plans by seeking better educational alternatives for their children rather than supporting the public schools to which their children were assigned.

Literature seems to suggest that there are other ways to promote racial integration – of learners and teachers alike. One of these is for the State to change its integration strategy from a systematic to a spontaneous one. The latter, while more gradual, seems to be more effective in the long run. Given that very little progress has to date been recorded with respect to social integration among teachers from different backgrounds the Department of Education should perhaps utilize teacher training workshops and conferences as opportunities for cross-racial exposure and interaction. The more people get to know and understand one another the less fearful and intolerant they might become. Workshops that allow teachers from different racial groups to work through their racial stereotypes might also play a role in this regard.

Literature also suggests, however, that the integration of teachers should be carefully considered in terms of its effect on learners' academic performance. Although the South African government might be convinced that racial integration is pedagogically sound literature suggests that learning might be negatively affected if the teacher's language usage and style of instruction is of benefit mainly to those students belonging to his/her own cultural background (DoE, 2005). On the other hand, the addition of a person of a different culture might actually enrich cultural understanding (Fineman, 2008) since it creates

opportunities for individuals and schools to interact effectively across cultures and to enhance awareness of people's expressed values.

Another option is to accept, as Stringfield, Datnow and Ross (1998) argue, the reality of systemic variation, and the fact that 'real schools have distinctive organisational characteristics and problems, unique student populations and diverse communities and institutional histories'. Instead, therefore, of expecting school governors to sacrifice what they regard as valuable, the State should acknowledge these (Apple, 2001; Fullan, 2001; Rees & Rodley, 1995; Wallace & Pocklington, 2002), as strengths using them as basis for ongoing debates about the way forward.

4.6 Summative conclusion

As indicated in the Introduction to this chapter, its primary purpose was to interrogate the notion of equity with specific reference to State initiative aimed at the racial integration of teachers at public schools. In exploring this notion I referred to a range of literature on the topic, first to clarify equity and other related concepts and then discussing some of the reasons for and effects of State initiatives in South Africa and elsewhere to promote racial integration at school level. In doing so I argued that the government might be more successful in these attempts if it considered evolutionary rather than systemic approaches to racial integration since these were not only less threatening but also more effective.

In the next chapter I present the findings of my empirical investigation in the understanding, interpretation and implementation of legislation on teacher

selection and recommendation in selected public schools in the Tshwane North District of Gauteng, South Africa. In doing so I use insights gained from my literature review to describe, analyse and explain my findings.

CHAPTER 5

PRESENTATION OF DATA

5.1 Introduction and purpose

As indicated in **Chapter One**, this study was aimed at determining the impact that school governing body members' understanding and/or interpretation of current legislation on the appointment and promotion of teachers in public schools have on the way said legislation is implemented at the schools they govern. Specifically I wanted to determine whether governing bodies of formerly white, House of Assembly, schools interpreted and implemented the amendments promulgated in the Education Laws Amendment Act of 2005 differently to their black counterparts in former Department of Education and Training schools.

I indicated that I would be focusing on three inter-dependent aspects of current legislation in order to achieve my research purpose, namely the Act itself (Education Laws Amendment Act of 2005), reaction to the initial Bill (ELAB 2005) and the implication thereof for school governance. In doing so I hoped also to be able to ascertain if and how the racial profile of schools has changed as a result of the Act. This, I assumed, would give me some indication of how school governing bodies' interpretation of the Act affects their implementation.

To this purpose I made use of a number of research strategies to collect and analyse data. My primary research instrument was one-on-one interviews, which I conducted with available parents, teachers and principals who serve on the governing bodies of the five Tshwane North schools purposively selected for my study. I also compared various pieces of legislation dealing with the governance

of schools and the employment of educators so as to determine what exactly the law says about the selection of teachers for appointment by the governing bodies of public schools. Key pieces of legislation studied were the Schools Act of 1996, the Employment of Educators Act of 1998 and the Education Laws Amendment Act of 2005. Having determined that all these laws are, amongst other, aimed at the promotion of equity, redress and representivity in the workplace and, given South Africa's history of racial and gender discrimination in education, I reviewed literature on the promotion of racial integration at schools as a redress measure.

Informed by the insights gained from my literature review as well as by my comparison of the Acts mentioned I embarked on my empirical investigation of school governing bodies' understanding, interpretation and implementation of legislation on teacher selection and appointment in South Africa. This chapter, Chapter Five, is devoted to the presentation and discussion of data I collected in this regard from various categories of school governors - parents, teachers, and principals – at the five schools in the Tshwane North school district of the Gauteng Province in South Africa that constituted my sample.

5.2 Data collection, analysis and presentation

Since my study focuses on the way governing bodies at the schools included in my sample understand and/or interpret specific changes to legislation on teacher selection and appointment, I intended to interview as many members of the governing bodies of these schools as possible. To ensure that I would be able to compare the ways in which those considered formerly advantaged (white), and those considered formerly disadvantaged (black), understood and/or interpreted the legislation concerned, I deliberately included both categories of schools in my

sample. The final sample consisted of five governing bodies, three of which were responsible for the governance of formerly white (HoA) schools, and two responsible for the governance of black, former DET schools. I did not include any schools formerly designated as Indian or Coloured schools in my sample because I wanted to focus on the two groups that represented the extremes of privilege – the most privileged (white) versus the least privileged (black).

Having obtained permission from the relevant department of education and the schools concerned I initially planned to conduct focus group interviews with each of the school governing bodies concerned. This was not, however, possible, due to the incompatibility of individual governing body members' time schedules. I therefore decided to conduct one-on-one interviews with those governing body members who were willing and able to fit me into their schedules. Even so, I could only manage to interview teacher and parent members of one white and two black schools. As regards the other two white schools I managed to conduct interviews with the principals of the schools only, in their capacity as *ipso facto* governing body members. It follows that conclusions drawn from comparisons of the way parent and teacher governing body members understand and interpret the legislation in question, while revealing, limits the possibility of extrapolating findings to any other context or group. Data collected from principals have more significance given that I was able to interview the principals of all five the schools in my sample.

I used the same interview schedule (see Chapter 3) for all the interviews, supplementing questions with in-depth probes where applicable. All the interviews were tape-recorded and manually transcribed prior to coding. Where probes were used this is indicated in the interview transcripts. I used English as the medium of communication during interviews but interviewees had the option of responding in either English or Sepedi. With the exception of one black

parent governing body member all the interviewees chose to respond in English. Since I am a Sepedi speaker myself I translated the transcribed Sepedi interview into English prior to the data coding process. The English transcript is included in my report.

With a view to organising interview data in such a way that I would easily be able to compare the 'voices' (Potter, in Miles and Huberman 1994) of different categories of governing body members and different racial groupings, I electronically cut and pasted the raw data in tabular form. Each table focused on a particular grouping's response to the same interview questions (see Annexure F). Having done so I coded the data manually, using categories suggested by my initial research questions, with a view to first uncovering the understanding/interpretation of each category of SGB members. I then used the results of these comparisons as basis for my conclusions on the existence or not of differences in the understanding/interpretation and implementation of the governing bodies of former HoA and DET schools in my sample. While the responses of the different participant groupings are discussed separately, the conclusions are based on the combined results.

While I was analysing the data I realized that the way in which SGBs interpreted and implemented the amendments to teacher selection and appointment were influenced by their particular operational contexts. I therefore contacted each of the principals telephonically, asking them to provide me with the kind of contextual data that I had identified as factors influencing participants' views on the legislation concerned. The results of these telephonic conversations are reflected in the description of each school (see 5.3).

I present and discuss the data on SGB members' knowledge, understandings/interpretations of legislation in the form of contextualized

verbal descriptions. Where applicable my verbal descriptions include verbatim quotes meant to transport readers to the specific school contexts given that such contexts serve as frames of reference within which participants' interpretation and implementation can be better understood.

5.3 School context

Since context and school culture have been proven to play a role in the way people interpret and respond to situations (McCarthy and Crichlow, 1993; Phillips & Wagner, 2003) especially to situations that require change (Fullan, 1993), I deemed it important to include a brief sketch of each of the five schools whose governing bodies agreed to participate in my study. For confidentiality reasons these schools are not named but rather referred to as Schools A, B, C, D and E. The first three schools – A, B, and C – while formerly white and regulated by the Department of Education and Culture: House of Assembly (DEC: HoA) – are now open to learners of other colours/races. Schools D and E were formerly regulated by the Department of Education and Training (DET). They were and still are, only black, although there is no legal hindrance to learners of other colours/races who wish to attend or enroll at these school and/or on educators who want to work there.

Since one of my research objectives is to determine the impact of educator employment legislation on the racial composition of schools, I include in my description information on the learner and teacher composition of each school. Also, since my interviews were conducted with members of the governing bodies of these schools, I also provide information on the racial composition of each school governing body.

5.3.1 School A

School A is a comprehensive school in that it includes a pre-primary, primary and secondary component, enrolling learners from Grade 0 to Grade 12. It can be regarded as a 'special' school in that it caters for learners who are hard of hearing and/or who suffer from one or more disabilities. Hostel accommodation is available to learners whose parents stay far away from the school, some of them in other parts of Africa.

Although the school is located in what was previously a poor white socio-economic area it is classified as a Quintile 4 (rich) school. Some learners – those whose parents earn less than ten times the annual school (SASA: 1996) – are exempted from paying school fees.

The school used to be an Afrikaans-medium school but English has now been introduced as an additional language of learning in Grades 11 and 12. Formerly open to white children only the current learner population is 54% white and 46% black. Of the thirty-eight teachers employed at the school – thirty-five by the Department of Education and three by the school governing body – only one is black. Three of the fifteen governing body members are black. According to the principal of the school, they never attend governing body meetings since the school is in Pretoria and they live in Johannesburg.

5.3.2 School B

School B is a primary school, enrolling learners from Grade 0 to Grade 7. The language of learning at the school is Afrikaans but they also use English for the

5% who struggle with the language. Ninety-nine percent of the learners are white and one percent is coloured. Of the forty-five teachers, who are all white, twenty-five are employed by the Department of Education and twenty by the school governing body. All the governing body members are also white.

Situated in a previously white, affluent suburb of Pretoria, it is classified as a Quintile 5 (very rich) school. Parents typically earn high incomes and all the children can afford to pay school fees.

5.3.3 School C

School C, which was formerly an Afrikaans-medium primary school, now uses both Afrikaans and English as languages of learning. Ninety percent of the learners are black and ten percent are white. While not completely representative there are indications that the staff composition of this school is gradually becoming representative of the learner population since thirteen of the twenty-five teachers – all employed by the Department of Education – are black.

Classified as a Quintile 3 (middle income) school, School C is situated in an area where parents are middle-income earners. Since not all parents can afford to pay school fees some learners are exempted from having to do so.

5.3.4 School D

School D, a black secondary school formerly under the administration of the Department of Education and Training (DET) uses English as its medium of instruction. Situated in the township of Mamelodi it has an entirely black staff, an all black SGB and all the learners are also black. Classified as a Quintile 3

(middle income) school, School D caters for learners across the spectrum, some of whose parents are rich and some who are very poor. Learners whose parents earn less than ten times the school fees are fully exempted and those whose parents earn less than thirty times the fees are partially exempted. Also, conditional exemption is given to learners whose parents provide proof of financial/family problems.

5.3.5 School E

School E, a black primary school formerly under the administration of the Department of Education and Training (DET) uses primarily English as its medium of instruction. Its staff and learner populations as well as its SGB are all black. Because it is situated in an informal settlement and most parents are unemployed or earn very little money it has been classified as a Quintile 1 (no fee) school.

5.4 Comparison of parent data

The South African Schools Act of 1996, in providing formal power to SGBs had created the expectation for parents to be meaningful partners in school governance. The government's call for greater participation in education is based on the assumption that if more people were included in school governance, then democracy in education would be boosted and equality among schools would be ensured (Dieltiens & Enslin, 2002:5). Parents' collaboration with educators was deemed to be crucial to the enhancement of education success (Singh, Mbokodi, & Msila, 2004). Informed by this assumption the extremely limited success achieved thus far in the racial transformation of schools is ascribed to the limited role that parents are willing to play in the schools their children attend.

I interviewed six parents - two from School A, a formerly white Special School under the administration of the House of Assembly, and four from Schools D and E, former Department of Education and Training (black) schools. Parents serving on the SGBs of Schools B and C were either unavailable or unwilling to talk to me. Three of the black parents were governing body members of the same school; the fourth parent was on the governing body of a different school.

To enable me to compare the views, understandings, interpretations and experience of parent governing body members belonging to different racial groupings (white versus black) I electronically cut and pasted the raw data collected during individual focus group interviews with them into tabular form (see Annexure F). The essence of each question asked is represented in Column 1; the responses of parent members of governing bodies of formerly white schools are represented in Column 2 and those of formerly black schools in Column 3. Column 3 data are recorded in two styles, normal and italics, with the views presented in italics being those of participating parents serving on the governing body of a different school than that of the other three. Having organized the data in this way I highlighted the essence of each response because this enabled me to identify similarities and differences in parent member responses.

5.4.1 Experience as SGB members

SGB elections take place every three years. According to the Department of Education (DoE, 2005), elections can only be regarded as free and fair if a national framework is in place, if provincial regulations have been promulgated,

if electoral officials have been trained, if stakeholders know about and willingly participate in elections.

Parent data, collected from the SGB members who participated in my study, indicate that most of the parent members are serving on the governing bodies of their schools for the first time. Since the official term of office of a governing body member is three years (SASA, 1996), and one third of the parent members in my sample have served for less than two years, they can be regarded as relative 'novices' as far as the interpretation and implementation of legislation is concerned. On the other extreme, two of the black participants have served on the governing bodies of their schools for four and eight years respectively, i.e. they are serving for a second and third term respectively – and could be regarded as veterans. Both extremes could suggest that some parents whose children attend these schools are not particularly keen to serve on the governing bodies of their schools and that the parents who do serve do so because of their willingness and/or availability.

The re-election of the two black parents could, however, also be indicative of the school community's satisfaction with their performance. In the case of the parent serving for the second time this supposition seems to be confirmed by the reason he offers for his enjoying his SGB work (see 5.5.2) – 'I want to be the *ear of the community*' – and his perception of the reason/s for his nomination/election as a governing body member – the fact that he was perceived as 'progressive' and successful by the community and his ability to 'work well' with people. As for the other veteran black parent member, indications are that she might have been re-elected for a third time because she has a child in the school, and her experience as a parent *and* an 'educator' is regarded as an asset to the SGB. In line with the Schools Act she is allowed to serve for more than two terms

consecutively if she has a child in the school. This suggests that the community and the staff are satisfied with her involvement in the SGB.

If the terms of office of the white parents were to be compared with those of the black parents one could infer that black communities are more inclined to re-elect parents as school governing body members but this would be risky given that both white parent members in my study serve on the same governing body. They are not the only white parents on the governing body, but the only ones willing and available to be interviewed by me.

An interesting finding that emerged from my data analysis is the suggestion that, as regards the parent component of governing bodies at the sampled schools, the majority of parents serving on the governing bodies of historically black schools are males while males and females are equally represented in the governing body of the white school whose parents participated in my study. The conclusion regarding gender in the parent component of the SGB of white schools in my sample is, however, particular to one white school only. It cannot be applied to the other white schools in my sample because their parent SGB members were not available to be interviewed by me.

5.4.2 Enjoyment of SGB duties

All the parent respondents, irrespective of race and gender, indicated that they enjoyed serving on a school governing body. Only one of them, a black parent member, indicated that there are times when he does not enjoy it. According to him, he does not enjoy it when discussions become 'very hot' and people start to

‘personalize issues’, or take criticism or differences of opinion as attacks on them personally instead of focusing on the ‘issue’.

The reasons white and black parent respondents gave for their enjoyment are, however, somewhat different. Although both groups indicated that they wanted to make a difference in the school and in others’ lives, the reasons white respondents gave for their enjoyment suggested that their involvement gave them emotional satisfaction while black respondents’ reasons suggested that the opportunity the SGB gave them to do something for the schools and the school community restored their sense of self-worth. The difference in the reasons they gave for their enjoyment is succinctly captured in the figurative expressions they use to convey their feelings - ‘I have a *heart* for the school’ (white respondents) versus ‘I want to be the *ear* of the community’ (black respondents).

Individual respondents’ reasons for the pleasure they take in serving on their respective school governing bodies reinforce the inferences drawn from the figurative expressions they used. One of the white respondents indicated that the reason she enjoys serving on the SGB is the emotional connection and responsibility she has for her own child - ‘obviously my kid is here’ – as well as for the children of parents who cannot be there - ‘there’s not a lot of parents that are involved and that’s why I feel that I should be here’. The other white respondent ascribed her enjoyment to the opportunity that his SGB work creates for social interaction – ‘I am a one-man business and it is nice to work in a team’.

All four the black parent respondents, on the other hand, indicated that serving on the SGB gave them a sense of self worth because they had the opportunity of gaining knowledge that contributed either to their own development or that of

the community. One of the respondents specifically stated that not only did her involvement in the SGB make her 'feel part of' the school, but it allowed her to make decisions that 'affect the school', resulting in her own sense of empowerment.

5.4.3 Perceived reasons for nomination/election as SGB members

Parent members' perceptions of the reasons others might have had for nominating and/or electing them as school governing body members are rather similar. Both groups (black and white) indicated that they were regarded as having the time as well as the requisite knowledge and expertise (financial and educational) to serve on the governing body. They also indicated that their involvement in school activities prior to their nomination/election as school governing body members might have played a role in this regard. One of the white parent respondents indicated, for example, that her church, which financially sponsors the school, had had initially nominated her. There was one exception, though. One of the black parent respondents indicated that people might have thought that because he was a successful – 'progressing' – member of the community and 'worked well with people', he would be able to 'bring about change' in the school.

5.4.4 SGB Agendas

Parent respondents were asked to indicate to what extent an SGB meeting dealing specifically with the selection of possible candidates for appointment as teachers at their respective schools differed from their usual SGB meetings. Both

groups (white and black parent respondents) indicated that the usual SGB meetings focused on typical governance matters (general challenges/problems, strategic plans, financial management, resources, parental/community involvement, school maintenance, and discipline).

An interesting difference between the two parties is that black parent respondents indicated that they also discussed operational matters – ‘the daily running of the school’, and ‘teacher discipline’ – responsibilities which, according to SASA (1996), are the principal’s. White parent respondents, on the other hand, indicated that they also discussed the curriculum and extra-mural activities. As indicated in Chapter Three the responsibility for matters like these is devolved only to those school governing bodies that, having submitted an application in this regard, are deemed suitably competent to handle such additional functions. One could therefore infer that the difference in the responsibilities of the SGBs of the sampled schools reflects various researchers’ (see Chapter 3) claims of differences in the SGB capacity of formerly black and white schools respectively. By implication, the parents of former HoA schools could be said to have a greater say in the education of their children than those parents whose children attend former DET schools.

As regards the agenda and activities of extraordinary SGB meetings dealing specifically with teacher selection – short listing – there is very little difference in the agendas of black and white SGBs whose parent members participated in this study. In both cases the respective SGBs discuss the post requirements as they appear in the advertisement or vacancy list and then use these as basis for the selection of possible candidates. They assess each candidate’s qualifications and experience – as appearing on their curriculum vitae - against the post requirements to determine the extent to which they constitute a match. Having

done the first round selection other relevant factors – language proficiency, personality traits, management skills, ability and experience in working with special needs children (in the case of School A) – come into play. According to one of the black parents this is a ‘tough’ process because, as one of the white parents commented, it is ‘difficult’ to determine from a ‘piece of paper’ whether or not this is a ‘good or a poor candidate’.

5.4.5 Selection Criteria

As indicated in the afore going section, the SGBs whose members participated in this study, match the information in applicants’ curriculum vitae with the post requirements stipulated in the advertisement concerned. Informed by my own assumption that there might, however, be differences in the standards that formerly white and black schools’ SGBs set for the selection of teachers, I specifically asked parent respondents whether or not candidates’ personal characteristics, qualifications and previous experience played any part in their being short listed. Also, given my research purpose, namely to determine how their understanding/interpretation of legislation on the selection and appointment of teachers by governing bodies of selected Tshwane North public schools affect the way they implement the amendments promulgated in the Education Laws Amendment Act (Act 24 of 2005). I wanted to find out whether or not language, race and gender were factors that played a role in this regard. I therefore specifically asked them this question.

5.4.5.1 Personal attributes

As regards personal characteristics and/or disposition, white parent respondents indicated that they looked for candidates who were committed, enthusiastic,

involved in the community and able to 'present' themselves 'in a good manner'. Black parent respondents also placed a high premium on self-confidence – i.e. the ability to 'present' themselves well – coupling this with the ability to speak 'eloquently, but they also wanted someone who was proactive, who 'studied further', who knew how to work with and motivate people, learners included, and who would work 'holistically' and/or 'beyond the book content'. In short, they wanted someone who had the 'potential to make a difference' in the school and in learners' lives.

5.4.5.2 Qualifications

One black parent respondent as well as both the white parent respondents indicated that the minimum qualifications considered would be those specified in the advertisement and emphasized the importance of a correlation between the qualification and the subject or learning area in which the post was available. The same black respondent emphasized moreover that there should also be a correlation between the qualification and the phase or grade for which the teacher would be responsible if appointed. This parent, from School E, also claims that the SGB on which he serves takes the applicant's commitment to lifelong learning – 'adding to' initial studies – into consideration.

Two of the three parent respondents who serve on the SGB of the other formerly black school, School D, indicated that they would accept a diploma, although one said that they preferred a degree. The third member claimed that they only considered those with a degree. All of them agreed, however, that applicants should have a matriculation certificate (Grade 12) plus a three-year post-matriculation qualification that would place them on an REQV 13 level. White

parent respondents made no reference to specific qualifications, only to the fact that candidates should be appropriately trained.

5.4.5.3 Professional experience

Participating parent members serving on the governing body of School A, the formerly white special school, indicated that prior experience played a role in the selection process, indicating that they would feel 'more comfortable' with someone who was not coming 'straight from college'. Two of the four black parent respondents agreed that experience was important but not instead of qualifications; the other two did not answer this question.

5.4.5.4 Language as a factor

Both groups (black as well as white parent members) acknowledge that language is a factor in the selection/short listing of candidates but the way in which it affects the selection differs in some instances. All of them agree that language is considered in terms of the official language of learning of the school concerned. The black parent respondents consider only English proficiency, unless the advertised post is for a language teacher other than English. The white school, which is a parallel-medium school catering for children with a range of special needs, considers bilingualism (English and Afrikaans) to be important, arguing that the use of mother tongue (L1) is especially crucial in the case of learners who are hard of hearing.

5.4.5.5 Race as a factor

Not a single parent in either group (black or white) was of the opinion that race played a role in the selection process. On the surface this could be seen as an

indication of members' ignoring the stipulations of the law but the way in which they responded to this question indicates that their interpretation of the questions differed from mine. Comments from both groups in this regard suggest that parent participants regard the selection procedures of the SGB on which they serve as 'colour blind' or non-racist, rather than as non-adherence to the law. They include comments like, 'It is not important to me'; 'I can honestly say race never plays a role here'; 'Race is not considered'; 'Race is not an issue'; 'All candidates would be interviewed the same', and 'We don't look at race'. In short, in the words of one of the parent SGB members of the formerly white school, 'We have never appointed the one person and not the other because of race'.

The black parent respondents all seemed to feel that they had to explain why they did not regard their procedures as racist. In doing so, they shifted the blame entirely onto the shoulders of the applicants of other races, thereby absolving themselves from any responsibility for racial integration. They offer availability and location as inhibiting factors, arguing that 'some ethnic groups or races are scarce', that the schools on whose governing bodies they serve are 'in a township' and therefore 'not safe', and that other races 'will never avail themselves to be appointed at our schools'. Only one black parent member, the one serving on the governing body of School E, indicated that there was 'one coloured' at their school, indicating that 'the other coloured got a promotion somewhere'. In short, those parents serving on the governing bodies of black schools 'don't expect white teachers to come for interviews' but they 'don't discriminate: all people get equal opportunities'.

White parent respondents, on the other hand, justify their claims of non-racism by indicating that few of the black applicants are proficient in both Afrikaans and English, a requisite for appointment to a parallel-medium school. The one black teacher on their staff was appointed in preference to white teachers because she is proficient in both these languages.

5.4.5.6 Gender as a factor

It is in the area of gender differentiation that the two parent groups (white and black) participating in this study differed most. White participants indicated that there is a gender imbalance in their school, with the male participant ascribing this to two factors. On the one hand, he argued, 'there are not a lot of men teaching these days', probably because they 'don't like to learn' and are more practically inclined. On the other hand, he argues, 'women like to study' and 'have a better connection with children'.

The same stereotyped assumptions about male and female abilities and inclinations can be detected in the responses of black parent participants. Indicating that 80% of the staff members are female, and acknowledging that they are 'not so very gender sensitive', two of the four black respondents argued that male teachers are better at maintaining discipline. One participant did not respond to this question while the other one indicated that the SGB typically 'checks' on the 'number of teachers we have according to the gender and subject'. This same respondent indicates, however, that 'some subjects, like history (sic), 'are more suitable to be taught by a male'. In short, if they had a 'good male candidate' - to help with discipline of especially the teenage boys - they 'would recommend' him for the post.

One of the white parent respondents (LSEN) considers the applicant's ability to work with children with 'special disabilities' as crucial given that School A is a 'special' school while one of the black parent respondents indicated that they would only consider those with a 'good record'.

5.4.6 Perceptions of SGB Effectiveness

When asked whether they were of the opinion that their SGB was effective as regards the selection of teachers for appointment to the schools they represent, both participating white parent members indicated that they were. In support of their claim they indicated that they went out of their way to find black teachers for classes where the majority of the learners are black. One of the respondents indicated that this is especially the case if the class concerned is a Foundation Phase. Parents indicated that if they could not find a suitable black teacher they tried to identify someone who could act as 'an assistant' to 'accommodate a specific child'. The other respondent indicated that they were satisfied with all the people who had been appointed. He also mentioned that they have had 'a lot of black people applying' and that in one instance 'only black candidates applied for a specific position'. Based on these responses one could infer that the parent members of this school equate SGB effectiveness with its ability to promote racial integration on the one hand, and to select teachers who perform as expected on the other.

Participating black parent governing body members had different opinions on the effectiveness of their SGBs. One respondent did not answer this question, two said the SGB was effective and one said it was not. The two who regarded the SGB as effective served on the governing bodies of different schools. One of them

– the one from School E - said that he thought the governing body of his school was effective because they followed legislation and criteria ‘stipulated by the government’ but he did not elaborate on this statement. The other one indicated that the SGB of his school was effective because their advertisements were open to all races. That they ended up ‘having one race’ was not, he argued, their problem because they could not ‘force people to apply’ to their school. The parent member who was of the opinion that his school’s governing body was not as effective as it should be argued that they were ‘not succeeding’ because, on the one hand, they failed to ‘attract white people’ to their school while on the other, the governing body seems to devolve its authority to the school principal who ‘seems’ to dictate’.

5.4.7 Knowledge of the law (ELAA)

White parent members, in responding to questions on the criteria they used to select teachers for short listing, indicated that they had to ‘short list five (candidates) and recommend three ... to the Department’. In being asked whether they thought that the criteria they used were aligned to legislative requirements, specifically to the stipulations in the ELAA, one of the white parents indicated that ‘*they*’ are ‘very strict’ in this regard and that ‘*they*’ tell the SGB members beforehand how things should happen. The other parent, who serves on the same SGB, indicated that the ‘*they*’ refers to the principal. He is the one who ‘briefs’ them before they go through the selections and ‘reminds’ them which criteria and qualifications they should focus on. According to this parent the SGB cannot exclude someone from the short list without a valid reason or reasons.

One of the participating *black parent* governing body members did not answer this question, one claimed that they did not ‘use nepotism’, and one indicated that the *principal* talked them ‘through legislation’, linking this to qualities that they had to look for in candidates during the selection process. The remaining parent indicated that the criteria the SGB used were ‘in line with legislation’ because they were trying to restore existing gender imbalances by selecting more women for leadership positions. He also argues that staff members at the school on whose governing body he serves come from different language communities and that this is an indication that they are abiding by the law.

When asked what they think the reasons were for the changes to legislation on the selection and appointment of teachers, the two participating white parent members differed markedly from each other. One of them disagreed with the stipulation that they had to submit three names, arguing that this would be impossible if only two of the interviewed applicants were found suitable. According to this respondent, SGBs should have ‘more power in the say of who would fit in at a school like this’ because they knew what was required. The other respondent was of the opinion that the changes were good because they prevented the SGB from appointing someone ‘connected to the school’. According to him, the legislation will ensure that the SGB selects candidates with ‘more care’ if the Department has the ‘final’ say.

Three of the participating black parents were of the opinion that the reason could be found in the ‘past’, that it was because of the ‘legacy of apartheid’ in the workplace. They assumed that the changes are intended to eliminate past divisions and injustices through the provision of equal employment opportunities that would restore existing language, racial and gender

imbalances. One of the members of this school governing body indicated that the principal had not, however, discussed it with them at any great length. The remaining parent participant, who serves as the governing body of School E, was of a different opinion. According to him, the government had often not been satisfied with the people who were appointed, resulting in 'disputes'. Because 'only one' candidate was previously nominated for appointment the government's hands were tied. By insisting that governing bodies should now provide the Head of Department with three names this problem could be overcome.

These responses seem to indicate that black school governing body members are more aware of the possible rationale informing the changes to legislation than their white counterparts are. Even so, if the claims of their white counterparts are true, it is the governing body of the formerly white school that is making the greatest effort to promote racial equality in the workplace, not the governing bodies of the two black schools included in my sample. Whether the claims of the white governing body members could be accepted at face value is not certain because, although one of the participating parents indicated that their SGB has interviewed many black applicants, only one has been appointed, supposedly because she was the only one who was proficient in both Afrikaans and English, even though at one stage 'all the applicants for a particular post were black'.

It is also not clear whether or not their efforts to identify potential black teaching assistants have had any success. It would seem, therefore, as if both groups are reluctant to actively promote integration, with the white school seemingly using language proficiency as an excuse not to do so while the black schools hide behind location and white fears. Either way, since the staff composition at these schools does not reflect the elimination of apartheid divisions, neither of the

governing bodies can be said to be implementing legislation as they are expected to.

5.4.8 Summary of parent data

Based on the afore-going comparison, I would conclude that, based on data collected from parent governing body members, there is little difference between the governing bodies of schools formerly regulated by the Department of Education and Culture: House of Assembly (DEC: HoA), i.e. formerly white schools, and those (black schools) formerly regulated by the Department of Education and Training (DET) as regards SGB experience (tenure), job satisfaction (in terms of serving as SGB members), the agendas of general and extraordinary SGB meetings, basic selection criteria, or bias as regards race, language and gender.

There does, however, seem to be less agreement on whether or not the SGB is effective amongst black parent respondents than there is amongst white ones, probably because both white members belong to the same SGB. The most obvious difference, though, seems to be in the reasons why white and black parents respectively enjoy serving on the SGB. While both groups indicated that they wanted to make a difference in the school and in others' lives, white respondents seem to gain emotional satisfaction from this while black respondents' seemed to gain in self-esteem and community status.

5.5 Comparison of teacher responses

I conducted interviews with four teachers who serve on governing bodies of the schools included in my sample. Two of these were white, serving on the governing body of the same school and two, each serving on the governing body of a different school, were black. Both the white teachers and one of the black teachers were females; the remaining black teacher was male.

5.5.1 SGB Experience

With the exception of one of the respondents, a white teacher, who was serving for a third term, all the other respondents were serving on the governing bodies of their respective schools for the first time. The female respondent who was serving for the third term indicated that she had previously served on SGB committees, suggesting that she might have been an ad hoc rather than a full-time SGB member. She was, therefore, not really serving for a third term but for a second term, the first as a teacher representative and currently as the SGB secretary. The remaining white respondent, who serves on the same SGB as the SGB secretary, has been on the SGB for two years while the two black respondents have been SGB members for two and three years respectively.

Since three of the four respondents have been serving for at least two years – the other one much longer – one could infer that they should have a pretty good sense of what the SGB is all about – its principles, procedures, responsibilities – but that there might be areas, such as the interpretation and implementation of legislation, where they are not yet as competent as they could be.

5.5.2 Enjoyment

When asked whether or not they enjoyed being governing body members three of the four respondents indicated that they did; one of them – the white respondent serving her first term on the governing body of School A – indicated that she enjoyed it ‘sometimes and sometimes not’. One of the reasons she offers for this ambivalence is that ‘administration’ is not her ‘first love’, teaching is. This being the case she feels guilty when she has to attend meetings because these keep her out of the class, especially since she has a ‘difficult class’ that works at a ‘slower pace’ and needs ‘a lot of attention’. This indicates that the school sometimes holds SGB meetings during school hours which is not in line with what SASA says. The only reason she stays on the SGB is because she wants to be or do something ‘useful’.

All four the respondents ascribed their enjoyment to the fact that it was ‘interesting’ to ‘constantly learn new things’, such as what was happening at a ‘higher’ level. One of the white respondents called this ‘an eye-opener’, while one of the black respondents indicated that, since they, as governing body members, were now part of ‘governance’ they were no longer ‘at the end of the line’, being ‘left outside when decisions are made’; instead they are part of the decision-making process. It would seem, therefore, that the reason why teachers, across racial divides, enjoy serving on the SGB is because it gives them a greater understanding of ‘how things work’ as well as a sense that they have an influence - or a say - in what happens to education.

5.5.3 Perceived reasons for nomination/election

Both groups of teachers – black as well as white – seemed to think that teachers, whom they represent on the governing bodies of their respective schools trusted them, either because they had the requisite skills or because they had won teachers' confidence through their past actions. In this regard both the white teacher respondents indicated that, in addition to their good track records at the school, their availability could have played a role in their nomination/election. One of them indicated that this was her second term of office as a teacher representative on the SGB, that she had served on numerous committees and that other teachers have probably come to see her as 'someone they can come to with their questions and concerns'. The fact that she was also the SGB secretary, she suggested, confirmed her perception that people trusted her and that they were satisfied with the way she was carrying out her SGB duties. The other teacher indicated that, since she had been at the school for 30 years she understood the problems of the school and, 'being older and not having children at home' she had more time available to give to the school.

The black teacher respondents believed that they were nominated/elected because of specific skills they possessed which, according to them, could be useful to the SGB. One of them indicated that, having been an administrative clerk prior to becoming a teacher, she was computer literate and that this skill had led to her being elected as the SGB secretary. The other black teacher indicated that he had served and chaired a number of SGB sub-committees in the past – 'maintenance committee, school committee and cultural committee' – and that this could have led to his nomination/election. Because of the way he had conducted himself as chair of these committees, he indicated, teachers now had

‘confidence’ in him because they knew that if he was their representative on the SGB ‘positive results would be acquired’.

5.5.4 SGB Agendas

When asked what was typically discussed at SGB meetings, white teacher respondents gave very different answers. One of them indicated that the agenda depended on the type of SGB meeting being held. Executive meetings typically focused on governance matters – finances, strategic plans, discipline – as well as on ‘anything that affects the learners, such as social grants, financial assistance from the school, and school uniforms. Committee meetings, on the other hand, are task-specific but always involve policy matters – discussing departmental policies and integrating them into existing school policies, drafting/updating school-specific policies, drafting/changing/updating the school code of conduct, ‘which is the largest thing’. The other respondent indicated that SGB meetings typically focused on academic matters, ‘what is working well and what is a problem’, claiming that each SGB members has to present a report dealing with his/her portfolios, e.g. extra curricular, academic, hostel, and financial matters.

There could be many reasons for the difference in these two teacher members’ responses but, based on the evidence I have in my possession, I have to infer that the difference could be ascribed to the number of years each of them has served on the SGB. The first respondent, being in her second term, and having served on various sub-committees, would have a better sense of the overall activities of the SGB than the latter, who is still relatively new to the position. This inference is supported if the two teachers’ responses to the next question, dealing with the agenda of an SGB meeting dedicated to teacher selection, are taken into account. The long-serving teacher member provides a detailed, step-by-step description of

the procedures that the SGB follows in meetings dealing with this matter, while the novice member simply states that they 'have to decide what the post is and what that post requires' and 'what kind of person' would best fit this description.

Black teacher respondents, like their white counterparts, indicated that, generally, SGB meetings focus on school governance matters. Even so, indications are that the SGBs of formerly black schools participating in this study focus primarily on operational and communal issues - school maintenance, school safety, community and stakeholder involvement, the coming parents' meeting (dates, agenda and means of notifying parents), and learner behaviour - while the focus of their white counterparts is on strategic matters (policy development and implementation). This does not mean that the SGBs of DET schools neglect strategic matters altogether. They do, according to the respondents discuss changes and improvements to the school, including difficulties in this regard, but their primary focus is on making things work. Like their white counterparts, the SGBs of formerly black schools also discuss academic matters - learner progress, and the challenges educators face in their classes. It would seem, therefore, that typical SGB agendas in my sample are influenced more by context than by race or SGB competence, as suggested in the literature.

With regard to the agenda of extraordinary SGB meetings focusing specifically on the selection/short listing of teachers for possible appointment to their respective schools, teacher SGB members who participated in this study followed more or less the same procedures, suggesting that they do take cognisance of departmental guidelines in this regard. Typical activities/procedures include scrutinizing and discussing the advertisements in which the posts were advertised as well as applicants' curriculum vitae with a view to matching the post requirements to the candidate's qualifications and professional experience.

Once again the difference between the teacher selection meeting of the formerly white school and those of formerly black schools participating in this study can be found in the emphasis each group places on specific aspects as well as on the selection of the eventual interview panel.

According to the long-serving SGB teacher member of the formerly white school – School A – they have more than one meeting related to the selection of candidates for possible appointment as teachers. At the first meeting, using the management plan provided by the Department as basis, the SGB drafts its own ‘internal policy or management plan’ for short listing, decide on dates that will ‘suit’ the governing body, identify SGB members to serve on the selection panel, and notify the Unions. On receiving the applications from the Department, the SGB informs the ‘panel’ of the ‘final’ date on which selection will take place. During this meeting applications are opened and, using the criteria set by the Department and the short-listing procedure decided on during the previous meeting, marks are allocated according to a weighting scale. If an applicant satisfies the criteria, s/he is short listed; if not, his/her application is put aside.

Black teacher respondents made no mention of guidelines or ‘internal policies’; instead, they focused on the short-listing process itself, suggesting that they wait until they receive the applications before they meet and that they meet only once to compile the short list. In this meeting, the focus is on ‘the candidates who have applied, how to let them know that they are short listed - that is phoning or sending letters’. There is no mention of any specific selection criteria other than those intrinsic to the post but candidates with ‘management’ skills or experience seems to be favoured more than those without. This confirms my earlier inference that, as SGBS of formerly black schools are concerned, the need to ‘make a difference’ in their schools is a priority, not only in the selection of SGB members but also in the selection of teaching staff.

A major difference in the outcome of formerly white and black school short listing meetings is that, in the case of the former, not all SGB members are involved in the selection process and/or sit on the interview panel whereas in the case of the latter duties are 'divided' so that 'everyone will have to participate'. When the teacher respondents representing School A, the formerly white school, were asked how they decided on the interview panel, they indicated that such a panel typically included the chairperson or vice-chairperson, secretary or vice-secretary, and two to three additional governing body members – depending on the post concerned. If, for example, it is a (senior) academic post, the deputy-principal is co-opted to sit on the panel; if it is a post level 1 post, an HoD in whose learning area the teacher will be working is co-opted. Later on, when commenting on the effectiveness of the process, they indicate that union members are also invited.

Also, all the teacher member respondents, irrespective of race, indicated that the short-listing process was a long, difficult and 'tense' process because they have to be objective, thorough and fair. Both groups indicated that SGB members who had applied for a post would be excluded from any and all selection procedures and that no SGB member is allowed to speak out about what happens at these meetings. Also, 'if there are too many identified candidates, we go through a sifting process'. SGB groupings, (black as well as white) indicated that their SGBs are very strict about confidentiality. The black respondent from School E mentioned, for example, that every person participating in the short listing meeting has to take an oath that 'whatever information you are going to share will be kept indoors and will not be discussed outside with anyone who is not an SGB member; even SGB members are not allowed to talk about those things unless they are in a meeting'. According to him, it is this 'oath' more than anything else that distinguishes the short-listing meeting from ordinary SGB

meetings because, 'as the people who were delegated by the educators' they have to meet with educators to find out how they 'feel about matters' and to 'voice the educators' concerns' at general meetings, hence the agenda and outcome of general SGB meetings have to be shared with those they represent.

5.5.5 Selection criteria

All the teacher members who participated in my study indicated that, while qualifications were important they also took cognisance of other factors, such as personality traits, professional experience, language proficiency and management skills. In short, they considered the whole person, his/her 'internal' rather than 'physical' characteristics, coupled with appropriate qualifications and experience.

5.5.5.1 Personal attributes

Both of the white respondents – from School A, which is a school catering for learners with specific disabilities (special needs) – indicated that they were looking for applicants that would be able to work with the kind of children attending the school on whose SGB they were serving. More specifically, they were looking for someone that was 'soft and caring', who would connect with learners not only at an academic level but also on an 'emotional' one.

The black respondent from School D indicated that the SGB on which she served looked for a person who exuded confidence and leadership potential, that is someone who convinces the SGB that s/he is an efficient classroom manager. These skills, according to the respondent, can only be determined during the interview, not from the applicant's curriculum vitae. The black candidate from

School E agreed, arguing that it is from the way a short-listed candidate conducts her/himself during the interview that they can determine her/his worth as a possible staff member and her/his ability to fit in at the school concerned. One of the things the candidate should be able to do, according to this respondent, is to express her/himself fluently in English because the school on whose governing body he serves is an 'English-medium school'. Another character trait that would be to the interviewee's advantage is her/his ability and willingness to work hard because the school is so 'over-crowded' that only those who are 'willing to go the extra mile' would be able to handle it. Finally, according to this respondent, the successful candidate would be a self-disciplined one without a 'criminal record'.

5.5.5.2 Qualifications

Both groups of respondents – black as well as white teacher members of the school governing bodies that participated in my study – agreed that the minimum qualification that would be considered would be a three-year diploma. This would place the candidate on an REQV 13 level. The white teachers indicated, however, that they would prefer someone with four years of training (but this is not the criterion in legislation), and that, if no candidate were deemed suitable, they would re-advertise the post. In considering the candidate's qualifications they would go beyond the number of years training that the person underwent, also considering whether or not the qualification was relevant to the school phase and subject in which the person would be teaching. In this regard they would prefer someone with a degree for the 'higher grades'.

The black respondent from School D did not respond to this or the next question, which dealt with professional experience. The other black respondent (from School E) indicated that they would be happy with a three-year 'national'

diploma – a ‘qualified REQV13 educator’ – provided that the person was registered with the South African Council of Educators. If not, s/he would not be ‘eligible’ for the interview because SACE is the ‘regulating body’.

5.5.5.3 Professional experience

When asked whether experience played a role in the recommendations that the SGB made to the HOD, neither of the black respondents answered this question, while the two white respondents indicated that, since they catered for children with special needs they preferred someone with experience in this field. By implication this would exclude candidates with no teaching experience. One of the respondents indicated, however, that she would like the SGB also to consider people who had extra training in the field especially ‘younger people’ since this would give her the opportunity to ‘train’ them and to share some of her experience with them before she retires.

5.5.5.4 Language as a factor

When asked whether language played a role in the selection process, three of the four respondents indicated that it did, while the fourth one, the black respondent from School D, indicated that it only played a role if the post was for a language teacher. According to this respondent, it is subject or learning area knowledge that is the determining factor, not language. To support his claim he mentioned that the SGB had ‘hired a person from Zimbabwe’ the previous year because he was ‘the best candidate; we did not look at language’. The other black respondent reiterated that, although language proficiency could be post-specific – ‘where the teacher is supposed to teach Sepedi or Zulu, this is where we consider language’ – the ability to express her/himself ‘fluently in the English language’ is the only language consideration that plays a role in other learning

areas. He insists that there is no language discrimination in the SGB because they 'have Tsonga people teaching in school whereas our first languages are only Sepedi and Zulu. We even have Venda people teaching in the school'.

The two respondents representing the formerly white, 'special' school, indicated, however, that language was a crucial consideration in the selection process but that the 'needs of the post' determined this. They offered three reasons for the importance they attached to language proficiency. In the first instance, since this was a 'special school', communicative ability was even more crucial to learning than in ordinary schools. Secondly, since many of the children were 'hard of hearing' communication in their home language would make learning easier for them – 'it is difficult for them to be taught in another language'. Finally, since the school used both English and Afrikaans as languages of learning, the candidate's ability to use both fluently would be a determining factor in her/his selection.

Informed by perceptions that formerly Afrikaans-medium schools use language as a means of excluding black learners and teachers from their schools, I asked these teachers whether language is the reason for their only having one black teacher at their schools. The response was affirmative – 'we are mostly an Afrikaans school: the person coming in must be able to perform in Afrikaans'. Seeming to realize, however, that my question might be construed as a suggestion that they were being racist, they emphasized that they were not excluding people because they could not speak Afrikaans. They excluded them because they were not equally proficient in both Afrikaans *and* English. 'We do have English boys in Grade 12 and those learners get their work given in English. Teachers are proficient in both English and Afrikaans. Even the Black teacher who teaches English speaks to us in Afrikaans'. They indicated moreover that bilingualism is especially important in the 'junior' (Foundation) phase because

the small number of English speakers in these grades do not warrant an extra teacher hence they have to 'fuse with the Afrikaans children'.

5.5.5.5 Race as a factor

As was the case with parent SGB members, all four the teacher SGB members who responded to my inquiry about the role that race played in the selection process denied any racist agenda. The two white respondents indicated that race is not a 'factor' - it plays 'no role'. What is important, according to them, is the person's ability to 'fit in' and to 'deal with the grade/subject they are needed for'. Consequently they consider the person's qualification and SACE number. To further support their claim that they were not racist, one of the respondents explained that the majority of their learners (60% of them) were currently white and that they do have one black teacher on the staff. The dominance of white teachers was not, they argued, because they were racists but because black applicants were not proficient in both languages of learning.

The teacher from School D (a black school) indicated that they 'just look at the requirements stated in the advertised post, and select'. According to him, they 'never look at race' but since they only 'receive applications from blacks and coloureds, not from whites the latter do not feature in their selection processes. The teacher respondent representing the governing body of School E reiterated the position that 'everyone will be considered as long as they have the minimum requirements' and since posts are advertised 'through the department of education ... everyone who is interested in applying will be eligible''. Insisting that race plays no role in the SGB selection process, he mentions that 'white teachers are also welcome', just like the 'coloured teachers' who are currently staff members of the school. The reason, according to him, 'because now we live

in the new South Africa where would like to see our learners being able to communicate and relate with people of other races’.

5.5.5.6 Gender as a factor

Neither of the white teacher respondents indicated that gender was specifically considered except as a ‘last’ factor, i.e. if the ‘specific subject’ requires a ‘specific gender’. One of them indicated, though, that they ‘would like to have more men with strong character’ because they could serve as ‘role models for especially the boys’. The two black respondents indicated that gender did play a role, both referring to the fact that women had not enjoyed equal opportunities in the past and that, in terms of the law, this needed to be rectified.

One of the black respondents indicated that, as regard the SGB of his school, the ‘first preference is women ... especially when coming to management posts – ‘there is this legislation, women can become leaders, principals, deputy principals, et cetera.’ The other one pointed out that although ‘affirmative action gives the females the advantage of being considered first’, they could not give women preference at the school on whose SGB he serves because ‘we actually have more females than men’. While claiming that this has a historical cause his comment that ‘the people who raise children are mostly women, men are supposed to work those tough jobs like working in the mine or construction’ could be indicative of deeply entrenched stereotypes regarding male and female roles in society. So as not to be accused of gender discrimination, while also trying to appoint more men, he claims the SGB, when advertising posts, now has ‘this special condition: we request two males and two females if, let’s say, 4 posts are advertised. This is where we have gender equity’.

5.5.5.7 Other contributing factors

Indications are that, apart from preferring applicants with experience in special needs education, the SGB of the formerly white school does not explicitly consider any other aspects while the SGBs of the two formerly black schools that participated in this study do. One of the respondents indicated that they wanted someone who not only had 'knowledge of the new curriculum statement' because 'it is the policy that governs how we plan, conduct and assess our lessons' but who would be able to manage 'the job and the classroom'. The other respondent indicated that they also considered specific legislative requirements, such as the need not to discriminate against those with disabilities' because 'the law states that discrimination of that kind can amount to crime'. The SGB on which he serves is also very particular about not considering anyone who is not registered with the South African Council of Educators (SACE).

5.5.6 SGB effectiveness

Indications from the data are that both groups (teacher members of white as well as black SGBs who participated in my study) experience the SGBs on which they serve as effective because the procedures and criteria they use in short listing teachers for possible appointment are thorough, fair and legal. The ways in which individual respondents justified their perceptions suggest, however, that their interpretations of effectiveness, fairness and legality are not exactly the same.

One of the white respondents, the one who is still serving her first term of office, did not answer this question. The other one seems to equate effectiveness with the extent to which the letter of the law is obeyed as far as prescribed procedures

are concerned, following legislation ‘as it is given to us: we don’t divert from the process of short listing’. To her fairness, and legality are therefore about the way in which legislation is implemented, the ‘how’ of the law.

‘One of the things to use as an example, a change in legislation is receiving applications at the school; we don’t do that at all. They have to go through the Department. They have to follow the whole process and so I think that’s a fair process to ensure that everybody gets the same opportunities’.

The black respondent serving on the SGB of School D equated its effectiveness to the improvement in the school’s Grade 12 results over ‘the past years’, suggesting that it is because of the SGB that teachers are ‘now willing to pass their knowledge to the children to see to it that we get good results’. This supports earlier indications that teaching and learning as well as teacher discipline feature on the agenda of the SGB meetings of the DET schools in my sample.

The black respondent serving on the SGB of School D acknowledged that the SGB on which he serves sometimes selects someone who is not as good as s/he appeared to be at the interview – ‘you find that a person can impress you in the way they express themselves, but you later find that this person does not do their work properly’. The other one, (from School E) insists that the SGB on which he serves is effective. He justifies his claim with reference to the SGB’s objectivity (‘personal issues arise but we try not to get personal’), its consideration of equity legislation (gender, language, and culture), and its involvement in teacher development initiatives. He specifically mentions that the SGB identifies a teacher’s ‘weakness’ and then ‘helps’ him/her by allocating funds for ‘development’ and/or taking them to ‘development workshops’. This response confirms earlier indications that, as regards this SGB, the ability of teachers to

bring about change is an important consideration in the selection of candidates. That the SGB goes to the trouble of ‘developing’ those who do not live up to the SGB’s impression of them during the interviews suggest that the SGB accepts its accountability for its (wrong) decisions and takes the requisite corrective action.

5.5.7 Knowledge of the law

When asked whether the criteria they used for short-listing applicants were in line with legislative requirements all the respondents said they were. Even so, none of them discussed specific aspects of such alignment. Instead they focus on the procedures they use during the selection process – ‘they ‘try to be fair’, giving the candidates’ ‘marks’ (white ‘novice’ School A), following the ‘policy that is provided by the department. So ‘everything we do we refer to the legislation unless someone individually goes against the legislation’ (black SGB member: School E).

The ‘novice’ SGB respondent simply stated that she thought they were. She did not refer to legislation or give any indication that she knew about changes in this regard. The other, long-serving’ white SGB member indicated that she found the changes to legislation somewhat problematic, explaining that:

‘The ‘Department does not see the candidates as we see them; they see them on paper only.... What’s on paper is not a true reflection of a person. I feel the Department should accept the decision of the people sitting there and appoint the person it was agreed. They must allow the judgment of the people that did the interviews’.

She acknowledges that interview ‘situations’ are not always ‘good’ because many people can’t ‘perform’ in an interview but, according to her, this problem could

be overcome if 'Union representatives are part of the interviews and agree that they are happy with the process followed'.

When asked why, according to them, the government found it necessary to change previous legislation regarding the selection and appointment of educators at public schools, white respondents gave quite different explanations. The long-serving SGB member was of the opinion that requiring SGBs to provide the Department with three rather than one name gave the Department 'more to choose from' and enabled them to ensure that 'the best candidate will get the appointment'. The novice member was of the opinion that the changes were aimed at giving teacher the opportunity to move 'from rural areas into the city areas' or to 'go into schools where previously they could not go in to teach'. She then mentions 'equity', explaining it as 'giving everybody equal opportunities', adding that this must be the primary motive behind the changes.

The responses of the black SGB members reflected those of the white ones. One of them focused on equity, indicating that 'it was to address the past imbalances and discrimination'. The other one focused on the listing of three names, indicating that this enhances the transparency of the process while simultaneously creating an opportunity for the department to 'intervene' in the interview and/or recommendation process if necessary. He approves of these changes because past practices where 'bias' and 'nepotism' were at the order of the day would be stopped.

5.5.8 Summary of teacher responses

Based on the data gathered from one-on-one interviews with teacher members of the SGBs who participated in my study I have to conclude that, according to the

black teacher respondents, the SGBs of former DET (black) schools seem to be more aware of legislation on the employment of educators than their white counterparts and specifically consider legislative criteria in this regard when short listing candidates for possible appointment as teachers at their schools. This does not imply the SGBs of former DEC: House of Assembly (white) schools deliberately ignore or undermine legislation. As indicated by one of the white respondents 'they' 'follow legislation as it is given to us, we don't divert from the process of short listing' What is interesting, though is that it is only the white respondents that mention the involvement of the unions, and only as a means of justifying the validity of the SGB process and decisions to the Department.

It would seem, though, as if black respondents are more aware of the declared rationale for or intent of the changes to legislation than their white counterparts. While there are subtle indications that black as well as white respondents still harbour stereotyped ideas about male and female roles in society and/or the ability of males and females to perform specific roles in schools, both groups seem to accept that change is inevitable. While acknowledging their bias there are indications that both groups strive to keep their own bias in check when short-listing. The SGBs of former DET (black) schools go out of their way not to discriminate on the basis of gender and disability while the formerly white school (DEC:HoA) claims to do as much as it can, given the school context, to promote racial integration.

5.6 Comparison of data on principals

School principals are not nominated or elected to the SGB: they are *ex officio* members (SASA, 1996). I conducted interviews with five school principals, three serving on the governing bodies of former DEC: HoA (white) schools and two

serving on the governing bodies of former DET (black) schools. One 'principal' had not yet been appointed as a principal yet, but was the official 'Acting Principal'. There were no females in this group: all five the principals were males.

5.6.1 SGB Experience

With one exception, the principal from School E, who has only been a principal for three years, all the others are experienced principals: two of them have been principals for eight years, one for ten years and one for eighteen years. It is assumed that, because of their experience, these principals are in the position to make a positive contribution to the SGB. There is, of course, also the danger that they can use their experience and intimate knowledge of school affairs to dominate or steer the SGB in a direction of their own preference.

5.6.2 Enjoyment

With the exception of the principal of School E, who has fewer years of experience as a school principal than the other four, all the principals indicated that they enjoyed serving on the governing bodies of the schools they managed. Not all of them enjoyed it unreservedly, though. The principal of School A, the 'special' formerly white school, indicated that, while he found it 'very fulfilling in terms of his role as principal to serve on the SGB, he found it 'frustrating' that parents were not particularly keen to become SGB members.

The principal of School B was quite adamant that he enjoyed being an SGB member although he acknowledged that there are times when discussions become heated or when there are 'clashes/differences of opinion'. One of the

reasons he gives for his enjoyment is the fact that he works with 'very professional people', who, by bringing their 'kind of world' to the meetings, teach him, as principal, valuable lessons. This principal also indicated that he accepts responsibility for providing new SGB member with copies of the relevant Acts, which they then 'study' at home, and that the Department 'sometimes' offers SGB training workshops on Saturdays. Not all the SGB members seem to appreciate these workshops, apparently using their professional status as an excuse not to attend.

'Well, it is not always easy to convince these people that they need training, especially on a Saturday, but usually most of them will go. Training, I think, is thorough, but you will always get these people who will always say, but I know these things. I wasted time. That kind of attitude you will always get. All SGBs are well educated and are very professional people, e.g. an attorney, for a labour relations meeting, will say he knows everything and does not need any training'

Although the principal claims that he enjoys working with these 'very professional people' their presence on the SGB does not seem to be without its own complications.

The last of the white principals, the one managing School C, is the only one of this group (white principals) who seems to experience nothing but pleasure from serving on the SGB. He likes representing 'the management of the school' but he also likes the 'interaction' with people who are not part of the teaching staff, i.e. parents and 'other non-teaching members' because they have different views on 'certain things', which allows everybody to 'discuss...and learn from each other'. The relative ease with which this principal handles his SGB membership could, of course be ascribed to the fact that his is the only SGB in this group (formerly white schools) that consists of white, Afrikaans-speaking members only, hence

cultural and linguistic mismatches that might lead to communication breakdowns are basically non-existent.

The responses of the two black principals seem to suggest that their enjoyment of their SGB duties is somewhat more ambivalent than that of their white counterparts. While the principal of School D indicates that he does enjoy being on the SGB, his comment, that 'it is part of (his) job' suggests that he has to enjoy it whether or not he wants to. This is also the position taken by the principal of School E, who explicitly states that 'it is not a question of enjoying it but a question of performing your task. Since it is my job I have to find pleasure in it'. According to this principal serving on the SGB as a principal is a 'very demanding and challenging task' because it is the principal who has to 'ensure' that departmental policies are 'implemented as envisaged'. The principal of School D, while not as explicit, seems to share the same view, indicating that he cannot 'plan the activities of the school alone' because he has to accommodate the SGB, who has 'lots of ideas' on what their 'assistance' to him and the school should be.

5.6.3 Perceived reasons for nomination/election to SGB

The reasons the principals offered for their nomination/election to the SGB suggests varied understandings of principals' SGB role function as envisaged in SASA. The new Education Laws Amendment Act of 2008 amends SASA of 1996 with clause 21a which clearly states that the functions and responsibilities of the school principal are to implement the various education policies and to see to the professional management of the school. The clause clearly indicates that the principal represents the Head of Department (HoD) in the governing body and is responsible for the implementation of all mandates issued by the Minister or the relevant Departments of Education.

While the principal of School B categorically states that he is merely an ‘ex officio member’ given his position as school principal, the principal of School A, the ‘special school’ seems to view his role as being a supportive one. Informed by this assumption he initiated the creation of specific ‘guardianship’ structures and procedures in the school that could facilitate the creation and maintenance of personal links with parents in far-off areas. He indicates that, given the specific niche of the school – to cater for learners with particular disabilities – the feeding area of the school is not ‘demarcated’, ‘children come from all over South Africa, even as far as Angola and Nigeria’. According to him, he goes to great lengths not to impose his will on the SGB:

‘As principal I don’t want to put myself in a position where it seems I favour people. I ...instruct the guardian teachers to consult with the parents. We arrange a social to introduce the parents to each other and allow them to nominate each other. It then is over to the sitting SGB. We don’t hand pick people’.

The principal of School B, on the other hand, seems to think that he is a member because of his legal knowledge.

‘If you want to be on the SGB it’s very important, that you must know the school’s laws and regulations and all the stuff to run a school properly. And I think I have educated myself in that regard. I think I know enough to be of assistance to the people on the governing body and the school’.

His comment that ‘it’s the one thing that I decided myself’ seems to suggest that he thinks he could choose not to serve on the governing body of his school when, in fact, principals are legally obliged to attend and contribute to SGB meetings (SASA, 1996).

He is not the only principal interviewed who seem to think so. The two principals serving on the governing bodies of sampled black schools indicated that they think they were members of the SGB because 'people' see them as leaders and knowledge workers. According to the principal of School D, the SGB realizes that it is 'a team' and, because team members 'support one another', they 'appreciate' his 'involvement'. This 'appreciation', according to him, had been lacking until the SGB were trained.

'At first it was difficult because of the parents who did not understand their functions as defined by section 16 of SASA. They would interfere with the functions that had to be performed by the principal. This was a big clash. But now with the training they have undergone, I think they have improved and understand their position. I don't see any difficulty, even with the coming SGB elections'.

Not only do these comments suggest tension between the principal and parent SGB members but they also confirm my earlier inference (see 4.7.2) regarding parental interference in the way the management functions re allocated to principals in terms of SASA (1996). Although the principal of School E also indicates that he is on the SGB because people regard him as someone who is knowledgeable in governance matters and can therefore 'lead' the SGB in this regard, the tension mentioned by his black equivalent is not a factor in his case. His response seems to suggest that the lack of tension could be ascribed to the high levels of illiteracy in the area, a factor that could lead to governing body members looking to him to 'play the role of' a guide, 'ensuring that the School Governing Body does what is correct and nothing else' and that it implements policy 'as expected'.

5.6.4 SGB Agendas

As regards differences in the agendas of general and extraordinary SGB meetings, with specific reference to meetings related to teacher selection/short listing, the principal of School A, the special school, indicated that the focus of general/ordinary SGB meetings is on the learner and that they discuss 'only what is in the interest of the child'. What that is, he does not say. The teacher selection meetings are, however, 'totally different' in that not all the SGB members are in attendance, only the elected committee. This committee scrutinizes applications, short lists applicants, conducts interviews and makes the requisite recommendations regarding possible appointment.

The principal of School B indicated that each person serving on the SGB of the school that he manages is responsible for a 'specific portfolio' and that the agenda is drawn up with that in mind. A typical meeting, according to him, would start with the principal's report, followed by the financial report and discussions on legal issues, school maintenance, extra-mural activities, dress codes, et cetera, all of which is the responsibility of some or other portfolio committee. One of the portfolios deals with teacher development and accepts responsibility for initiating and reporting on teacher training activities. According to this principal the portfolio system works because all SGB members are experts in some or other field.

Extraordinary meetings related to teacher selection and appointment, however, focus primarily on 'matters related to the interview'. As required by law (SASA, 1996), the SGB appoints a selection committee that is responsible both for the sifting and interviewing of applicants. In this school (School B), the selection committee consists of the principal, the Head of Department responsible for the

subject or learning area concerned, an educator, 'somebody from the sports staff', and parents. The selection committee does the sifting, formulates interview questions and criteria that are 'related to the vacancy' and has them typed up. According to the principal he then prepares committee members for the interview by informing them of 'relevant legal stipulations as to non-discrimination'. He then issues a copy of the interview questions and criteria to each committee member. Having done so, he, as the principal, allocates one or two questions to each committee member, who will ask these at the interview. The rule, according to the principal, is that the same person asks these questions of each candidate. When asked how many candidates are short listed at these meetings the principal laughed and said,

'It is many years since we were given a department post. Our appointments are governing body posts. I know legislation says not less than five candidates, but in this case the SGB feel that they are not bound by the legislation and concentrate on the people that they think qualify but it is usually not less than three'.

The SGB of School C also operates in terms of committees that raise issues and/or make recommendations to the full SGB. A typical SGB meeting would, according to this principal, first focus on matters arising from the previous meeting before moving on to finances – 'I think that is very important' – and committee reports. Meetings typically close with a discussion of general matters and an indication of urgent matters that the governing body should attend to.

As regards extraordinary meetings related to teacher selection and appointment the principal of School C first wanted clarification about the kind of teacher appointment I was referring to. He reminded me that there are 'two kinds of teachers' those employed by 'the GDE' (Gauteng Department of Education) and those employed 'by the SGB themselves'. He then limited himself to a discussion

of GDE employed teachers, indicating that the school governing body plays no role in deciding which applicants qualify for selection – that is done by the Department. The School Governing Body ‘can only make recommendations’. The recommendation process, according to him, involves a number of steps:

- At the beginning of the year the Department of Education sends out circulars to all schools.
- Schools then have to indicate whether or not there are or will be any vacancies, indicating which they are and what the requirements for each are. Having done so the school returns the forms to the Department.
- The Department then publishes all available posts – in all public schools - in the Government Gazette – the ‘vacancy list’ – and ensures that each school has a copy.
- Educators who want to apply for any of the posts advertised in the gazette have to do so in accordance with the ‘rules’ and time schedules contained in the gazette.
- The Education Department then sifts and sorts all the applications according to the posts and the schools and on a specific date they send all those applications to the schools. Accompanying the applications is a circular inviting the principal and one of the governing body members usually the chairperson, to attend a meeting with the Education Department so that they can ‘educate them on how to handle the whole system of applications and so on’.
- The school governing body then has to select an interview panel that is going to handle the whole process. Any governing body member who has ‘a

personal interest' in the outcome must excuse her/himself from the panel but union members must be part of the process.

- The panel conducts its business 'according to certain laws and regulations like Resolution 2 of 2005, and...Resolution 5 of 2005' which stipulates that the 'IDSO must handle the principal's application and that kind of stuff'.
- The envelope with the names of the applicants identified by the Department must be opened in the presence of 'everybody, and then they decide how they are going to handle the interview'.
- Questions that have no relation to the post must be avoided during the interview and each panel member individually allocates a mark to applicants' answers. These marks will eventually determine who is short-listed or not.
- No discussion of the allocated mark is allowed since 'a strong character on the SGB might influence the other people'. Instead, the 'papers ' are handed to the 'secretary' who, with the union members, arranges these in rank order.
- The results are then put in an envelope, which the chairperson 'seals with the school stamp' and sends off to the Department. The HoD then chooses 'one of the three' names submitted, and 'must give the SGB a good reason' for his/her choice.

The SGB meetings at School D also consist mainly of committee reports. These include reports on finances, sport, teaching and learning support material, and SGB plans. The meetings could also include a discussion of short-listing criteria 'in relation to the needs of the school' but not all SGB members participate in this discussion, only the elected – primarily parent - interview panel. Extraordinary

meetings dealing with teacher selection differ from the general SGB meetings in that they are 'specific' rather than committee-related. According to the principal of this school the SGB looks at 'the needs' of the school and discusses post-related issues.

While also discussing 'finance, policy matters' and governance issues, typical SGB meetings at School E, according to its principal, also include discussion on ways 'to make our school a better school' and the role that the SGB can play in ensuring that 'quality teaching takes place'.

Contrary to what was said by the (white) principal of School C, the (black) principal of School E indicated that the school management team is responsible for advertising the post and informing the district office in this regard. They must, however, according to the respondent, work through the principal, who represents the DoE. If the district office approves of the SMT's 'advertisement, it will be placed in the vacancy list of the Gauteng Department of Education (GDE) and people can apply.

The Department will then, according to the respondent, determine deadlines for short-listing, interviews, and submission of recommended candidates. Only on receipt of this information – the 'management plan' – will the SGB convene a short-listing meeting. The short-listing panel, which does not necessarily consist of all the SGB members, conducts interviews in accordance with guidelines provided by the DoE. Panel members are identified by the SGB but must include the principal, parents, teachers and non-teaching staff. The SGB also decides on the roles each panel member is to play – 'one will be the secretary; one will ask questions, one will be the usher'.

5.6.5 Selection criteria

As regards selection criteria the principal of School A, the 'special school', simply stated that these depended on the 'demarcation' of the post while the principal of School B indicated that the SGB on which he serves usually draws up criteria and 'typically put a value' to these. The principal of School C emphasized the candidate's ability to fit into the school culture while the two black respondents highlighted subject/learning area competence above all else. These two respondents stressed the importance of choosing the right person for the job, arguing that it is up to the candidate to 'satisfy' the SGB that s/he is the 'best' of the bunch – 'the ability shown by the applicant during the interview is quite key'. Acknowledging that, the final decision is often 'subjective', the principal of School E highlighted the fact that, while the short-listing process is aimed at reaching 'consensus' on the best candidate, the SGB does its best to select candidates 'suitably qualified for the post', i.e. it would only consider teachers who have the maths qualifications for a mathematics post, not someone who 'specialises in history'.

5.6.5.1 Personal attributes

The principal of School A did not answer this question, moving straight into a discussion of qualifications (see 5.6.5.2). The principal of School B indicated, however, that they would 'like to see dedicated people' but that if they thought the person 'has what it takes to become a very good educator' they will consider him/her. The principal of School C, on the other hand, indicated that the successful candidate would be one that they thought would easily fit into our community and with our kind of children'. According to him, there are 1500

'kids' in the school. Included in these 1500 are children 'different cultures and backgrounds' like the DRC, Malawi, Botswana and Zimbabwe', as well as a lot of children from single parent families. According to a survey conducted at the school the children speak fourteen different home languages. It is important, therefore, he argued, that the successful candidate will have to be 'outgoing and friendly' enough to 'get ... and keep (the children) together'.

Neither of the black principals who participated in my study answered this question. Both of them focused only on subject or learning area competence, making no mention of personal attributes. Later on, though, they indicated that they chose 'the right person', one that they could 'believe in'. Later on, in responding to my question on the effectiveness of SGB selection processes the same black principal indicated that such a person would be someone who is 'passionate', and understands the learners and their 'circumstances' since many of the learners come from 'problematic backgrounds' and/or live in 'HIV infected communities'.

5.6.5.2 Qualifications

The principal of School A succinctly indicated that the qualifications they regarded as minimum were the 'same as in any school'. The principal of School B, on the other hand, seemed to suggest that the higher the qualification the better the chance the candidate had of being short-listed – 'the better the qualifications the better for the school'. Therefore, although they "follow the guidelines', especially as regard the minimum qualifications and experience for PL1 and PL2, they prefer a post-graduate qualification (Honours or Masters) to a first degree and a first degree to a diploma. However, he qualifies this statement by adding that if the person 'has what it takes' to become a good educator, they would accept one with the 'most basic qualifications' and pay for him/her to

study further. This seemingly dual standard, he indicated, is because they not only have 'high academic standards' but also place a high premium on 'the teaching of values ...most problems in our communities are because of a lack of values'.

The other three respondents, one white and two black, indicated that the minimum qualification they looked for depended on the post level at which the successful candidate would be employed.. The principal of School C indicated that the minimum requirement would be a qualification which placed a teacher at REQV 13 given that the 'government, together with the unions, has decided to phase out all teachers who have matric plus two years'.

The principal of School D, a black school, was of the opinion that a post level 1 (PL1) educator needs only a basic professional qualification of REQV 13 – 'matric plus a three-year diploma' but that this would be different for posts at higher levels. The principal of School E agreed, indicating that, as regards post levels 2 (Head of Department) or 3 (deputy-principal), it is important to remember that they are management positions. This implies that the incumbent should be committed to 'lifelong' learning, something that would be evident if they have more than the basic qualification.

5.6.5.3 Professional experience

As regards the role that experience plays in the short-listing of candidates, the principal of the special school, School A, indicated that, given the target group of learners that his school caters for, it would be 'an advantage' if the applicant had experience with children 'with special disabilities'. The principal of School B, while acknowledging that experience is 'usually' important, indicates that his SGB is not that 'concerned about experience'. He qualifies this statement by

explaining that a teacher 'must start *somewhere*'. Therefore, if s/he has the qualities they are looking for, and they think they can 'develop those qualities' they will short-list and/or recommend him/her for appointment.

The (black) principal of School D indicated that, while an REQV 13 qualification would be suitable for post level 1 deployment; this should be complemented by at least five years teaching experience in the case of post level 2 and seven years in the case of post levels higher than this. The principal of School E agrees that at post levels higher than PL1, experience is a must but disagrees with his colleagues about the number of years' experience that should be required. According to him, a prospective HoD (PL2) should have three years' teaching experience and a deputy principal 'no less than five'.

5.6.5.4 Race as a factor

The principal of School A, the 'special' school, indicated that 'district at the moment is very strong on equality – both gender and race'. He seems to realize that the ideal is that the composition of the teaching staff should reflect learner composition: 'looking at 10% black children in the school means 10% teachers of colour'. According to him the reason for this not being the case at his school is that LSEN schools (schools for learners with special educational needs) is not 'well-known' in 'rural areas' or amongst 'teachers of colour'. Given the countrywide teacher education training programs on inclusive education subsidised by the national Department of Education – the *Sisonke Project* comes to mind – and the increasing number of teacher education students who study this aspect, this seems to be an entirely false assumption.

The principal of School B, seemingly reading a criticism of the staff composition of his school into my question, vehemently denied that they were 'racist'. While

acknowledging that he does not have a 'person of another colour on his staff, he indicated that the SGB had previously appointed a black teacher with a Post Graduate Certificate in Education (PGCE) in an SGB post to teach Sepedi. However, 'after three months, she decided to leave'. According to the principal the SGB had subsequently interviewed people for that post but has not as yet 'found the right person'. The SGB had also in the past interviewed people 'of another colour, even an Indian' but they did not satisfy the criteria 'that we put up' because 'to us it is all about the *best* person'.

The principal of School C echoes this sentiment, claiming that the SGB of his school also looks only at 'the best teacher', not at race. He also reiterates that it is not the SGB who employs the teachers; the SGB only indicates its preference but it is the Department of Education that makes the final decision.

The responses of the two black principals differ radically, though. Acknowledging that the 'teacher profile' at his school is 'all black' the black principal blames the fact that they 'have not had any applicants from the other races'. His insistence that qualifications and the 'needs of the school', not 'race', are the determining factors in teacher selection is in direct contrast to the acknowledgement of the principal of School E that 'race plays a huge role'. This principal unashamedly admits that it 'would be difficult to opt for a Coloured, Indian or white person because we are a 100% black school' that is determined to preserve its 'African' culture. Defending his stance, he argues that 'culture and race' are important.

'For example, when coming to the issue of culture, there are certain ways that we use cultural aspects to deal with certain situations within our culture as blacks. We have a way of addressing issues like learners going to initiation schools on the mountain. It will therefore be important for someone to have that cultural awareness and acceptance.'

In order not to be accused of breaking the law, the school has made ‘certain arrangements with the community’. In terms of the law, according to this black principal, a learner who is absent for more than ten days, should be withdrawn’. This is not true because the Schools Act is silent on absenteeism while the Constitution states that the learner has a right to education. This interpretation reveals that the principal’s understanding of the law is limited. The ‘arrangement’ he refers to entails temporarily suspending the learners concerned for ‘the six weeks of initiation’ and then giving him ‘extra work’ and ensuring that parents support and assist him on his return.

5.6.5.5 Language as a factor

The principal of School A chose not to respond to the question concerning the role that language plays in the short-listing of teachers but the other two white principals respectively indicated that it did. The principal of School B indicated that, although they are ‘predominantly Afrikaans’ they also use English as a language of teaching and learning although only 5% of the learners in the school are black. He indicated, moreover, that the SGB strives to appoint mother tongue people to teach Afrikaans and English as subjects and that they decided to introduce a 3rd language as a subject. Interviews are conducted either in Afrikaans or English depending on the post concerned.

The principal of School C seemed somewhat more defensive, claiming that school governing bodies have ‘rights’, and that those rights include deciding on ‘the language of the school, the hours of the school, the timetable of the school and extracurricular activities of the school’. Given that the school he manages is a parallel medium school learners are placed in either English or an Afrikaans stream but the latter is currently decreasing. Later on, in response to a question I

asked about the effectiveness of the SGB selection process at his school, the principal indicated that language was a thorny issue because at his school they had 'five languages to choose from' whereas 'mostly one specific language' is spoken at the schools they 'visited ... in black areas'. Both of the black respondents indicated that language is a factor, primarily as regards the teaching of the language as a subject or learning area but also as regards the ability to use an appropriate indigenous language as a language of learning and teaching in the Foundation Phase.

5.6.5.6 Gender as a factor

With one exception, the principal of School B, who claims that gender is not considered at all, respondents across racial divisions indicated that it did play a role. The reasons or explanations they offered for this suggest deeply entrenched stereotypes about differences between male and female educators' roles and abilities.

The principal of School A indicated that he preferred female teachers because they have proved to be the 'best' teachers. Teaching is 'a passion to a woman but a job to a man'. The principal of School B takes a contrary position, indicating that they would 'like more men' because the current ratio of male to female in his school is 1:9. Appointing more men with the 'qualities' they are looking for is, he argues, especially important in the 'higher standards' but they are scarce. Notwithstanding concerted efforts on their side they have not even been able 'to find a male for physical training' hence they contract people 'from outside', paying them with money from the SGB budget.

The opposite situation is in play at the sampled black schools, according to the two principals who allowed me to interview them. According to the principal of

School D, gender plays a huge role in the appointment of teachers to senior positions. Both principals refer to past imbalances where management positions were dominated by men and to current legislation requiring a correction of such imbalances. To illustrate the validity of these claims, the principal of School D indicated that both deputy principals as well as the principal at his school are currently males hence the next deputy principal needs to be female provided that she has the ability to fill this position. The principal of School E indicated that the SGB at his school considers the 'equity grid of the school' to determine whether the appointed person should ideally be male or female. Having made this decision the SGB tries 'as much as possible' to make gender a priority during the short-listing process.

5.6.5.7 Other contributing factors

Apart from experience in teaching learners with special needs (School A) the only other factor that could play a role in the short-listing of applicants was computer literacy, mentioned by the principal of School E.

5.6.6 Perceived effectiveness of SGB selection process

When I asked the principals whether or not they considered the SGB selection process at their respective schools as effective two of the five respondents indicated that they had some reservation about the effectiveness of the process as followed by the SGBs on which they served.

The principal of School A confessed that he would be 'telling an untruth' if he said the process was 'one hundred percent' effective. 'We are dealing with people', he argued, and because of this, a curriculum vitae and a '20-minute

interview' could be misleading, resulting in 'a blind eye being turned'. Although they attend 'annual training meetings' organised by the Human Resources Unit of the district office they – i.e. the SGB members - are not 'expert human resource managers'. All they can do is their 'best' and then to be thankful if the 'appointment' (*sic*) they made turns out to be the right one.

Although the principal of School B also expressed some reservations about the effectiveness of the selection process he does not seem to think that the process itself is flawed. Rather, he ascribes the difficulty in finding suitable candidates from other racial groups to come and teach at his school as a 'cultural' thing. According to him, some of the 'people of colour' that they interviewed and wanted to recommend for appointment in the past seemed to feel 'uneasy at the prospect' of teaching in a 'totally white environment' perhaps because they would be outnumbered by the 'mass of white people in the school'. Another possible reason for no people of colour accepting a post at his school, according to him, was that they lived far from the school – 'travelling from Mamelodi or Soshanguve or whatever place' – and found it difficult to 'get proper transport'. 'You know, to us being on time is crucial; we can't allow late-coming at our school'.

The other three principals all indicated that they were convinced that the SGB selection process at their respective schools was one hundred percent effective. The reasons the two black principals gave for the 'effectiveness' of the SGB selection processes at their respective schools included adherence to the Employment Equity Act (School D), the quality of the teachers the SGB has selected in the past and the fact that the people appointed as a result of this process have 'the same culture as the learners' (School E).

The principal of School C indicated that he believed the SGB part of the selection process is effective because SGB members attend workshops where they are trained how to 'handle the selection process'. He does not, however, think that the selection process as a whole is effective. According to him, the provincial Heads of Department do not know what the schools in their provinces are like because they never 'visit' them. 'They don't even get out of their offices; only if they are invited for a concert or that sort of stuff, they might visit the school'. The only departmental officials who have a sense of what is going on at schools are 'the IDSOs'. To leave the final decision as to which applicant/s should be appointed to the HOD is 'not fair' because the decision is based on nothing more than 'names' on a piece of 'paper'. The HOD should, according to this principal, trust that the SGB has made the right decision and accept its recommendations as they stand. 'Their 1st choice must be the 1st choice', otherwise 'what was the need for the exercise?'

Given this position the principal concerned believes that SGBS should appeal against a recommendation that is contrary to their own. He also believes that applicants should have the right to appeal 'through their unions' if they are not short-listed. This would be possible, he claimed, because 'some members tell them even if they say it is confidential'. Ironically, by acknowledging breaches in confidentiality agreements, the principal of this school is implying that the SGB selection process at his school is not as perfect as he would like to claim.

5.6.7 Knowledge of the law

In response to my question on the extent to which the selection criteria used by the SGBs of their respective schools were aligned with legislative requirements, all five the principals indicated that they were not aware of any problems in this

regard. The reasons they gave for this claim suggest, however, that the way in which they interpreted my question differed from person to person.

The principal of School A indicated that the criteria were in alignment because 'anyone is free to attend the selection meetings or interviews'. This is contrary to his earlier response that only certain SGB members are involved in the sifting and interview processes in this regard. The principal of School B indicated that the Department 'takes SGBS for training'. Moreover, the SGB of his school typically meets before the interview process where he – the principal – gives them 'the opportunity to ask questions about legislation' and to discuss any problems in this regard.

The principal of School C indicated that the SGB of the school he manages goes to great lengths to ensure that the criteria they use are aligned to legislative requirements because, if they do not, 'you can so easily fall into a trap' or land up in court. Even so, according to him, it is not easy to satisfy equity requirements because the SGB of his school has to consider not only *one* language but 'five' and his experience is that 'black people find it difficult to accommodate one another'. The way out of this difficulty, according to him, is to leave the matter in the hands of the 'employer' or the 'government'.

The principal of School D believed that their criteria are aligned to legislative requirements because they 'follow the prescriptions of policy' in that they 'recommend' according to their 'preference' but leaves the final decision to the Head of Department. Claiming some of the glory for the effectiveness of the selection process at his school, he indicated that he workshops SGB members himself and that, together, they 'work with a lot of sample questions to prepare them for the selection and the interview'. The principal of School E is adamant that the SGB at his school does not 'deviate' from the law because he provides it

with information and updates on policy changes. According to him he has to 'guide them on ways of doing things with regard to the law' because they are not trained. If he did not do this, 'everybody would not understand their duties and responsibilities'.

When asked to what they ascribe changes in the law regarding the selection and appointment of teachers, principals responded in a number of ways. The three white respondents indicated that they regarded it as political in that, because of the historical 'background of the country' there was a need to establish 'equity according to the learner population of the school' (School B principal). This principal claims not to have a problem with the promotion of 'equity' and representivity', claiming that:

'We have to prepare in a predominantly white school, our learners for a South Africa of today. It is our responsibility to make sure that our learners come to contact with as many South African cultures as possible'.

Given that the SGB of this school has to date failed to attract any teachers 'of colour' to the school (see School B) due to 'cultural' and 'transport' problems, this claim is somewhat suspect. The other two white respondents are much more explicit in their criticism of what they perceive to be the rationale for the changes to legislation. According to the principal of School A the Department wants to 'force us to employ blacks'; hence 'policy makers push it down on other people to implement' (School C). This, according to the principal of School C, is a mistake because 'the executive committee of the ANC' is not 'in contact with the people at the grassroots level. They don't see it as we see it, how we experience it'. The principal of School A seems to share the same view, claiming that:

'There are a lot of good black teachers that would like to come into a more organised environment...If you are living in the past, you have to wake up'.

The two black principals did not refer to the history of apartheid at all. The principal of School D indicated that he was of the opinion that the law was changed to 'guard against ... irregularities and nepotism', factors that have led to the appointment of 'unqualified people' in the past. The principal of School E, on the other hand, thought the changes were aimed at restoring existing gender imbalances in 'leadership positions', arguing that:

'The time has come to give our female counterparts the opportunity to showcase their talents, management talents and roles...Legislation tells us that women are important in development'.

5.6.8 Summary of principal data

With one exception, the principal of School E, who has only been a principal for three years, all the others have been principals for many years and are assumed to be very experienced. This could be one of the reasons why they enjoy serving on the governing bodies of their schools. Indications are that those principals who most enjoy serving on the SGB are those who are regarded as 'legal' experts, an attribute that allows them to play a leading role in the activities of the SGB. That they capitalize on this knowledge is evident from the role that they, by their own admission, play in the selection and recommendation of applicants for possible appointment at their schools. They are, however, frustrated with parents' unwillingness to get involved in school governance on the one hand and SGB interference in the daily running of the school on the other.

A significant difference between the principals of former HoA and DET schools is evident in the emphasis they claim to place on the letter of the law - procedural correctness – in the case of white principals, and the spirit of the law – the restoration of past imbalances – in the case of black principals. One would assume that this could be ascribed to white principals' fear of being accused of racism or resistance to change and black principals' personal experience of the effect of discrimination in the previous dispensation.

Another marked difference is evident from their understanding of the term, 'effectiveness' and their perceptions regarding the effectiveness of SGB teacher selection processes. While white school principals seem to equate effectiveness with the ability to use sound procedures to select the most competent persons, black principals seem to equate it with the extent to which these processes adhere to equity principles. The opposite is true as regards their perceptions regarding the rationale for legislative change and the extent to which their SGB procedures reflect legislative requirements. White principals tend to equate alignment with the extent to which SGBs succeed in attracting teachers from other races to their schools. Implied in this equation is the belief that the changes are informed by the State's determination to impose racial integration on former HoA schools. Black principals, on the other hand, equate effectiveness with the extent to which the SGBs at their schools adhere to legal 'prescriptions'. Implied in this assumption is the belief that the rationale for the changes is the elimination of all forms of nepotism and malpractice.

5.7 Discussion of data

Informed by my initial research questions, I discuss the data presented in this chapter in terms of four categories only, namely stakeholder involvement in

school governance, SGB governance effectiveness, equity in teacher selection, and SGB interpretation of the law.

5.7.1 Stakeholder involvement in school governance

With a view to determining the extent to which school communities participate in the governance affairs of their schools I considered the data I collected on the number of years participants have served on the governing bodies of their schools, the reasons why they think they were nominated and/or elected and the extent to which they enjoyed serving on these SGBs.

- Data indicate that there are marked differences in the experience of different categories of SGB members at the schools in my sample. Whereas most principals have many years of experience, the majority of parents are still relative novices. Teacher experience varies, some serving for the first time; others serving for a third term. While the novice status of parents could, as argued by various parties (DoE, 2003; Ntshangase, 2002), be an indication of a lack of parental interest in school governance issues there is little evidence that this is true for the parents who participated in my study. Rather, indications are that they might well be willing to serve again if nominated because being on the SGB made them feel good about themselves since they had the chance to 'make a difference. The principal of School A does indicate, however, that he is frustrated by parents' unwillingness to get involved and, since the three black members elected to the governing body of his school use distance as an excuse not to attend governing body meetings it might well be that the researchers are right about parents' apathy in this regard.

- Teachers might be less willing to serve again. One of the white teachers indicated that her SGB duties are time-consuming and impact negatively on her teaching activities. Nevertheless all teachers enjoy the confidence and trust that other teachers place in them as their representatives and the fact that they are now at the forefront of what was happening at ‘higher levels’ of the system. Principals, on the other hand, have no choice but to serve on the SGB and, as indicated earlier (see 5.6.2) they seem to enjoy it most when they are given the opportunity to ‘run’ the SGB show.

5.7.2 SGB governance effectiveness

With a view to drawing conclusions about the effectiveness of the governing bodies of former HoA and DET schools respectively, I considered data on the agendas of SGB meetings, complementing such with data collected on participants’ perceptions regarding the effectiveness of the SGBs on which they served.

Indications from data on SGB meetings are that those SGBs included in my study are relatively effective. Not only do their governance meetings focus on school maintenance and development issues but their meetings on teacher selection are focused and, apparently, procedurally sound. Even so, indications are that the SGB of the former HoA School could be somewhat more effective than the SGBs of former DET schools. This is suggested by the rigour of its teacher selection process and the fact that it has seemingly been allocated more than the basic functions allocated to SGBs in terms of the Schools Act. The SGBs of former DET schools in my sample seem, however, to be more democratic than their white counterparts in that they do not exclude any of the SGB members from the

selection process whereas the SGBs of former HoA schools elect specific members to sift and interview candidates for recommendation.

5.7.3 Equity in teacher selection

With a view to determining whether or not the selection and recommendation of teachers for possible appointment at the schools in my sample are essentially fair and non-discriminatory, and reflect a commitment to the creation of equal employment opportunities and the establishment of a diverse staff component at their schools, I focused on the criteria and procedures that the respective SGBs use for short-listing purposes. Indications are that the SGBs in my sample make every effort to ensure that their own bias and/or preferences do not affect the outcome of the selection of teachers for possible appointment to their respective schools. All the respondents, irrespective of their membership category, acknowledge that there was a need to redress past imbalances in terms of gender and race but none of them seemed to think that the lack of change in their schools in this regard was their fault.

As regards gender, everybody agreed that there was currently an imbalance in the gender composition of their schools, with most of the teachers being female and most of the management positions still being held by males. The dominance of males in positions of authority in these schools is reflected not only in the fact that all the principals were male but also in the composition of the governing body sample I interviewed. Indications are that this could be the result of stereotyped/conditioned perceptions of the roles that males and females respectively should be playing in the school as workplace. A number of respondents indicated that females are regarded as more committed, more caring, more concerned with learning and better able to 'connect' to children, while males are regarded as better disciplinarians, better role models (for boys,

especially) and more suitable for the teaching of specific subjects. These stereotyped views might be indicative of participant bias in this regard, a bias that could subconsciously be influencing their decisions.

The lack of racial integration in the staff composition of the sampled schools' governing bodies was also acknowledged by all participants but none of them believed that the blame for this could be laid at the door of the SGBS. The SGB respondents of former HoA schools blamed black people's lack of proficiency in Afrikaans and their unwillingness and/or inability to fit into dominantly white school cultures where punctuality was non-negotiable. The SGBs of former DET schools, on the other hand, ascribed the lack of staff diversity to the location and track records (academic and safety-wise) of their schools, as well as to a commitment to traditional African culture.

Language was an important selection criterion in both groups. Black SGB participants highlighted the need for English proficiency, which they associate with high academic standards and empowerment. White SGB participants highlighted the need for bilingualism, given that their schools use both English and Afrikaans as languages of learning and teaching. Indications are that the use of bilingualism rather than English proficiency only as a selection criterion could be informed by their fear that Afrikaans is systematically being eroded by the increasing number of learners from other races who enrol at their schools and then insist on being taught in English. The recent court case between Hoërskool Ermelo and the Mpumalanga Department of Education as well as a former one between the same department and Hoërskool Nelspruit, with the department wanting to enforce the introduction of English as a language of teaching and learning, are but two examples that provide a rationale for fears like these.

5.7.4 SGB interpretation of the law

In attempting to determine the extent to which participating SGB members of former HoA and DET schools respectively interpreted the intent of the Education Laws Amendment Act of 2005 and the extent to which their selection criteria reflected such intent I focused specifically on the answers they gave to two questions – participants’ perceptions regarding the alignment of their selection criteria with those of the State on the one hand, and the rationale informing the changes to legislation on teacher selection and appointment in the Education Laws Amendment Act of 2005 on the other. However, I also complemented conclusions based on responses to these two questions with references to insights gained from responses to other questions where applicable.

All the SGB members indicated that, as far as they were concerned, their SGB selection criteria and procedures reflected those of the State. They were adamant that the SGBs’ on which they served in no way deviated from the law as regards the procedures or criteria, but used the departmental management plan and criteria contained therein as basis for their own policies and/or procedures. Indications are, however, that the ways in which participating members of the SGBs of former HoA and DET schools respectively interpreted the amendments differed in more than one respect.

As regards the rationale, participating members of the SGBs of former HoA schools seemed to be of the opinion that the changes promulgated in the Education Laws Amendment Act were aimed at forcing their SGBS to ‘sacrifice’ academic quality and school culture (see School B for example) for the sake of racial integration. Those of former DET schools, on the other hand, seemed to think that the changes were made to prevent nepotism and other forms of corruption in the teacher selection process. Black SGB participants explicitly

linked the changes to the State's commitment to redress, with specific reference to current imbalances in the racial composition of teaching staff, the gender imbalance of management staff, and the impact of apartheid on school and governance capacity. White SGB participants, while mentioning historical influences in passing were either ignorant of the real impact of such on the current state of affairs or were unwilling to acknowledge them. It would seem, therefore, that participating SGB members of former DET schools are aware of the need to adhere to both the letter and the spirit of the law while their white counterparts focus primarily on the letter of the law.

This said, it would seem as if it is the former HoA schools rather than the former DET schools that are making an effort to attract teachers of other races to their schools, claiming that they do interview black applicants but that the applicants either turn them down or do not meet the minimum criteria for the posts advertised. Whether their claims can be accepted at face value is not certain because, although at one stage all the applicants at a specific school were black, only one black teacher has to date been appointed. Also, to use punctuality and transport as 'warnings' to successful black applicants may be viewed as a subtle form of intimidation aimed at encouraging black candidates to retract their applications. On the other hand, to use attendance of initiation schools as an excuse not to appoint white, Indian or coloured teachers, who would not 'accommodate these learners' is as hypocritical. Also, it suggests a selective adherence to the law as well as a marked difference in school culture, evident from a comparison of data collected in Schools B and E.

As regards the alignment of participating SGB practices to legislation indications is, therefore, that while both groups not only keep up the pretence of obedience but also believe that what they do is in line with government requirements. Contrary to these beliefs, the evidence of alignment as regards the creation of

diverse staff composition is absent, suggesting that both groups are equally ineffective in changing. Only one of the schools, School C, seems to have moved in the direction of an acceptably diverse staff if its staff component is compared to the current learner population. This might well be because this is the only one of the participating former HoA schools where all the teachers are employed by the State. Given that SGBs are entitled also to employ 'additional teachers' to suit the needs of the schools they govern provided that they foot the bill, there is every chance that the staff composition of those schools will remain very much as it is at the moment.

5.8 Summative conclusion

In this chapter I presented and interpreted data collected by means of interviews with parents, teachers and principals in the Tshwane North district of the Gauteng Province. Indications from data are that the understanding and interpretation of SGBs across racial divides are influenced by their different cultural and linguistic preferences, their different political and educational histories, the contexts in which they work, the roles they perform and the positions they hold in the school governing body. In short, all the school governing body members who participated in my study attach subjective meaning to their realities and their lived experiences.

In the final chapter, which follows, I aim to relate my research findings to my original research questions in an attempt to determine to which extent I have achieved my research purpose. In doing so, I shall be referring to insights recorded in Chapters Three, Four and Five to explain, substantiate and/or critically discuss my own position regarding the understanding, interpretation and implementation of the changes to teacher selection and appointment

promulgated in the Education Laws Amendment Act of 2005. Based on this discussion I shall be offering some suggestions on the way forward regarding the racial integration of teaching staff at public schools in South Africa.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction and purpose

As indicated in **Chapter One**, this study was aimed at determining whether the way in which the governing bodies of purposefully selected schools understand/interpret the latest legislation on the appointment and promotion of teachers has an impact on their teacher selection criteria and procedures. More specifically, I wanted to determine whether or not the governing bodies of historically white schools interpreted and implemented legislation differently from their counterparts in black schools.

I indicated that I would be focusing specifically on the amendments to the Employment of Educators Act (Act 76 of 1998) promulgated in the Education Laws Amendment Act (Act 24 of 2005). In this regard I wished to investigate two aspects, namely research participants' understanding/interpretation of the promulgated amendments, and the impact that these had on their respective teacher selection processes. In order to determine the former I used their interpretation to the Education Laws Amendment Bill of 2005, the precursor to the Act, as my interpretive frame of reference as regards research participants' subjective feelings about the amendments. In order to determine the latter I considered the racial profiles of the schools in my sample since I assumed that this would give me an indication of the impact that the respective SGBs interpretation of the Act affects their implementation, i.e. their selection procedures and criteria.

In **Chapter Two** I reiterated, in somewhat more detail, my ontological and epistemological stance. I also described the strategies I used to identify research participants and the instruments I used to collect and analyse data. In this regard I described the steps I took to ensure that my inquiry was ethical, scientific and relevant. In doing so I managed to lay an audit trail of my research process.

In **Chapter Three** I discussed the Education Laws Amendment Act (Act 24 of 2005, published in Government Gazette 28426 of 26 January 2006), relating it to a range of Acts within the context of which it was promulgated. These include the Constitution, which forms the basis for all legislation, as well as the National Education Policy Act (Act 27 of 1996), the South African Schools Act (Act 84 of 1996), the Labour Legislation Act (Act 66 of 1995), the Employment Equity Act (Act 55 of 1998), and the Employment of Educators' Act (Act 76 of 1998). Informed by my awareness of debates surrounding the intent of the amendments to the Employment of Educators Act, I integrated a range of responses to the initial Bill into my discussion of the Education Laws Amendment Act.

In **Chapter Four** I focused on what I regard as the key intent of the Education Laws Amendment Act, namely to promote equity in the selection and appointment of teachers to public schools in South Africa. In exploring equity as a concept I took note of the way in which other countries had used racial integration as an equity tool. To this purpose I reviewed various documents and literature dealing with equity and racial integration, relating insights gained to stipulations in the Act that SGBs should use race and gender as key criteria in their short-listing of teachers for possible appointment at public schools.

In **Chapter Five**, using insights I gained from my analysis of relevant legislation and my review of literature on governance and racial integration at schools, I

presented the data I collected during the course of my empirical inquiry into selected school governing bodies' understanding and/or interpretation of the relevant sections in the Education Laws Amendment Act of 2005.

In this, the last chapter of my report I attempt to answer my original research questions with reference to the insights emerging from my empirical data, my literature review, and my comparison of legislation on school governance and the employment of educators. Informed by the answers to my research questions I then present my conclusions on selected school governing bodies understanding, interpretation and implementation of the changes to previous legislation on the selection and appointment of teachers. Given that my research findings are strictly contextual they cannot be generalized to other schools in the country or even to other schools in Tshwane. They can, however, serve as indications of the way in which the problem of the racial integration of the teaching staff of public schools in South Africa could be managed in future.

6.2 Research problem and purpose

In Chapter One I indicated that the problem I was considering in this study was the lack of transformation in the racial composition of teaching staff at public schools. I indicated that this state of affairs was particularly problematic given that the learner population of historically white schools was now largely multi-racial while the staff composition had remained largely white. The vehement response of white people in general to the changes proposed to the selection and appointment of teachers in the Education Laws Amendment Bill of 2005 suggested that the lack of transformation was an indication of white resistance to racial integration. However, since black schools had transformed even less – learner as well as staff populations remain primarily black – I decided to also investigate the possible reasons for the lack of change. In this regard my working

hypothesis was that the lack of transformation could be the result of different interpretations of the Act and that these differences could be rooted in past governance traditions, current government expectations, operational (school) contexts, ethnic or school culture, and the capacity of governing bodies to govern their schools.

Directed by my working hypothesis I decided to determine whether or not the governing bodies of purposefully selected white and black schools in the Tshwane North school district did in fact interpret the amendments to the Employment of Educators Act (Act 76 of 1998), promulgated in the Education Laws Amendment Act (Act 24 of 2005), differently, and if so, to what these differences could really be ascribed. I also wanted to determine whether the way in which they understood and interpreted the amendments affected their implementation thereof. Specifically, I wanted to determine whether the implementation of these amendments in the selection and recommendation of teachers for appointment had as yet had any effect on the staff composition of selected schools.

6.3 Research questions and objectives

Informed by my research purpose, I formulated my research questions as follows:

- Are there any differences in the way the governing bodies of selected formerly white schools and black schools respectively interpret the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005), and if so, to what could these be ascribed?

- Does the way in which the governing bodies of selected formerly white and black schools respectively interpret legislation influence the criteria and procedures they use in the selection and recommendation of educators for appointment, and if so, how?
- Is there any evidence that the amendments promulgated in the Education Laws Amendment Act has led to greater diversity/representivity in the staff composition of formerly white and black school in my sample, and what does such evidence indicate about the alignment between government expectations and the capacity of school governing bodies?

My research objectives, derived from my research questions were to:

- Determine whether or not there are differences in the way that the governing bodies of the schools in my sample interpret the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act (Act 24 of 2005), and if so, to identify the reasons for these differences.
- Determine whether or not the way in which the governing bodies in my sample interpret legislation influences the criteria and procedures they use in the selection and recommendation of educators for appointment and, if so, to describe the way this happens.

- Determine whether or not the amendments promulgated in the Education Laws Amendment Act have led to greater diversity/representivity in the staff composition of the schools in my sample and to infer from this the alignment or not between government expectations and the governance capacity of these governing bodies.

6.4 Research findings

Even though my research purpose was to determine whether or not the understanding/interpretation and implementation of the governing bodies of selected former HoA and DET schools in the Tshwane North school district differed as regards the amendments effected to the Employment of Educators Act of 1998 by the Education Laws Amendment Act of 2005, I did not specifically interrogate participating SGB members on the amendments. Rather, I asked them about the way the amendments were reflected in their selection procedures and criteria. By questioning participants about their implementation of the amendments and their views on these I believed that I would be generating data from which I could make the kind of inferences required to answer my original research questions. In short, by analysing practice, I assumed, I would be able to infer understanding/interpretation, an approach commonly referred to as deductive logic. Another reason for not specifically interrogating them on the finer points of the law was my assumption that such an approach would result in the kind of defensive and/or aggressive debates that followed the release of the Education Laws Amendment Bill of 2005, which was the precursor to the Act.

To prevent my inferences from being influenced by my own bias, I specifically asked participants what effect they thought language, race and gender had on the final shortlists compiled by their respective SGBs. With the exception of language, these are the equity areas emphasized in the Education Laws Amendment Act of 2005. I included language as a criterion because of a seemingly common perception, strengthened by a number of court cases, that formerly white, Afrikaans-medium schools are using language as a tool to stop racial integration in its tracks.

In questioning participants on their implementation and interpretation of the amendments promulgated in the Education Laws Amendment Act of 2005, I created opportunities for them to express not only their understanding of but also their subjective feelings about the changes and the impact these would have on their schools. In doing so, I adhered to the principles on which my theoretical frame of reference rests, namely that experience is subjective and that, by uncovering research participants' subjective experiences of phenomena I would gain a more holistic understanding of their behaviour.

As anticipated, participants' responses provided me with a deeper insight into their interpretation of the Education Laws Amendment Act of 2005 as well as into the reasons for their interpretation. In addition I gained valuable insights into the ways the SGBs of these schools operated in the ordinary run of things. This enabled me to draw a number of conclusions on the effectiveness of these SGBs.

In this chapter I discuss, with reference to relevant literature where applicable, my research findings in terms of my initial research questions rather than in terms of the four categories I used to discuss the data in Chapter Five.

6.4.1 Interpretation of the Education Laws Amendment Act (Act 24 of 2005)

As indicated in Chapter 5 (see 5.7.4), I used participants' responses to my questions on their selection criteria and procedures as well as questions on their perception of the real reasons for the changes promulgated in the Education Laws Amendment Act of 2005 to determine possible differences in the understanding, interpretation and implementation of the SGBs of historically white and black schools in my sample.

Indications from data (see Chapter 5) are that the SGBs represented in my sample have a relatively sound understanding of the amendments promulgated in the Education Laws Amendment Act of 2005 to select and recommend teachers for appointment in ways that do not undermine the law. Most of the respondents specifically referred to the fact that they now had to follow prescribed selection and interview procedures; that they had to submit three names instead of one to the HoD; that, by giving the HoD a choice, the number one candidate preferred by the SGB might not be appointed; that the HoD, in making his/her decision, would focus specifically on the extent to which the SGB in question had considered race and gender; that, if the SGB was not happy with the decision of the HoD, it could lodge an appeal.

I did, however, also point out (see Chapter 5) that participant responses to these two questions suggest that the SGBs of historically white schools interpreted the promulgation of the amendments as an attempt to impose racial integration on their schools regardless of the cost to quality. Their black counterparts interpreted the promulgation of these amendments as an opportunity for the State to eliminate past malpractice, thereby ensuring that all schools would in future have an equal opportunity of attracting good teachers.

In discussing the possible reasons for this difference in interpretation I mooted that white participants' negativity could be perhaps be ascribed to stereotypes of black teachers as incompetent. Informed by this stereotype the SGB members of formerly white schools in my sample might fear that the standard of teaching in their schools would drop if they were to appoint black people to their schools. Allied to this, are their perceptions that black people tend not to be punctual and that they cannot speak Afrikaans well enough to use it in their teaching. Informed by these perceptions, white participants indicated that this could negatively affect their school culture and lead to the elimination of Afrikaans as a language of learning and teaching. As regards the reason for black participants' mostly positive feelings about the amendments I suggested that this may be due to the fact that they have nothing to lose. In the one school whose participating SGB members were not as positive as their colleagues, the fear of cultural loss (their traditional African culture) simulates the fears of their white counterparts.

'For example, when coming to the issue of culture, there are certain ways that we use cultural aspects to deal with certain situations within our culture as blacks. We have a way of addressing issues like learners going to initiation schools on the mountain. It will therefore be important for someone to have that cultural awareness and acceptance.'

(Principal: School E)

That this fear is not unique to Africans is suggested by Gultig and Butler (1999) who claims that people who are 'culturally bound' and not open to new ideas to their culture might, if forced to change their culture, feel helpless and consequently resist changes required by the 'system' in order to maintain control over their own destiny'. Attempts to enforce legislation that prioritizes race are often met with resistance (Phillips and Wagner, 2003). It could well be that it is

this emphasis, an emphasis that raises fear of cultural loss, that motivates the governing bodies of some schools to subtly undermine legislative requirements. As regards school culture, researchers (Deal and Peterson, 1993; (Gultig and Butler: 1999; Phillips & Wagner, 2003) agree that it plays an important role not only in the way people relate to each other but also in the quality of school education.

School culture is a reflection of the inner reality of a school, the 'beliefs, attitudes, behaviours, and unique relationships characterizing a particular school community (Gultig and Butler: 1999). All the rituals and traditions of the school, the way in which information is shared, the way teaching and learning take place, the way in which people relate to one another and the way in which the school operates and is managed contribute to the culture of the schools. By implication, it influences the way in which those associated with the school view themselves - as members, or as outsiders; as people whose efforts are appreciated or not (Phillips: 2003). It follows that any attempt to change school culture might be perceived as a threat.

Both the positive and the negative responses to legislative changes mentioned could be said to have historical roots - the result of the political history of each group on the one hand and past governance traditions and/or expectations on the other. In the past, Afrikaans and English, being the official languages of the State, were the only languages explicitly promoted as languages of learning and teaching. Given the imposition of English on Dutch children during British colonialism, and the political and socio-economic aftermath of the Anglo-Boer War on Afrikaners, white Afrikaner's antagonism towards the imposition of English as language of learning is understandable. On the other hand, the oppression of black South Africans by the National (Afrikaner) party during the apartheid years and the then imposition of two languages of learning (Afrikaans

and English) on black learners led to the Soweto uprising in 1976 and contributed to the eventual victory of the ANC party in 1994. It follows that black people would associate English with liberation and empowerment and Afrikaans with slavery and oppression. It is against this backdrop that the way in which SGBs of the historically white and black schools in my sample use their language criteria can be better understood.

As regards white fears that the standard of teaching might drop if they were to appoint black teachers to their schools, indications are that this could be ascribed, as black participants indicated, to the poor academic performance of township schools. Participating white principals indicated, moreover, that black applicants lacked knowledge of inclusive education (School A), had a disregard for punctuality (School B), and that, even when they have the same qualifications as their white counterparts, they are unable to maintain the 'high' standards of white schools (School B principal relating the failure of a black PGCE applicant). On the positive side, there are indications that these entrenched stereotypes might be changing or, at least, that principals realize that they should change.

'There are a lot of good black teachers that would like to come into a more organised environment...If you are living in the past, you have to wake up'.

(Principal of School A)

'We have to prepare in a predominantly white school, our learners for a South Africa of today. It is our responsibility to make sure that our learners come to contact with as many South African cultures as possible'.

(Principal of School B)

It would seem, therefore, that the importance of 'culture' should not be ignored in attempts to change the culture of public schools, especially if race is a factor. A healthy school culture has a positive effect on staff relationships, teacher-learner

relationships, discipline, assessment, and extra-mural activities. However, teachers from minority groups might feel intimidated, fearful and scared of doing or saying something that could be interpreted as offensive or wrong by the majority group (McCarthy and Crichlow, 1993). In this sense the appointment of a small number of teachers from other races at a school may not only have a negative effect on the school culture but could, instead of promoting transformation, lead to fear, distrust and insecurity. The existence of a racial (or gender) mix of teachers in an institution can therefore not simply be taken as proof of desired change in institutions with very different histories, cultures, and communities (Fullan, 1993).

6.4.2 Implementation of the Education Laws Amendment Act (Act 24 of 2005)

As indicated in Chapter Five, I focused on the criteria and procedures that the respective SGBs in my sample use for short-listing purposes as a means of determining their commitment to the equity intent of the Education Laws Amendment Act of 2005. I also indicated that, while the SGBs represented by the research participants seemingly go to great lengths to ensure that they do not openly break the law, their subjective feelings about the real reason for the amendments might well affect their selection procedures. For example:

- The use of bilingual (Afrikaans and English) proficiency as a criterion for appointment at School A seems to inhibit the appointment of teachers from other races. This is clear from respondents' admission that, even on the one occasion that all the applicants were black, none of them were short listed because they were not 'bilingual'. While claiming that they make every effort to appoint people who speak the mother tongue of Foundation Phase teachers, this has not prevented them from assimilating the few non-Afrikaans speaking Foundation Phase learners into existing Afrikaans-medium classes.

- Black participants mooted that the appointment of staff members whose home languages are representative of the South African population is evidence that they do not use language as an exclusionary measure. They do not seem to realize that their insistence on English proficiency, regardless of the home languages of their teaching staff, could be as exclusionary as the ‘bilingual’ criterion used by the white schools in my sample.
- A lack of ‘open-mindedness’ and entrenched fears that the promulgated amendments might negatively impact on existing school culture (see 6.4.1) and, perhaps, on traditional positions of authority are also suggested in participants’ responses to my question on gender equity. As indicated in Chapter 5, while everybody agreed that there was a need to restore the imbalance between female and male teachers on the one hand and males and females in management positions on the other, comments about the roles that male and female teachers play in maintaining discipline, acting as role models, facilitating learning, et cetera reveal deeply entrenched stereotypes about societal roles in general and might well influence the final short lists of the SGBs in my sample.
- The unwillingness and/or inability of any of the participants to accept responsibility for the lack of transformation in the racial composition of their schools could perhaps also be ascribed to historical forms of governance. In the past the State not only took all the governance decisions but also accepted the responsibility for initiating change. The fact that all the respondents, even those who were negative about the changes, suggested that the promotion of racial integration in the staff composition was a government function, not an SGB one might well be indicative of SGB members unwillingness to exchange old habits for new ones. Given South Africa’s history of inequality some governing bodies might find this more difficult than others. This is especially true in the case of

school governing bodies where members' misunderstanding of school governance and what it entails (Sayed, 2002).

6.4.3 Staff composition

As indicated in the description of the current learner and staff composition of the schools included in my sample (see Chapter 5), the promulgation of the Education Laws Amendment Act does not seem to have had any influence as yet. The only exception is School C, which seems to be moving in the direction of becoming a truly multi-racial school.

Some of the reasons for this lack of change have already been discussed in this chapter (see 6.4.1 and 6.4.2) as well as in Chapter 5. Another reason, not yet mentioned, but already suggested in some of the attitudes towards people of other races revealed in research participants' responses, is that the law in question has not been in place long enough to have had a marked effect. Naidoo (1997: 11) argues, for example, that racial integration is a social *process* that requires a series of activities and events specifically aimed at the promotion of racial tolerance and respect for diversity. What counts in integration of this kind is not physical contact but what happens when this contact occurs, that is, how people interact and relate to one another (Soudien, 2004: 95). By implication, such activities/events would have to facilitate the interaction of people from different races in settings where the equal status, equality and essential worth of all, irrespective of race, gender, language or culture, are acknowledged. Once this happens, the realization that everybody is entitled to equal opportunities should follow.

6.4.4 State expectations and SGB capacity

With a view to determining whether or not the school governing bodies in my sample live up to State expectations, I considered participants' responses to my questions on their years of experience as SGB members, their perceptions of the reasons for their nomination/election to the SGB, as well as typical and extraordinary SGB agendas. In doing so, I came to the conclusion that, in some instances they live up to State expectations while in others they do not.

- As indicated in Chapter Five, the SGBs represented in my sample are relatively effective as regards the *basic* governance functions allocated to school governing bodies in the Schools Act of 1996. It would seem, thought, as if the participating SGBs of formerly white schools might be somewhat more effective than their black counterparts. School A discussed issues that, according to the Schools Act, are 'additional' and only allocated to those SGBs who are deemed to be performing their governance functions effectively. Schools A and B employ educators additional to those provided by the State and are able to pay for them. School B is able to appoint and pay people from outside to coach sport and is willing and able to take in teachers who have the most basic qualifications only, paying for them to study further.
- Indications are that the SGBs represented by the black respondents in my study are not, as literature would seem to suggest, necessarily less able or effective than their white counterparts. In School E the governing body also budgets for teacher development and ensures that this money is properly spent. There is also ample evidence of principals' knowledge of the law and of their ability to use this knowledge to ensure that the SGBs of their schools are trained in legal matters. In this sense, I believe the schools in my sample are exceeding the State's expectations.

- Indications are that, while the cause of tension might be different, relationships between the principals and those who serve on the SGBs of formerly white as well as black schools in my sample are equally strained at times. The agendas of the SGBs of black schools in my sample indicate possible SGB interference in the daily running of the school and the disciplining of teachers. This is also suggested in the comments of the two black principals. Principals of formerly white schools in my sample indicated that they, too, were sometimes frustrated with their SGBs. In the case of School B the problem seems to be with the ‘highly professional’ people who serve on the SGB and therefore are not inclined to ‘waste their time’ on training.
- Tensions not mentioned by participating principals but suggested by other respondents are created by the role that principals believe they should play on the SGB. Most of the principals in my sample seem to exceed their role as management and departmental representative in that they seem to ‘dictate’ what happens at SGB meetings as well as how people should go about performing their SGB functions, especially as regards teacher selection. Respondents indicated that principals ‘brief’ SGB members, prepare interview questions, decide who should ask which questions during interviews, tell SGB members what to focus on and what to ignore. Because their knowledge of the law is greater than that of the ordinary SGB member they get away with it. In this sense the State’s expectations of giving parents a greater say in the education of their children does not seem to have been met by the majority of schools in my sample.

- As regards the State's expectations that the teaching staff of public schools should be racially integrated the SGBS in my sample, with the exception of School C, do not live up to expectations. Indications from white as well as black SGB members in my sample are that schools are reluctant to change because it would require the sacrifice of something they hold dear, be it language, school culture, or traditional rites and rituals (see 6.4.1, 6.4.2 & 6.4.3). As suggested in Chapter Five, the evidence of transformation in this regard at School C might well be ascribed to its not having the financial capacity to appoint SGB teachers in addition to the teachers provided by the State. If this is a factor in the transformation of teaching staff at public schools the staff composition of so-called 'rich' schools is unlikely to change in the near future.
- Whether or not the schools in my sample really understand the intent of the amendments to teacher selection and appointment promulgated in the Education Laws Amendment Act of 2005 is difficult to say. While I suggested in Chapter Five that black respondents seemed to understand the intent better than their white counterparts the actions taken by white schools in this regard could suggest that this might not be the case. While white schools do not willingly link current equity/redress initiatives to the damage done to the education system by apartheid, they are consciously aware of what is required to restore racial imbalances and, if the claims of those who participated in my research are to be believed, they are trying, in their own way, to correct this in the criteria and procedures they use in their short-listing processes.

6.5 Conclusions

My research findings negate existing stereotypes which suggest that white SGBs are racist by definition since I have found that the lack of transformation cannot be ascribed to a resistance to racial integration. Race is not the issue here; rather, the findings indicate strong attachments to a specific school culture, language or ethnic traditions that could be influencing the final decision on short listing taken by the SGBs represented in my study. The concept of school culture and a need to fit into the school is more important than the principles of equity and representivity on which the legislation is based,

Other findings, also, do not indicate that the SGBs represented in my study misinterpret the Education Laws Amendment Act or that they are incapable of implementing the Act as expected. All those who participated in my study indicated that they knew what the changes were and that their selection criteria and procedures were in line with government requirements.

While the procedures and criteria that the SGBs represented in my sample were similar, my research findings indicate that different stakeholders understand and interpret legislation on teacher appointment differently because of their own experience, training, academic qualification and socio-historical factors. These differences, as mooted in my working hypothesis, could be ascribed to differences in the political and educational histories of formerly white and black schools in my sample as well as of the SGB members participating in my study. The reasons to which these differences could be ascribed in terms of my findings are rarely if ever considered. When they are considered, they are usually regarded as outdated and due for removal. I am saying they are an intrinsic part of the multicultural South African society and should be taken into consideration when changes to legislation are envisaged.

Given that, notwithstanding these differences and their causes, I found no evidence that either black or white SGBs explicitly try to undermine State attempts to transform the racial image of public schools in South Africa. I therefore recommend that, since stereotypes are not cultural values but the result of conditioning, training for the implementation of law should focus not only on an understanding of the law but also on reconditioning those who have to implement it.

6.6 Recommendations for the way forward

Based on my research findings I would therefore recommend that further research be done on how to address the specific school cultures, language of communication and the ethnic traditions identified as barriers for promoting equity and representivity in the different public schools. Given that transformation is a social process and that stereotypes are key obstacles to transformation, I believe that these stereotypes can be changed by means of getting people to interact.

Racial integration in education is inevitable given the multi-racial nature of South African society and can be achieved by social integration (Jansen, 2004). Given my research findings that resistance to racial integration in my sample of schools have historical and cultural roots, and from insights I gained from literature in this regard I would recommend that:

- Those who write legislation on education receive training in cultural sensitivity. This will ensure that legislation for schools reflect an understanding of the impact that ethnic and/or school culture has on the way school communities respond to what they perceive as State-imposed legislation. History

has shown that, without such sensitivity, implementation seldom matches expectation. Success depends on the extent to which those at the receiving end – the implementers of legislation – experience ‘impositions’ as genuine attempts to restore equity rather than as vindictive redress measures (Gilmour, 2001)

- Changes to education legislation that have the promotion of employment equity as purpose should be preceded or supported by interventions that
 - (a) create opportunities for educators from different racial, language and gender groupings to interact with one another on an equal social and/or professional basis and
 - (b) specifically address deeply entrenched stereotypes of school culture, language of communication and ethnic traditions in the workplace.

By implication such interventions would have to acknowledge the legitimacy of different cultural heritages as worthy and incorporate multi-cultural information, resources, rituals and ways of being into the equation. According to Gay (2000:131) and Lipman (1995:202), culturally responsive interventions inevitably promote racial integration in the staff composition of schools because it shows a respect for the cultures and experiences of various groups. This, in turn, eventually convinces teachers from all groups that making the requisite sacrifices would be worthwhile and they then do so voluntarily.

1.1 Recommendations for further research

Given the contextual nature of my study I cannot make any generalizations regarding the understanding, interpretation and implementation of the Education Laws Amendment Act (Act 24 of 2005) by the South African SGBs. I

acknowledged this as a limitation in my study. I would therefore like to recommend that future researchers replicate my study in other contexts, focusing on how stereotypes of school culture, language of communication and ethnic traditions in the SGBs of formerly white and black schools affect the promotion of equity and representivity in schools. In addition, to the consideration of the above stereotypes, researchers should differentiate between issues that exist in a specific context and those that exist in a national context.

Given the strong influence of these stereotypes on decisions that the SGBs in my sample made regarding short listing I would recommend that future researchers investigate the extent to which these inhibit transformation and/or the extent to which culturally responsive interventions could be used to facilitate transformation with specific reference to the racial integration of teaching staff at public schools. Should these researchers reach the same conclusions these might be indicative of a trend/pattern, and generalization might be possible.

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