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**FACTORS INFLUENCING THE REDEPLOYMENT OF PUBLIC SECONDARY  
SCHOOL EDUCATORS IN THE NORTHERN PROVINCE**

By

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**DECLARATION**

I declare that this research report that I am submitting for the Master's degree is my own work. I have acknowledged information that I got from other sources. I never submitted this at any higher learning institution for any purpose.

NONG MV

OCTOBER 2004

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SUMMARY

The purpose of this research is to investigate what factors influenced the rationalisation and redeployment of public secondary school in the Northern Province. The process carried with it a many implementation problems. Stakeholders interpreted the procedures differently

Although there were collective agreements concluded in the ELRC there were problems in the implementation as the stakeholders had different objectives. Though the department of education indicated that they wanted to achieve equitable redistribution of resources, including educators, the reality is that they wanted to save money. The unions agreed to redeployment as a means to correct the imbalances of the past and to secure educators jobs.

The main factors which influenced the process of redeployment are the need to redistribute educators equitably and the department's desire to save money.

KEY WORDS

REDEPLOYMENT

RATIONALISATION

PUBLIC SCHOOLS

EDUCATOR

EMPLOYER

EMPLOYEE

RESOLUTION

CONTRACTS

LABOUR RELATIONS

FUNDAMENTAL LABOUR RIGHTS

## CHAPTER 1

### 1. ORIENTATION

#### 1.1. INTRODUCTION

Before the dawn of democracy in 1994, South Africa was a divided country in terms of race and ethnic groups. This division was also experienced in schools as schools were catering for specific races or ethnic groups only. Because of this division only some schools were favourably catered for; hence inequity resulted as part of the apartheid policy

The inequity implies that there was an imbalance of resources in schools, with human resources included. For instance in most of the former black schools, the learner: educator ratio was less favourable than in most of the former white schools. In former white schools each educator had less than 35 learners in his/her classroom whereas in the former black schools an educator had more than 40 learners in his/her classroom. Those former white schools had enough resources which were lacking in former black schools.

With the dawn of democracy in the Republic of South Africa, unfair discrimination on the grounds of race etc. was banned. This also created inequity in post provisioning as some schools became overpopulated without new posts being created, on one hand, and on the other, some schools were left with low numbers of learners with high numbers of teachers. Due to a lack of resources in the former black schools some learners left those schools to seek admission in those well-resourced schools. This implies that in some schools teachers are overloaded with work whereas in others they have less to do, which indicates that there is a need to redress the imbalances



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resulting from the past order to pave the way for a high quality of education for all learners, which is envisaged in the preamble to the South African Schools Act, 1996 (Act 84 of 1996), which states that:

"...this country requires a new national system for schools which will redress past injustices in education provisioning, provide an education of progressively high quality for all learners and in so doing lay a strong foundation for the development of all our people's talents and capabilities..."

One of the requirements in trying to achieve these objectives is that a system whereby educators are redistributed in such a manner that no classroom in the province is left without an educator, needs to be designed. This system must also try to equalise the learner: educator ratio in all schools.

The Education Labour Relations Council (ELRC) is a bargaining council which was established in terms of section 37(3)(b) of the Labour Relations Act, 1995 (Act No 66 of 1995). This council tried to find strategies to rectify the imbalances of the past that prevail in schools, so as to have equity as far as post provisioning in schools is concerned. One alternative that the council came up with, is right sizing and redeployment of educators who are declared in excess. The agreement on this strategy was included in Resolution No 3 of 1996 of the Education Labour Relations Council (ELRC 1996). This Resolution is an agreement on three-year conditions of service adjustment package for educators, for the financial years 1996/97 to 1998/99. Procedures for the implementation of this resolution were also published in the procedure manual on 27 June 1996.

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Though right sizing and redeployment of educators and implementation procedures were agreed upon by the ELRC in resolution No 3 of 1996, the process never started until this resolution was withdrawn due to changed operational requirements.

Item 1 of Regulation No. R. 594, contained in the Educators' Employment Act, 1994 (Proclamation No 138 of 1994), states:

"... the rationalisation of provincial departments of education, referred to as right-sizing and provided for in Resolution No 3 of 1996 and other related agreements of the Labour Relations Council, has been withdrawn due to changed operational requirements caused by the Constitution and amendments to the Act and South African Schools Act, 1996 (Act No. 84 of 1996)..."

Because of this withdrawal, the parties to the ELRC had to renegotiate new procedures for rationalisation and redeployment of educators. These procedures are contained in Annexure A of the Resolution No. 6 of 1998 of the Education Labour Relations Council (ELRC) 1998).

The following paragraph will describe the demarcation of this dissertation.

### **1.2. DEMARCATION OF STUDY**

This dissertation will focus on the right sizing and redeployment of public secondary school educators in the Northern Province<sup>1</sup>. The researcher targets the Northern Province because it consists of the highest number of the

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<sup>1</sup> The province was called Northern Province. It is now called Limpopo Province.

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former departments of education. The provisioning educators in those former departments also caused inequity as each of them had a different staff-provisioning model.

At the same time there were 22 colleges of education in this province. Those colleges were training most educators who followed the "softer" subjects in general stream subjects. Most of them did not specialise in any field of study. Secondary schools are chosen because the investigator believes that it is where most of the problems exist. There are many educators in the secondary schools qualified to teach in the primary schools rather than in the secondary schools. The researcher will try to find out whether the issues mentioned above have an impact on imbalances regarding educator post provisioning and whether they have an influence on the rationalisation and redeployment of educators.

Though the main focus will be on secondary school educators, it does not mean that primary educators will be totally ignored because in some cases teachers from primary schools may be redeployed to secondary schools while others from secondary schools are absorbed in the primary schools due to their respective qualifications.

### **1.3. PROBLEM STATEMENT**

Before 1994 there was inequity of resources in the different departments of education which existed in the Northern Province. This inequity created problems for the democratic government, and particularly the Northern Province Department of Education. Some schools had enough resources whereas others lacked them.

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As the provincial education department has a duty to provide education in all those schools it had to correct the imbalances in educator provisioning through redeployment.

Due to the financial constraints that exist in education the allocation of funds for post provisioning requires a fine balance between affordability and desirability.

'Funds that are allocated for the creation of educator posts need to be utilised optimally and the creation and distribution of these posts, therefore, need to be fair and in line with the funds that have been allocated for this purpose ' (ELRC, 1998: 1).

The above version of the ELRC calls for the need to answer the following questions:

### **1.4. RESEARCH QUESTIONS**

1.4.1. Which factors influenced the rationalisation and redeployment of public secondary school educators in the Northern Province?

1.4.1.1. Why should educators be redeployed?

1.4.1.2. What criteria are used to determine who the redeployable educators are?

1.4.1.3. Is redeployment the best alternative for bringing about equity in educator post provisioning?

1.4.1.4. Did the role players adhere to the prescribed procedures?

### **1.5. WORKING ASSUMPTION**

1.5.1. If we know the opinions of the stakeholders we can infer the factors which influenced the redeployment of

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the public secondary school educators in the Northern Province.

1.5.2. There are problems in the process of rationalisation and redeployment of educators.

### **1.6. AIMS AND OBJECTIVES OF THE RESEARCH**

The employer and employee organisations have concluded a number of agreements concerning educator redeployment. Procedures for the process were also set.

In this dissertation the main aims of the researcher are:

1.6.1. to investigate what factors which influenced the rationalisation and redeployment of public secondary school educators in the Northern Province.

1.6.2. to investigate opinions of different stakeholders (excess educators, principals, circuit managers, district managers and head office managers).

### **1.7. RESEARCH METHODS**

The following research methods will be use to collect data that may help to answer the research questions above.

#### **1.7.1. Literature study**

All available documents such as reports, magazines, journals, newspapers, letters, laws, resolutions and all other written material related to the topic will be used. Documents such as those containing statistics of educators and learners at government education institutions will also be consulted. From the documents the researcher will investigate how much has been written about educator redeployment. The procedures for the redeployment process and whether the stakeholders did

follow them or no will be deducted from documents. Some of the factors influencing redeployment may be inferred from the literature review.

### **1.7.2. Observation**

Miller and Brewer (2003:213) state: "Observation is a fundamental part of social life and is critical to many forms of social interaction."

Observation is a method that forms part of the research process. As one of the stakeholders at the implementation level the researcher will try to observe all the steps throughout the rationalisation and redeployment process. This will help the researcher to obtain some information from the other stakeholders. This will include the behaviour of the stakeholders as well as the interpretation of the resolutions and the legislations in regard to the rationalisation and redeployment process. Information will also be deduced from what they are saying or what they are doing. The research will try to avoid the reactive effect of the stakeholders by applying an unobtrusive observation. This observation is covert, as the respondents are not aware that they are being observed.

### **1.7.3. Questionnaire**

This will help to reach the greatest number of potential respondents. The respondents will be free to give their feelings when completing the questionnaire. They may be willing to disclose personal or embarrassing information when completing an anonymous questionnaire.

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Miller and Brewer (2003:255) state that one of the disadvantages of a questionnaire is that some respondents may not always be honest in their answer or even capable of answering some questions.

This research method will therefore be used together with literature study and observation mentioned above.

### **1.8. CLARIFICATION OF CONCEPTS**

The following terms will have the following meanings in this research:

- 1.8.1. Educator - In terms of the Employment of Educators Act, 1998 (Act No 76 of 1998) an educator is any person who teaches, educates or trains other persons or who provides professional educational services at any public educational institution and whose appointment and service conditions are regulated by this Act. An educator who is employed in a post which has become in excess of the establishment of the education institution as a result of a post reduction on such establishment is declared in excess and is therefore an excess educator.
- 1.8.2. Public school - public schools as defined in the South African Schools Act, 1996 (Act No. 84 of 1996), as amended.
- 1.8.3. Rationalisation of educator posts - In case of a change in the number of posts created in a department or allocated to a school, the position of educators affected by such change must be dealt with in terms of the Labour Relations Act, 1995 (Act No 66 of 1995) and Employment of Educators Act (Act 76 of 1998). The Minister may also determine a code of good practice which must be taken into account in dealing with

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educators affected by a change in the post establishment, as is embodied in Regulation No 593 of the schedule to the Educator's Employment Act, 1994 (Proclamation No 138 of 1994).

- 1.8.4. Redeployment - according to the Concise Oxford Dictionary (1990: 1005) means sending employees to a new place of work such as a new institution.
- 1.8.5. Operational requirements - Requirements based on the economic, technological, structural or similar needs of an employer.
- 1.8.6. Employer - In terms of the Employment of Educators Act, 1998 (Act No 76 of 1998) employer means the State (the provincial education department).

### **1.9. STRUCTURE OF RESEARCH PROGRAMME**

In chapter 1, the background of the present situation in our public schools was given. It was also indicated that the research will focus on the redeployment of secondary public school educators in the Northern Province. The problem that is encountered was highlighted too. An indication of the research methods that are going to be used is also given.

Lastly, some of the concepts that are going to be used throughout the research are clarified.

In chapter 2 labour relations in education are discussed. Chapter 3 describes the intended rationalisation and redeployment process.

Chapter 4 deals with the empirical data collection and interpretation.

In chapter 5 an overview of the research is given, findings are brought to the fore, conclusions are drawn and recommendations given.



#### 1.10. CONCLUSION

Section 195(1)(a) of the Constitution, 1996 (Act No 108 of 1996) provides that "efficient, economic and effective use of resources must be promoted".

Until such time as equity in educator post provisioning is achieved the content of the above provision will never be realised. It is of paramount importance to ensure that measures that will promote efficient, economic and effective use of resources, including human resources in order to achieve equity in education, have to be taken.

Whichever measures are taken in trying to bring about equity in education, the changing role of stakeholders, the implications of the Labour Relations Act and the Bill of Rights, have to be taken into consideration, (Oosthuizen, 1994:111).

## CHAPTER 2

### 2. LABOUR RELATIONS IN EDUCATION

#### 2.1. INTRODUCTION

Before the Education Labour Relations Act, 1993 (Act 146 of 1993) (ELRA) which was repealed by the Labour Relations Act, 1995 (Act 66 of 1995) (LRA) became the law, the relationship of the employer and the employee was mainly regulated by administrative law. This deals with correct procedures, legality of activities and adherence to the principles of natural justice. Though teacher organisations could be consulted on certain matters, the final decision remained the employer's privilege.

The Labour Relations Act (1956) did not apply to educators. Some rights, for example; the right to strike, were withheld from educators.

With the introduction of the Education Labour Relations Act, 1993 (Act 146 of 1993) (ELRA) the nature of the relationship changed completely. This fact is also supported by Basson **et al.** (1998a: 1) who state that the way we think about labour law in South Africa has been completely changed by new pieces of legislation, such as the present LRA and the Constitution Act, 1996 (Act 108 of 1996).

The present Labour Relations Act, 1995 (Act 66 of 1995), deals with fairness in labour relations.

Anderson & Van Wyk, (1997:2) state that this Act is the most dramatic overhaul of labour law since workplace relations were first regulated in 1924. They further state that the LRA

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forms the basis of a new framework for collective bargaining between organised labour and organised employers, and co-operative relationship to promote social justice, economic development, growth and greater productivity.

The industrial court for example, is not a court of law but a court of fairness, and unfair labour practices play a central role, (Joubert & Prinsloo, 1999:19). Thus, for the first time, since the inception of the Education Labour Relations Act, 1993 (Act 146 of 1993) educators have the right to fair labour practices.

In a school situation we have the principal who has two roles to play, namely, that of an employer (as he represents the employer) and that of an employee as an educator. He is always in a work relationship with the other members of the staff. Whether the principal is involved with the other educators in an educator- educator relationship or employer-educator relationship, the contents of the Labour Relations Act must be adhered to.

For instance, in the process of redeployment and right sizing of educators, posts which are in excess must be declared. This is to be done in accordance with the procedures as stated in Resolution 6 of 1998 of ELRC, based on the LRA, Employment of Educators Act and the RSA Constitution. Should the principal unfairly declare particular posts to be in excess, the incumbents of the posts have a right to take any lawful action against the employer, as employees are protected by section 27 of the RSA Constitution Act 1996 (Act 108 of 1996) which prohibits unfair labour practices.

In terms of Resolution 6 of 1998 of the ELRC, should the educator also unfairly refuse to be redeployed, he/she will be

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considered to have resigned from the post. Therefore, throughout the whole process of redeployment and right sizing of educators, both the educator and the employer must try to avoid unfair labour practices.

It is important to talk about labour relations because redeployment of educators deals with the relationships of the employees and the employer. Should all stakeholders follow the procedures as prescribed by the labour relations act and the ELRC collective agreements factors which influenced the rationalisation and redeployment of educators can be determined

In the following paragraph I will discuss contracts as part of labour law.

### **2.2. CONTRACTS**

There are two types of law that regulate employment contracts in education, namely individual labour law and collective labour law.

#### **2.2.1. The individual contract**

The employee enters into a service contract with a specific employer. This forms the basis of a relationship between that particular employee and his/her employer. Individual labour law regulates this relationship (Beckmann **et al.** 2000:159).

The same idea is repeated by Basson **et al.** (1998:1) who state that individual labour law refers to those principles of labour law that regulate individual employment relationships.

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Grogan (1993:1) reiterates the same idea by saying that the individual's contract of employment forms the basis of employment contract.

According to Beckmann **et al.** (2000:15), where a collective relationship does exist, the individual service relationship also continues to exist. However, it does not function in isolation from the collective relationship. For instance, the conditions of service for educators are negotiated in the ELRC and Public Service Commission Bargaining Council (PSCBC). No individual educator can negotiate his/her own conditions of employment.

This is also emphasised by Basson **et al.** (1998:6) who state that collective agreements may impact on the individual relationship, e.g. Redeployment of an individual educator on one hand and on the other, activities that belong to the sphere of the individual relationship may affect the trade union. For instance, an unprocedural declaration of an educator to be in excess of the staff establishment may lead to a grievance; consequently the trade union may put collective pressure on the employer to address the grievance.

### **2.2.2. Collective labour law**

According to Beckmann **et al.** (2000:16), "Collective labour law is based on statutory enactments that regulate collective labour relationships." These relationships involve the relationship between, for example, the Northern Province Department of Education and educators employed by it. This implies that trade unions will negotiate on behalf of their members with the employer in the ELRC or its provincial chamber.

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Basson **et al.** (1998:4) state that collective labour law is a number of legal rules that regulate the collective relationships between:

- employees and their trade unions
- employers and their employers organisations
- employers and/or employers organisation and trade unions
- the government and trade unions
- Government and employers organisations.

Collective labour law is based on section 23 of the Constitution Act 1996 (Act 108 of 1996).

### **2.2.3. Employment categories**

In education there are different categories of employees and employers.

#### **2.2.3.1. Employee categories**

Beckmann **et al.** (2000:136) state that paragraph vii B.1 of the Public Service Regulations (PS Regs.) empowers the Education Human Resource (EHR) managers to appoint employees in the following categories:

- On a permanent or temporary basis, either full time or part-time.
- Where the employment is on temporary basis, the employee may be appointed under a special contract on a casual or a session basis.

They further state that PS Regs 111 J. 3 provides that the Head of Department (HOD) may introduce categories of employment according to the department's main functions and

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objectives, service standards for main objectives and institutional determinants, for instance:

- The organisational structure and approved establishment,
- The number of posts per institution, category and nature of employment,
- The number of employees who may be employed in addition to the approved post establishment.

### **2.2.3.2. Categories of employers**

In terms of section 3(1) (a) of the Employment of Educators Act, 1998 (EEA) (Act 76 of 1998), for all purposes of employment, the Director-General shall be the employer of educators within the Department of Education, in posts on the educator establishment of the said Department.

Section 3(1) (b) provides that in a provincial department of education, the Head of Department (HOD) shall be the employer of educators, in the service of the said department in posts on the establishment of that department for all purposes of employment.

In terms of section 3(2), for the purpose of salary determination, the Minister shall be the employer of all educators. Section 3(3)(a) provides that the Minister shall be the employer of educators for the purpose of creating posts on the establishment of the Department of Education.

For the purpose of creating posts on the educator establishment of the provincial education department, the Member of the Executive Council (MEC) shall be the employer of educators in the service of that department. Section 20(4) of the South African Schools Act, 1996 (Act 84 of 1996) provides

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that a public school shall be the employer of persons in the service of that institution (so called SGB posts).

#### **2.3. LABOUR RELATIONS ACT, 1995 (ACT NO 66 OF 1995)**

The Labour Relations Act, 1995 (Act No 66 of 1995) is accompanied by the following improvements of conditions of service:

- Section 2 of Schedule 7 of the Labour Relations Act, 1995 (Act 66 of 1995) defines and prohibits unfair labour practices. For instance, the principal who declares an educator to be in excess on the basis of being unmarried, race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, or family responsibility or any arbitrary discrimination will be treating that educator unfairly, because of the infringement of fundamental rights.
- Sections 4 and 6 of this Act define the fundamental rights of the employee and employer respectively. Section 4 states that employees have the right to freedom of association while section 6 provides the same right to employers.
- Should it at any stage during the process of redeployment and right sizing be required that a representative trade union embark on any lawful activity such as a legal strike, every member has the right to participate or not to participate. Protection of these rights is provided in section 4(2) (a) of the Act.
- Furthermore, every educator has the right to be elected or appointed to represent his/her trade union to carry out the functions of a trade union



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representative in terms of this Act or any collective agreement, as stipulated in section 4(2) (d). For example trade union representatives may be included in the ELRC to bargain about the procedures for redeployment and rationalisation of educators, or to represent their fellow members in case of disputes.

- No educator can be redeployed, on the basis of being or not being a trade union member, because every person has the right to join or not to join any trade union, as provided by this Act. This is emphasised by section 5(1), which stipulates that no person may discriminate against any employee for exercising any right conferred by this Act.
- Section 9 provides that in cases of disputes regarding labour issues and the Act, education has access to the Labour Court for the first time.
- Section 64 affords educators the right to strike, and provides the employer with the right to lock out. Should a deadlock be reached at any stage during the process of redeployment and rationalisation, educators may go on a legal strike. If all available mechanisms to resolve the dispute have failed, the union may call its members to ballot for a legal strike. The representative trade union may serve a notice to the NEDLAC of its intention to strike. While the educators are embarking on a strike, the Act provides the employer with the right to lock out. At the same time the employer is not obliged to remunerate these educators for the days they were on strike.
- Section 3 of Schedule 1 to this Act provides for an Education Labour Relations Council (ELRC), which is a bargaining council for the education sector.

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- Section 37 creates a bargaining council, which did not exist before in this form. Previously the employer had the right to privilege of decision.

University of Pretoria (unpublished: 3) states that:

“Previously the employers and the employees were both represented in the committee for education structures (CES) and the Research Committee on Education Structures (RECES) which advised the Minister of Education on matters relating inter **alia** to the conditions of service of the educators.”

This implies that educators were not responsible for their own conditions of service because their representation was on an advisory basis.

#### **2.3.1. Objectives of the Labour Relations Act**

The following objectives are stipulated in section 1 of this Act:

- (a) to give effect to section 27 of the Constitution,
- (b) to provide a framework within which employees and trade unions, employers and employers' organisations can collectively bargain to determine terms and conditions of service and other matters of common interest,
- (c) to give effect to the obligations incurred by the Republic as a member state of the Labour Organisation and to promote
  - orderly collective bargaining
  - collective bargaining at a sectoral level
  - employee participation in decision making in the work place
  - effective labour dispute resolution mechanisms.

### **2.3.2. Fundamental labour rights**

Fundamental labour rights of employees are protected in section 4 of the Labour Relations Act, (Act 66 of 1995) whereas those of the employer are protected in section 6 of the same Act. Educators like all other employees and the employer have these rights. The following are those fundamental rights:

#### **2.3.2.1. Fundamental labour rights of educators**

- (a) to join or not to join any employee organisation
- (b) to negotiate collectively with the employer on matters arising out of the normal working relationship of employer and employees
- (c) to conclude collective agreements with the employer
- (d) to defend the interests of employees by taking appropriate lawful action, including the right to strike
- (e) to have access to dispute resolution mechanisms concerning disputes of rights as well as those of interests.
- (f) to be protected against unfair labour practices
- (g) to establish or not to establish any employee organisation.

#### **2.3.2.2. Fundamental labour rights of employers**

- (a) to join or not to join any employer's organisation.
- (b) to negotiate collectively with the employees on matters arising out of the normal working relationship of employer and employees.
- (c) to conclude collective agreements with employees.

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- (d) to defend the interests of employers by taking appropriate legal action, including lockouts.
- (e) to have access to dispute resolution mechanisms concerning disputes of rights and those of interests.
- (f) to be protected against unfair labour practices.
- (g) to establish or not to establish any employer's organisation

### **2.3.3. Other labour rights**

Other labour rights which are also stipulated in the LRA are protection of employees and persons seeking employment (section 5) and protection of the employer's rights (section 7).

#### **2.3.3.1. Protection of employees and persons seeking employment**

In terms of section (5)(1) of the LRA, no person may discriminate against an employee for exercising any right conferred by this Act. Subsection 2 provides that no person may do or may threaten to do any of the following:

- (a) require an employee or a person seeking employment not to be, or not to become a member of a trade union.
- (b) prevent an employee or person seeking employment from exercising any right conferred by the LRA or from participating in any proceeding in terms of this ACT.
- (c) prejudice an employee or person seeking employment because of past, present or future:-
  - trade union membership;
  - forming a trade union or federation of trade unions,
  - participation in lawful activities of a trade union or federation of trade unions,

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- failure or refusal to do something that an employer may unlawfully permit or require an employee to do,
- disclosure of information that the employee is entitled to or require to give to another person,
- exercise of any right conferred by the LRA; or
- participation in any proceedings in terms of this Act.

Subsection 3 provides that no person may advantage or promise to advantage an employee or a person seeking employment in exchange for that person not exercising any right conferred in terms of the LRA, or not participating in any proceedings in terms of this Act. This does not mean that parties may not agree to settle disputes.

Subsection 4 provides that any provision in any contract that directly or indirectly contradicts or limits any provision in any provision of section 4 or 5 is invalid, unless permitted by the LRA.

#### **2.3.3.2. Protection of the employer's rights**

In terms of section (7)(1) of the LRA, no person may discriminate against an employer for exercising any right conferred by this Act. Subsection 2 provides that no person may do or threaten to do any of the following:

- (a) require an employer not to be, or not to become a member of an employer's organisation; or to give up membership of an employer' organisation.
- (b) prevent an employer from exercising any right conferred by the LRA or from participating in any proceeding in terms of this ACT; or
- (c) prejudice an employer because of past, present or future:-

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- membership of an employer's organisation;
- forming an employer's organisation or federation of employer's organisation;
- participating in lawful activities of an employer's organisation or federation of employer's organisation;
- disclosure of information that the employer is lawfully entitled or required to give to another person;
- exercise of any right conferred by the LRA; or
- participation in any proceedings in terms of this Act.

Subsection 3 provides that no person may advantage or promise to advantage an employer in exchange for that employer not exercising any right conferred in terms of the LRA, or not participating in any proceedings in terms of this Act. This does not mean that parties may not agree to settle disputes.

Subsection 4 provides that any provision in any contract that directly or indirectly contradicts or limits any provision in any provision of section 6 or 7 is invalid, unless permitted by the LRA.

#### **2.3.4. The Education Labour Relations Council (ELRC)**

The ELRC is a juristic person established in terms of section 37 of the Labour Relations Act, 1995 (Act No 66 of 1995). It consists of employer and employee parties as follows:

**Table 2.1 Parties to the ELRC** (From ELRC Office:2004))

<b>Employer Parties</b>	<b>Employee Parties</b>
1. The National Education Department	1. South African Democratic Teachers Union (SADTU)
2. The nine provincial Education Departments	2. National Professional Teachers' Organisation of South Africa (NAPTOSA)
	3. Suid Afrikaanse Onderwysersunie (SAOU)
	4. National African Teachers Union (NATU)

The employer and employee parties negotiate conditions of service in a bargaining council.

According to section 27 of the Labour Relations Act, 1995 (Act No 66 of 1995) one or more registered trade unions and one or more registered employers' organisations may establish a bargaining council for a sector. The ELRC was established for the education sector. Its registered scope is the state as the employer party and those employees to whom the Employment of Educators' Act, 1998 (Act No 76 of 1998) applies. A central chamber, which functions on a national level and provincial chambers functioning on a provincial level constitute this council. The roles of the ELRC include:

- (a) maintenance and promotion of peaceful labour relations in education,
- (b) preventing and resolving labour disputes in education,
- (c) providing dispute resolution mechanisms in education,
- (d) collective bargaining and consultation on matters of common interest and issues which affect or may affect the

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relationship between parties to the council or their members,

- (e) considering matters of common interest between parties and preventing and resolving disputes,
- (f) concluding, supervising, enforcing and administering resolutions between the parties or their members,
- (g) complying with its duties and functions in terms of the Labour Relations Act and the Constitution of the Council (Joubert & Prinsloo, 1999:26).

#### **2.3.5. Residual unfair labour practices**

In terms of schedule 7 of the LRA unfair labour practices refer to an act or omission that arises between an employer and an employee, which involves:

- (a) the unfair discrimination, either directly or indirectly against an employee on any arbitrary ground, including, but not limited to race, gender, sex, ethnic, or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, marital status or family responsibility;
- (b) the unfair conduct of the employer in relation to promotion, demotion, or training of an employee or relating to the benefits to an employee;
- (c) unfair suspension of an employee or any other disciplinary action short of dismissal in respect of an employee;
- (d) failure or refusal to reinstate or re-employ a former employee in terms of any agreement.



### **2.3.6. Other unfair labour practices**

Section 188 of the LRA stipulates other unfair labour practices. In terms of section 188(1) of the LRA, a dismissal, which is not automatically unfair, is unfair if the employer fails to prove: -

- (a) that the reason for dismissal is a fair reason which is related to the employee's conduct or incapacity or based on operational requirements,
- (b) the fair procedure for dismissal was followed.

In terms of section 188(2) any person considering whether the dismissal was effected in accordance with a fair procedure must take into consideration any relevant code of good practice issued in terms of the LRA.

### **2.3.7. Code of good practice**

Section (1) of Schedule 8 to the LRA states that this code of good practice is concerned with the main aspects of dismissals for reasons related to conduct and capacity. As this is intentionally general and each case being unique, departures from the norms established by this code may be justified in proper circumstances.

In terms of subsection 3 the basic principle in this code is that employees and employers should respect each other. The emphasis is put on employment justice and efficient operation of business. On one hand employees should be protected from arbitrary action, and on the other employers are entitled to satisfactory conduct and work performance from their employees.

#### **2.3.7.1. Fair reasons for dismissal**

Section 2(1) of schedule 8 to the LRA provides that a dismissal is unfair if it is not substantively fair, even if it complies with any notice period of an employment contract or in legislation governing employment. In terms of this section the facts of the case and appropriateness of dismissal as a penalty determine whether the dismissal is substantively fair. Whether or not the procedure is fair is determined by referring to the guidelines set out in this schedule.

In terms of section 2(2) of schedule 8 to the LRA the grounds that may legitimise the dismissal are the employee's conduct, the employee's capacity and the employer's operational requirements of employer's business.

Subsection 3 stipulates that the LRA provides that if the reason for dismissal amounts to an infringement of the employees and trade union's fundamental rights, or one of the reasons listed in section 187 of the LRA, the dismissal is automatically unfair.

In terms of section 2(4) of the schedule, where the dismissal is not automatically unfair, the reason for dismissal must be related to the conduct of the employee or his/he capacity, or is based on operational requirements of the business.

#### **2.4. GRIEVANCES**

Joubert & Prinsloo (1999:121) as well as Beckmann **et al.** (2000:245) define a grievance as a complaint by an employee or employees, which affects the service relationship, or an alleged misinterpretation or violation of his/her rights as

defined in Chapter H paragraph 2 of the Personnel Administrative Measures (PAM).

#### **2.4.1. Objective of grievance procedures**

In terms of the PAM, Resolution 13 of 1996 of the ELRC, Joubert & Prinsloo (1999:121) and Beckmann **et al.** (2000:245) the objective of a grievance procedure is to endeavour to resolve a complaint at a personal level as quickly and as closely as possible to prevent it from becoming a dispute. If a grievance cannot be resolved through this mechanism, the complainant may register it as a dispute. If it is registered as a dispute, the dispute resolution mechanisms as provided in the Constitution of the ELRC will be used to resolve this dispute.

It must be noted that a grievance and a dispute are not the same. A grievance is at a more personal level, less formal and may be resolved at school level or within the department. If the grievant is not satisfied with the decision of the head he/she may register it as a formal dispute with the Executive Officer of the ELRC.

#### **2.4.2. Dealing with grievances**

##### **2.4.2.1. Oral interview**

In terms of Chapter H 3(a)(1) a sincere attempt should be made to resolve grievances by oral interview by a grievant or grievants and the head of the institution before differences become formalised grievances. During this stage no record may be kept of proceedings so as not to prejudice any of the parties.

**2.4.2.2. Formal written grievances**

Chapter H 3(b)(1) of the PAM provides that, if the endeavour to resolve the grievance fails, the grievant may lodge a written grievance with the head within reasonable period, which does not exceed 90 calendar days after the alleged grievance occurred. The writing must contain:

- full particulars of the grievance
- the signature of the grievant(s)
- and must be filed with the office of the Provincial Education Department (PED) concerned.
- Paragraph (H 5) provides for the parties to agree on the extension of the period referred to in H 3(b)(ii) and (c)(ii) and (iii) of the PAM.
- Paragraph (H 4) provides for a registered trade union to register the grievance with the head or head of the relevant education department as the case may be, on behalf of its members individually or collectively, and represent them during any stage of the grievance procedures.

**2.5. DISPUTES**

**2.5.1. Disputes about unfair labour practices**

2.5.1.1. Any party may refer a dispute about an alleged unfair labour practice in writing to:-

- The ELRC if the parties to the dispute fall within the registered scope of this council; or

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- The Commission for Conciliation Mediation and Arbitration (CCMA) if the ELRC has no jurisdiction in that regard.

2.5.1.2. The party that refers the dispute must satisfy the ELRC or the Commission that a copy of referral has been served on all other parties to the dispute.

2.5.1.3. The ELRC or the Commission must attempt to resolve the dispute through conciliation. If the dispute remains unresolved:-

- any party to the dispute may refer the dispute to the Labour Court for adjudication or may request that the dispute be resolved through arbitration, depending on the nature of its nature.

#### 2.5.2. Dispute resolution

Basson **et al.** (1998:174) state that one of the purposes of the LRA is: -

"to provide simple procedures for the resolution of disputes through statutory conciliation, mediation and arbitration (for which purpose the Commission for Conciliation, Mediation and Arbitration is established), and through independent alternative dispute resolution services accredited for that purpose..."

According to Beckmann **et al.** (2000:273), the LRA is of utmost importance in its overall regulation of labour practices when dealing with dispute resolution.

Basson **et al.** (1998:174) and Beckmann **et al.** (2000:273) state that the LRA came with the new system of resolving disputes, which is fast, efficient, relatively informal, cheap, and accessible to all employees irrespective of whether they

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belong to a trade union or not and with or without legal representation.

Anderson & Van Wyk (1997:54) state that the LRA has replaced the functions of the Industrial Court and the Labour Appeal Court.

### **2.5.2.1. Dispute routes**

Anderson & Van Wyk (1997:54) state that the LRA provides for different routes for dispute resolution. According to these authors, if the disputing parties belong to a bargaining council, the dispute must be referred to that Council for conciliation. This implies that, in the education sector, the dispute will be referred to the ELRC.

Basson **et al.** (1998a: 233) state that the LRA prescribes a range of dispute resolution procedures. They also mention that this Act provides for a number of dispute resolutions bodies, such as:-

- bargaining councils,
- statutory councils,
- the Commission for Conciliation, Mediation and Arbitration,
- the Labour Court, and
- the Labour Appeal Court.

The same idea is repeated by Beckmann et al. (2000:274) who further add accredited agencies, such as private institutions, to the above list of dispute resolution bodies.

#### 2.5.2.2. Dispute resolution mechanisms

Mechanisms for disputes resolutions about alleged unfair labour practices are dealt with in item 3 of schedule 7 of the Labour Relations Act, (Act No 66 of 1995).

In terms of item 3(1) any party may refer a dispute about an alleged unfair labour practice in writing to: -

- a council (Education Labour Relations Council) if the disputing parties fall within the registered scope of the council or
- the Commission for Conciliation, Mediation and Arbitration (CCMA) if no council has jurisdiction. According to item 3(2) the party who refers the dispute must satisfy the council or the commission that it has served a copy of referral on all the other parties to the dispute. Item (3)(3) provides that the council or the commission is compelled to attempt to resolve the dispute through conciliation. For a fair hearing they may seek the assistance of an attorney who knows labour matters. This is in line with the demands of the Constitution of the Republic of South Africa. In terms of the Constitution Act, 1996 (Act No 108 of 1996) every person has the right to be represented or not to be represented.

Item (3)(4)(a) of Schedule 7 of the Labour Relations Act, 1995 (Act No 66 of 1995) provides that if the dispute remains unresolved any party to the dispute may refer it to the Labour Court for adjudication if the dispute deals with acts or omissions, regarding discrimination as set out in item (2)(1)(a) of the schedule.

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Item (3)(4)(b) provides that in the case of the dispute regarding acts or omissions referred to in item (2) (1) (b), (c) or (d) of the schedule, any party to the dispute may refer the dispute to arbitration.

The different types of dispute resolution include conciliation, mediation and arbitration.

### **(a) Conciliation**

According to Beckmann **et al.** (2000:275) this strategy is a process whereby a third party persuades the disputing parties to resolve their dispute by consensus. This is the first step in resolving labour disputes.

This idea is reiterated by Anderson & Van Wyk, (1997:54) who state that one of the functions of the CCMA is to help employers and employees "(over whom it has jurisdiction) to resolve disputes in an expeditious and effective manner, first by conciliation..."

### **(b) Mediation**

Mediation is a process by which a neutral third party facilitates the resolution of a dispute by two or more parties. The facilitator tries to find facts and gives a written report on the nature of the dispute, including a settlement proposal, which is not binding on any party (Beckmann et al. 2000:274).

### **(c) Arbitration**



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Arbitration is a process whereby a third party's decision is binding on both the disputing parties. The arbitrator listens to both sides of the story and determines the solution. During this process, trade union officials, office bearers of a trade union; or co-employers; and officials or office bearers of an employer's organisation respectively (Beckmann **et al.** 2000:275) may represent both the employees and the employers.

### **(d) The Labour Court**

In terms of section 151 of the LRA, the Labour Court is a court of law. It is a superior court that has authority, inherent powers and standing equal to the provincial division of the Supreme Court in relation to matters under its jurisdiction. Section 157 of the LRA, provides that the Labour Court has exclusive jurisdiction in respect of all matters that must be determined by it as provided for by the LRA or any other law. In terms of section 157 (5) of the LRA, the Labour Court does not have jurisdiction over unresolved disputes, which in terms of the LRA are required to have been referred to arbitration. However section 158(2)(a) affords the Labour Court the power to sit as the arbitrator if the disputing parties consent and if it is expedient for the court to do so. In this case the court can only make an order which the arbitrator would have the power to make.

The powers of the Labour Court are provided for in section 158 of the LRA. Among others they include:

- the granting of urgent interim relief
- granting interdicts
- making orders for costs
- making declaratory orders
- awarding compensation in any circumstances contemplated by the LRA

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- ordering compliance with the LRA
- making any arbitration award or any settlement agreement, other than a collective agreement, an order of court.

According to section 161 of the LRA and Basson **et al.** (1998b: 177) these are the important powers of the Labour Court. They further state that in any proceedings before the Labour Court the disputing parties may appear in person, or may be represented by a legal practitioner, other employee, or an office bearer or official of that party's trade union or employer's organisation.

#### **(e) Labour Appeal Court**

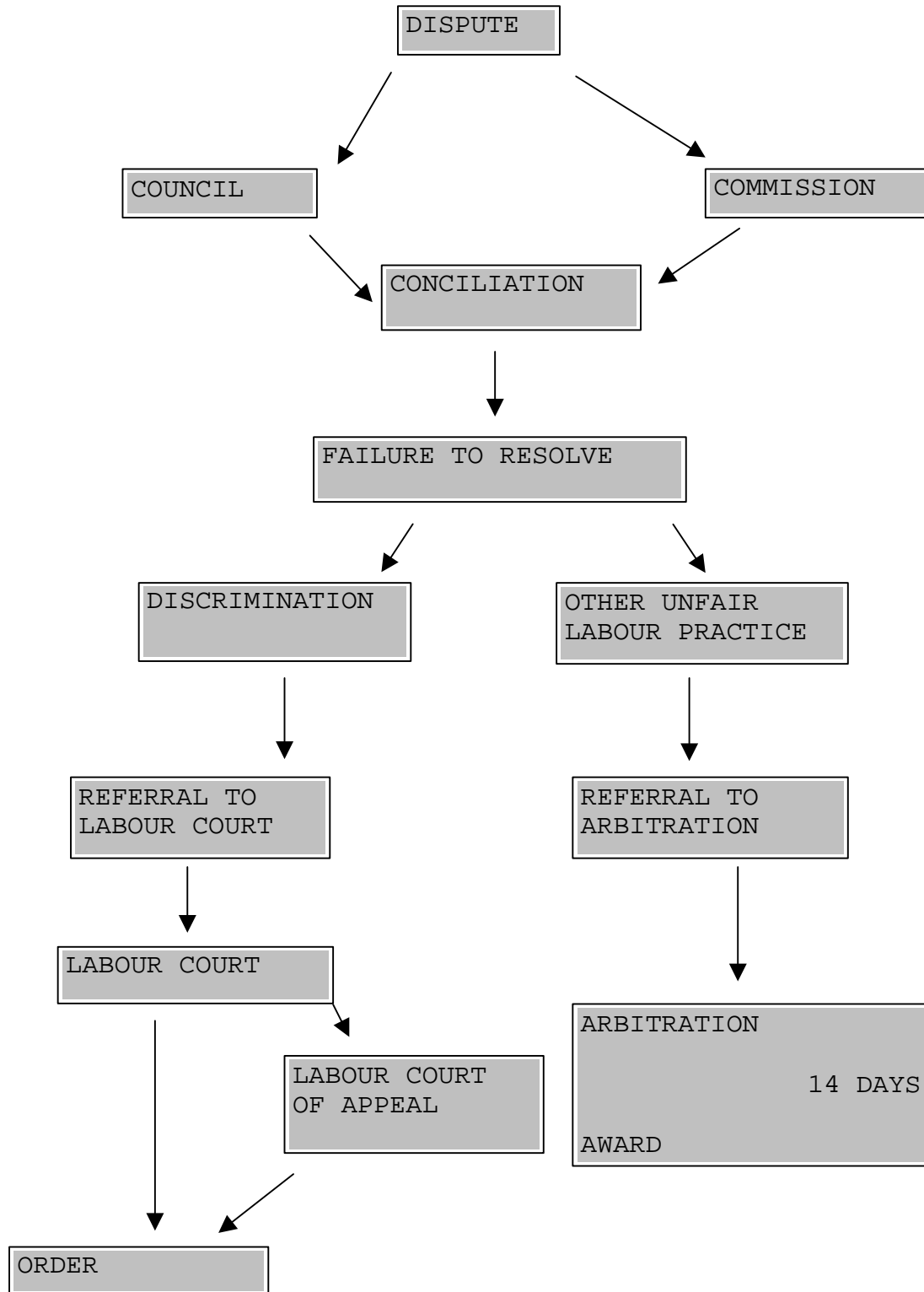
- Section 167(1) of the LRA establishes the Labour Appeal Court as a Court of law and equity.
- Subsection 2 thereof provides that the Labour Appeal Court is the final court of appeal in respect of all orders made by the Labour Court.

In terms of subsection 3 it is a high court that has authority, inherent powers and standing (in relation to matters under its jurisdiction) equal to that which the Supreme Court of Appeal has in relation to matters under its jurisdiction. This implies that the decision of the Labour Appeal Court is final.

The following is a dispute resolution flow chart:

Fig. 2.1. Dispute Resolution: Flow Chart

UNFAIR LABOUR PRACTICE (SCHEDULE 7 TO THE LRA) (Item 2)



### **2.5.3. How are educators' conditions of service determined**

In terms of section 35 of the Labour Relations Act, 1995 (Act No 66 of 1995) provision is made for a bargaining council for the public service as a whole, known as the Public Service Co-ordinating Bargaining Council (PSCBC). Section 35 (b) provides for a bargaining council for any sector within the public service that may be designated in terms of section 37. Therefore the Education Labour Relations Council is a sector specific bargaining council, which exists within the PSCBC. According to section 37(2) a sector specific bargaining council may be established if the uniform rules, norms and standards applicable to the public service are not appropriate to regulate employment in that sector.

University of Pretoria (unpublished:15) argues that by allowing the Education Labour Relations Council to exist, the labour relations authorities agree that in the education field there are labour relations situations which are specific to education and therefore cannot be catered for appropriately by the broad uniform rules, norms and standards that apply to the public service as a whole. Section 4 of the Employment of Educators Act, 1998 (Act No 76 of 1998) allows the Minister to determine salaries and other conditions of service, subject to the provisions of this section, the Labour Relations Act or any collective agreement concluded by the Education Labour Relations Council. For instance the process of redeployment and rationalisation of educators is a collective agreement concluded by the ELRC in Resolution 3 of 1996 and Resolution 6 of 1998.

In terms of section 49(3) of the Basic Conditions of Employment Act, 1997 (Act No 75 of 1997), an employer and

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employee may agree to replace or exclude a basic condition of employment to the extent permitted by this Act or a sectoral determination. Section (5)(1) provides that the Minister may make a sectoral determination establishing basic conditions of employment for educators

### **2.6. CONCLUSION**

The employer and the employee are in a work relationship. Unless these relationships are controlled and regulated, there will always be disputes. Therefore this relationship is controlled and regulated by the Labour Relations Act, 1995 (Act No 66 of 1995) and other labour laws. Apart from trying to prevent disputes from arising, the Labour Relations Act provides for mechanisms of resolving the disputes should they arise.

For the smooth running of the process of redeployment and rationalisation both the employer and the employee must adhere to the contents of the Labour Relations Act and other related Acts and the agreements contained in resolutions of the ELRC, which deal with this process. If labour relations in education are guided by these Acts, we will have a minimal number of disputes during the process of and rationalisation redeployment.

The following chapter will discuss rationalisation and redeployment of educators.

## CHAPTER 3

### 3. RATIONALISATION AND REDEPLOYMENT OF EDUCATORS

#### 3.1. INTRODUCTION

When South Africa became a democratic country in 1994 it was faced with a number of problems and challenges, particularly in education. The education system inherited from the apartheid era was such that equity was lost. There was a great need for transformation to effect equity.

The way the education system was planned gives an indication that there was no proper planning. For instance, in the Northern Province alone there were 22 colleges of education where a number of students were trained as teachers, of whom the majority followed the general stream. Only a limited number followed commercial subjects, science and mathematics. As part of transformation a number of these colleges were closed down. The remaining colleges could only admit students following the commercial stream, science and mathematics.

Another problem which was facing the Department of Education was that some schools had small numbers of learners with large numbers of educators, more especially formally white schools. On the other hand there were large classes with few educators in some schools or an over supply of educators in the general stream subjects with a shortage of commercial subjects, science and mathematics educators (SA Labour Bulletin: 70).

A decision had to be taken by the education department to effect equity in human resources. The government was faced with financial constraints and as such made it clear that no

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extra educators could be employed. Consequently they came up with a proposal for the rationalisation and redeployment of educators. This proposal was also supported by the South African Democratic Teachers' Union (SADTU), which indicated in no uncertain terms that it would fight any retrenchment. SADTU also proposed that there should be retraining of educators. The government agreed to this proposal and decided that money was to be reserved for this project and that the government was to seek international funding for teacher retraining, (SA Labour Bulletin, 1997:69). Ultimately the majority of trade union parties to the Education Labour Relations Council (ELRC) supported the issue of rationalisation and redeployment. Consequently they signed Resolution 3 of 1996 of the ELRC.

### **3.2. EDUCATION LABOUR RELATIONS COUNCIL (ELRC) AGREEMENTS**

#### **3.2.1. Legal effect of collective agreements**

In terms of section 23(1) of the Labour Relations Act (LRA) (Act 66 of 1995), a collective agreement is binding on:

- (a) The parties to the agreement;
- (b) Each party to the collective agreement and the members of every other party to the collective agreement in so far as the provisions are applicable between them.

These imply that in the case of collective agreements about rationalisation and redeployment of educators, not only the negotiators are bound, but also all the members of the trade unions and the department of education are bound. Section 23(1) states that if a collective agreement regulates:

- terms and conditions of employment
- or

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- the conduct of the employers in relation to the employees  
or
- the conduct of the employees in relation to their employers,

it binds the members of registered trade unions and the employers who are members of a registered employers organisation that are party to the collective agreement.

Subsection (d) of section 23(1) further provides that a collective agreement binds employees who are not members of a registered trade union or trade unions party to the agreement if: -

- the employees are identified in the agreement
- the agreement expressly binds the employees; and
- the trade union or those trade unions have as their members the majority of employees employed by the employer at the work place.

Paragraph 2.5. of Resolution 6 of the ELRC emphasises this section by stating that this agreement applies and binds both the employer and all the employees of the employer as defined in the Employment of Educators Act, 1998 (Act 76 of 1998) whether those employees are members of a trade union party to the agreement or not.

Section 23 of the LRA also provides the Minister with the power to extend the collective agreements concluded in the ELRC to all other educators who are not party to the agreement. Therefore redeployment can affect every educator as stipulated in Resolution 6 of 1998 of the ELRC.



### **3.2.2. Voluntary redeployment**

In terms of paragraph 2.4.1 of the ELRC Resolution 6 of 1998 a provincial education department may redeploy an educator from one institution to another within the province if: -

- (a) there is agreement between a particular educator, the receiving and releasing institutions and the respective School Governing Bodies (SGBs);
- (b) the educator is transferred into a permanent post funded by the State.

Therefore the Provincial Department of Education cannot transfer an educator into a temporary post.

Paragraph 2.2.2 states that an educator transferred through the process of redeployment will be part of the rationalisation procedure at the receiving institution.

However section 8(1)(c) stipulates that the Head of Department (HOD) may transfer any educator in the service of the provincial department of education to any other post in the department. Subsection (2) stipulates that, subject to subsections (4) and (5), no transfer to any post on the educator post establishment of a public school shall be made unless the recommendation of the SGB in question has been obtained.

### **3.2.3. Rationalisation and redeployment**

#### **3.2.3.1. Transfer of educators for operational requirements**

Procedures and measures regarding the possible transfer of serving educators and the advertising and filling of educator posts were agreed upon in terms of resolution No 5 of 1998 of

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the ELRC. These measures are dealt with in chapter B par. 2 and 3 of the Personnel Administrative Measures (PAM) respectively.

In terms of Resolution 6 of 1998 and the PAM (B 2.4 (a)) and Beckmann **et al.** (2000:133) operational requirements are based on, but not limited to:

- change in learner enrolment;
- curriculum changes in a particular education institution;
- change to the grading of a particular education institution;
- financial restraints

The PAM (B 2.4(c)) provides the procedure to be followed if educators are to be transferred for operational requirements:

1. The first step to be taken is to offer all vacancies that arise at education institutions to the serving educator displaced as a result of operational requirements of the specific provincial education department (Northern Province Department of Education (NPDE) in this case).
2. All vacancies must be advertised and filled in terms of paragraph 3 (the advertising and filling of posts), provided that:-
  - Every attempt is made to accommodate the serving educators displaced as a result of operational requirements at educational institutions and offices;
  - A provincial education department may publish a closed vacancy list. In such an event, the procedure contained in the resolution dealing with rationalisation and redeployment of educators in the

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provisioning of educator's posts (ELRC Resolution 6 of 1998) shall apply.

3. In terms of section 20(1) of the South African Schools Act, 1996 (Act 84 of 1996) (SASA) and chapter 3 section 6(3)(a) of the Employment of Educators Act, 1998 (Act 76 of 1998) (EEA), the School Governing Body (SGB) must recommend to the Head of Department (Superintendent General (SG) the appointment of an educator at a public school. While exercising this function, the SGB must accommodate the obligation of the employer towards serving educators. They must also consider the requirements for appointment as determined by the Minister of Education and or requirements of the post as determined by the SG.
4. All, serving educators displaced as a result of operational requirements and who are suitable candidates for a vacant post in an education institution or office, must be short-listed.
5. At historically disadvantaged institutions (institutions which were formally controlled by the former Department of Education and Training, homeland governments and TBVC states}, any educator who acted for longer than two continuous years in the post, at the institution, must be included in the interviews for the post, provided that:-
  - The educator is currently in the post;
  - The post is part of staff establishment of that institution;
  - The relevant Provincial Education Department has approved the appointment; and
  - The educator has applied for the post.

With reference to item 5 above, most educators in the Northern Province, particularly in the former Lebowa acted for a number of years, some up to twenty years, for reasons known to the department only.

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In terms of the PAM (B2.4 (6)) the above measures do not deal with the transfer of level one serving educators declared in excess in terms of operational requirements linked to rationalisation to effect equity in staff provisioning. This aspect is covered by ELRC Resolution 6 of 1998, which deals with the procedure for rationalisation and redeployment of educators in the provisioning of educator's posts.

### **3.2.3.2. Rationalisation and redeployment as a process to effect equity in educator provisioning**

Paragraph 2 of the ELRC Resolution 6 of 1998 stipulates that the parties to the ELRC agree to a:

"Procedure for rationalisation and redeployment of educators in the provisioning of educators posts, (Annexure A of Resolution 6) and that this document does not result in declaring educators as redundant and therefore to be retrenched".

The Northern Province Department of Education's (NPDE) management plan for rationalisation and redeployment of educators in the provisioning of posts is a collective agreement reached in the ELRC Provincial Chamber. This management plan is attached to the NPDE circular dated 09 April 1999. The circular states that the management plan:

"Shall serve as a guideline in the implementation of the rationalisation and redeployment process."

This is a plan of action, which incorporates the process of rationalisation and redeployment of educators as stipulated in ELRC Resolution 6 of 1998. According to this plan, the

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process was supposed to start on 05 February 1999 and be completed by the end of June 1999.

By the end of September 2004 the process was not yet completed.

Paragraph 1 of the said circular stipulates that the objectives of the management plan are:

- to provide for the rationalisation and redeployment of educators within the education system;
- to achieve equity and redress in educator staff provisioning inter provincially.

The Northern Province issued a number of staff establishments with different statistical information. According to the staff establishment print out dated 99/04/19, which was sent to schools, the NPDE indicates that the number of schools in the province was 4128. The department therefore created 50923 posts.

Three days later, on 99/04/22, another print out was sent to schools, the number of schools indicated, increased to 4157. Consequently, the number of posts created increased to 51268. On 99/09/13 the third print out with another different number of schools was also sent to schools. In this one the number of schools was 4207, with 51861 posts.

The following tables below (adapted from the NPDE progress report) depict the provincial scenario as on 03 December 1999:

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**Table 3.1. Posts to be advertised per region and post level.**

Post level	Reg1	Reg2	Reg3	Reg4	Reg5	Reg6	Reg7	Total
1	145	551	240	74	161	401	87	1659
2	225	574	569	189	172	539	221	2489
3	97	228	276	87	29	19	139	875
4	27	18	61	15			22	143
5		1						1
6								0
Total	494	1372	1146	365	362	959	469	5167

**Table 3.2. Posts in excess**

Post level	Reg1	Reg2	Reg3	Reg4	Reg5	Reg6	Reg7	Total
1	327	1011	2037	531	471	1263	519	6159
2	12	63						284
3	1	9						57
4								4
5								0
6								0
Total	340	1083	2089	549	513	1389	541	6504

**Table 3.3. Posts in excess**

Total Educators Employed	Total Posts Created	Total Excess	Total Real Excess
58000	51861	12643	6139
-898 <sup>2</sup>	51861	-898	-898
57102	51861	11745	5241

**Explanatory notes on tables 3.1 to 3.3**

- 58 000 is the approximated number of employed educators by 1999/11/01
- 5241 in excess include the temporary educators employed at that time. This figure excludes those excess educators covered by the posts to be advertised, reflected in Table 3.1.

**3.2.3.3. Procedures for rationalisation and redeployment of educators in the provisioning of posts**

**(a) Objectives of the procedures**

In terms of paragraph 2 of Annexure A of Resolution 6 of 1998, these procedures provide for the rationalisation and redeployment of educators within the education institutions to achieve equity in educator staff provisioning in the said institutions in terms of approved policy on educator post provisioning.

**(b) Principles of rationalisation and redeployment of educators in the provisioning of educator posts**

Beckmann **et al.** (2000:134) point to the following principles included in Annexure A of Resolution 6 of 1998:

- All educators affected by the rationalisation and redeployment will be treated fairly.
- To ensure continued employment of educators who occupy posts which are declared in excess, all avenues must be explored.

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<sup>2</sup> The number of posts which were left vacant due to death, voluntary severance packages (VSP), dismissal and resignation

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- The transfer of educators who occupy posts who are declared in excess is compulsory. These educators are not automatically redundant.

Paragraph 3.5 of Annexure A of Resolution 6 of 1998 provides that the employer must be guided by affirmative action. Paragraph 3.6 stipulates that all educators must be treated in the same way, with the exception of the following categories of temporary educators:

- A temporarily employed educator substituting another educator who is occupying a relevant post but being on an approved leave.
- An educator who, after a post became vacant during the process of rationalisation, has been employed temporarily until the post can be filled by means of the redeployment of an educator who is currently employed in a post which has been declared in excess.

Paragraph 3.9 provides for the relaxation of the minimum requirements for appointment of the following educators:

Those

- who do not meet the minimum requirements for appointment; who have been employed on a continuous basis by a provincial education department or the Department of Education for longer than 10 years; and
- who are teaching in a previously disadvantaged institution (i.e. institutions previously controlled by the former Department of Education and Training, self-governing territory or a TBVC state) will be treated as permanently employed educators for the purpose of rationalisation and redeployment.

Paragraph 3.10 states that an educator who was declared in excess in terms of previous processes or who currently finds



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himself/herself on a provincial education redeployment list will revert to being a full member of his/her current staff establishment. This educator will be treated in the same way as all other educators at his/her educational institution for the purpose of this procedure, once his/her status has been restored.

Paragraph 3.11 provides that an educator seconded to another province in terms of a previously approved procedure relating to redeployment and who occupies a substantive post at the institution of secondment, shall be appointed to the post on a permanent basis, provided that he/she meets the minimum requirements for appointment and he/she wishes to be appointed at that institution. He/she will be treated in the same way as all other educators at his/her institution for the purpose of this procedure, once permanently appointed.

The following principles are also stipulated in the procedure manual (Annexure A):

- Paragraph 3.1 stipulates that these procedures must take into account the National Education Policy that may exist in respect of post provisioning norms by the Minister in terms of the national policy Act, 1996.
- The allocation of educator posts to institutions must consider the regulations determined by the Minister, after consultations in the ELRC (par.3.7).
- An educator appointed in a substantive post (an approved post on an approved staff establishment) before 01 July 1996 and who meets the requirements for appointment, must be appointed on a permanent basis, (par. 3.8).

The NPDE's Management Plan stresses that the appointments must be implemented with effect from 11/11/98.

**(c) Establishment of bodies to facilitate rationalisation and redeployment**

Paragraph 4.1 of Annexure A of the ELRC Resolution 6 of 1998 provides for the establishment of provincial task teams (PTTs).

In terms of paragraph 4.2 of the Annexure, the Provincial Task Teams (PTTs) will perform the following functions:

- Monitoring of co-ordination and implementation of the rationalisation and redeployment process in the education department.
- Promotion of development and making recommendations in this regard to the SG, the Inter Provincial Task Team (IPTT) and the ELRC.
- Monitoring of the establishment and updating of the provincial redeployment list.
- Dispute resolution between the parties that may arise and which relate to the general application of this agreement and the model for post provisioning (Implementation of rationalisation and redeployment process).
- Paragraph 4.2.5 provides for other functions, such as functions:-
  - Assigned by the Inter Provincial Task Team to the Provincial Task Team;
  - Allocated to the PTT elsewhere in this agreement; and
  - Which are incidental to the PTT's functioning, provided the Inter Provincial Task Team (IPTT) has agreed thereto.

**(d) Determining posts which are in excess of the staff establishment and vacant**

Paragraph 5 of Annexure A of the ELRC Resolution 6 of 1998 stipulates the following procedures for the rationalisation of an education institution: -

- The Superintendent General shall notify all the education institutions of their educator post provisioning, which may increase or decrease the number of posts at that particular institution (par. 5.1).
- The Circuit/District Manager together with the heads of institutions within the circuit/district shall determine posts, which are in excess of approved establishments as well as vacant posts, as the case may be (par. 5.2).
- The Circuit/District Manager must consider specific curricular needs and circumstances when determining posts in excess and those that are vacant (par. 5.3).
- All heads of education institutions must inform their staff on the procedure for rationalisation and redeployment and on how their staff establishment will be affected. All staff members must have access to this information (par. 5.4).
- The Circuit/District Manager must invite representatives of trade unions parties to the ELRC to observe the process. He/she must also make the information available to the observers and trade unions on request (par. 5.5).
- The Circuit/District Manager must obtain all relevant information from the schools in his/her circuit/district (par.5.6).

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- The Circuit/District Manager must declare an audit concerning the schools within his/her circuit/district. The following must be included (par. 5.7):
  - Total number of learners per phase;
  - Total number of educators per phase;
  - Total number of educators declared in excess per phase and subject field; and
  - Total number of vacancies, including requirements per vacancy.
- The Circuit/District Manager must recommend to the SG which posts must be abolished at education institutions within his/her circuit/district (par. 5.8).
- The Circuit/District Manager must indicate relevant facts influencing his/recommendation (par. 5.9).
- Should the implementation of post provisioning result in the increase of the staff establishment of an educational institution, the principal must recommend how the posts are going to be utilised, taking into account the particular curricular needs and circumstances of the educational institution (par. 5.10).

#### **(e) Procedures for determining excess educators**

Paragraph 6.1 of Annexure A of Resolution 6 of 1998 of the ELRC stipulates that the Circuit/District Manager, together with heads of education institutions shall determine the number of posts in excess and the educators in excess in terms of paragraph 5 of this procedure manual, at the request of the (Superintendent General (SG)).

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The procedures for the determination of educators in excess are provided for (in par. 6.2) as follows:

- The principal together with the educator staff may at a formal staff meeting recommend that educators who may be declared in excess be absorbed in vacancies which exist or may exist in the near future (not longer than 6 months) at that educational institution to the SG via the circuit/district office, who may accept or reject such recommendation. This refers to vacancies resulting from retirement, death, resignation, promotion and educator initiated discharges where the date of termination is known.
- When the Circuit/District Manager together with the principals identifies excess educators, the following must be taken into account:
  - The educator staff's views expressed at a formal staff meeting convened by the principal, stipulated in paragraph 6.1;
  - Curricular needs of the institution, the number of classes, the time table and the allocation of learners to classes;
  - The Circuit/District Manager must take into account the fact that there is not necessarily a direct relation between a post identified as in excess and an educator who is declared in excess, as there may be more than one post with substantially the same duties attached to it.
  - If there are more than one educator competing for the same post, the principle of "last in first out" (LIFO) shall apply. The period of service for the application of LIFO shall include all continuous service rendered at any public educational institution.

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- The provincial education department shall inform excess educators of their being in excess in writing.
- The particulars of excess educators shall be included in the provincial redeployment list compiled by the provincial education department, and shall include the following particulars:
  - The name of the educator and other relevant details;
  - Rank and level;
  - Qualifications and experience;
  - Present education institution;
  - Preference with regard to redeployment.
- The provincial education department shall compile the particulars of vacant posts, which include the requirement of the posts;
- The Circuit/District Manager together with the principal must fulfil the functions stipulated in paragraph 5 and 6 of Annexure A of Resolution 6 of 1998. The recommendations should be sent to the SG within the stipulated time.
- Should the Circuit/District Manager fail to complete his/her responsibilities stipulated in paragraph 5 and 6, the provincial education department shall appoint a representative to fulfil the task and make his/her recommendations to the SG.
- The redeployment list and the particulars of the vacant post must be made available to the trade unions on request.

Beckmann **et al.** (2000:136) refer to section 8 of EEA as amended by section 16 of the Education Laws amendment Act, 1999 (Act 48 of 1999). This section provides that the SG may,

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without the recommendation of the SGB, transfer educators temporarily for a stated period from a post at a public school to another public school.

Beckmann and colleagues emphasise that: "this enables educators in excess to be redeployed to posts where there is a need for an educator".

This implies that if the SGB is delaying in its recommendations, vacant posts cannot remain unfilled for an unreasonable period.

### **(f) Filling of vacancies**

In terms of paragraph 7.1 of Annexure A of ELRC Resolution 6 of 1998, the state has the right to introduce measures to promote redeployment by allowing educators to retire voluntarily, provided the particular educator is declared in excess and the post is to be abolished. Such measures will run concurrently with redeployment as long as they are valid and will be regulated separately from these measures.

The Provincial Education Department (PED) will keep the PTT informed on the implementation and financial implications of these measures.

Paragraph 7.2 provides that all of the following post level one educator posts are to be reserved with the aim of accommodating educators who are declared in excess, namely posts:

- Vacant at the commencement date of these measures;
- Becoming vacant after the said date for whatever reason;
- Created after the said date;

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- Occupied by temporary educators appointed on or after 01 July 1996 and which will continue to exist in terms of the approved establishment of the educational institution.

Paragraph 7.3 states that the vacancies referred to above may be temporarily filled, until the redeployment of educators is completed in a particular year, provided that the measure: -

- Should not delay the filling of posts by means of redeployment; and
- Does not confer on educators so employed the right to the post.

#### **(g) Redeployment of educators**

Paragraph 8 of Annexure A to the ELRC Resolution 6 of 1998 provides the steps to be taken in redeploying educators as follows:

- The PED receives the details of all educators declared in excess and the requirements of the post as per paragraphs 6.6 and 7.2 respectively.
- The PED draws up a closed vacancy list of post level one educators, reflecting vacancies per circuit/district. Only educators declared in excess, currently serving temporary educators and former educators who have served the Department of Education in a temporary or substitute capacity in the immediate past (including those educators referred to in paragraph 13.2 of Annexure A of Resolution 6 of the ELRC 1998).
- The PED receives all applications and matches educators with identified posts taking into consideration the profile of the educator and the



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requirements of the post. The following steps must be followed in the matching process (based on what is called seniority):

- Permanent educators declared in excess in order of seniority.
- Temporary educators who are currently serving the PED including the substitute educators referred to above, together with the former educators who have served the PED in a temporary or substitute capacity in the immediate past in order of seniority.

The resolution indicates that seniority is determined as period of continuous service including continuous service rendered at any public school. It further states that there will be two separate lists, one for permanently employed educators declared in excess and one for temporary educators as per paragraphs 8.3.1 and 8.3.2 of Annexure A of the ELRC 1998 respectively. The SGB will only receive the second list after they have considered the first list.

Paragraph 8.4 states that the SGB may only recommend the appointment of an educator from the list referred to above. The recommendation must also be in accordance with chapter 3 of the EEA

In terms of paragraph 8.5 of Annexure A of Resolution 6 of the ELRC 1998, the SGB must consider the names on the list in terms of ranking order and make recommendation to the SG. The recommendation of the SGB to the PED must be in order of preference. One representative from each trade union party to the ELRC must observe the process of arriving at the recommendations. Recommendations must be made in terms of the stipulated principles. Qualifications or lack thereof above the minimum requirements for appointment shall not serve as

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sufficient reason for non-appointment. Paragraph 8.6 states that the concerned educator, the releasing and receiving institutions are informed in writing of the transfer.

Paragraph 8.7 stipulates that if there is no suitable candidate on the two lists, the posts will be advertised in an open vacancy list and filled in terms of the resolutions dealing with advertising and filling of educator posts (Resolution 5 of the ELRC 1998).

Paragraph 8.8 provides for an educator to be redeployed by means of transfer in terms of section 8 of the EEA

Paragraph 8.9 stipulates that vacancies on post level 2 and higher will be advertised in an open vacancy list, and any serving educator has the right to apply. The filling of these educator posts will be in terms of the resolution dealing with advertisements and filling of posts. After consultations with the PTT and the IPTT the employer may determine that such vacancies are advertised in a closed vacancy list. In such a case the procedure stipulated in Resolution 6 of the ELRC 1998 will apply.

### **(h) Temporary educators who occupy posts to be filled by redeployment**

In terms of paragraph 10.1 of Annexure A of the ELRC Resolution 6 of 1998 a temporary educator who succeeds in his/her application will be permanently appointed to the post provided the educator meets the requirements of the post. In the event the educator being unsuccessful in his/her application in terms of paragraph 10.2 the normal terms of the contract shall be upheld or a month's notice shall be given to the educator concerned upon the appointment of a redeployee.

**(i) Educators who fail/refuse to apply for posts**

Paragraph 11.1 of Annexure A of Resolution 6 of 1998 of the ELRC states in no uncertain terms that: "Redeployment of educators in excess is compulsory".

Paragraph 11.2 provides that educators who fail to apply for posts or apply for posts where redeployment is not possible in terms of the closed vacancy list shall have their names included on the list by the PED and processed in terms of paragraph 8 of Annexure A of Resolution 6 of 1998 of the ELRC. In terms of paragraph 11.3 those educators who unreasonably refuse to be redeployed are not entitled to severance pay and are considered to have resigned with effect from the date to be determined by the SG.

**(j) Excess educators who cannot be redeployed**

Paragraph 12.1 of Annexure A of Resolution 6 of 1998 of the ELRC provides that if an educator cannot be redeployed due to no fault of the educator he/she will remain in excess of his/her staff establishment until he/she can be suitably redeployed. Paragraph 12.2 indicates what must be done during the period of being held in excess:

- The employer together with the educator concerned must try to find suitable placement.
- The educator shall be optimally employed at the educational institution.

**3.3. CONCLUSION**

Should all the stakeholders be reliable and use reliable information the number of problems and disputes would be

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minimised. Unless everybody is committed to the rationalisation and redeployment process as stipulated in the ELRC Resolution 6 of 1998, the aims and objectives of this process will be futile. If the department does not update other stakeholders with correct and reliable information some learners may remain without educators as too many educators than required may erroneously be declared in excess. Principals who are unreliable may deliberately declare educators in excess unfairly. Stubborn educators may unfairly refuse to be redeployed. Misinterpretation of Resolution 6 of 1998 of the ELRC may also lead to disputes.

It is therefore of the utmost importance that all those who are affected by this process have a common understanding and interpretation of this resolution and abide by the procedures stipulated in it and the relevant statutes. This is the only way equity in the provisioning of educator personnel can be realised.

In chapter 4 I will deal with the empirical data.

## **CHAPTER 4**

### **4.1. INTRODUCTION**

In this chapter I will describe the data collection on the views, opinions and experiences of the stakeholders to determine factors which influenced rationalisation and redeployment of public secondary school educators in the Northern Province. I will also analyse and interpret the data after I have presented the data in the form of tables.

The questionnaire attached as Annexure A (See after page 116) was administered to both the educators who were declared in excess as well as to the managers at the different levels and the members of educators' unions.

The Capricorn and Waterberg districts were selected. Due to financial constraints both districts and schools within reach were included in the sample.

Section A contains personal information of the respondents, which was used for administration purposes. It does not have an impact on the research.

#### **Section B (Question 1-17) of the questionnaire**

This section contains statements/questions regarding the opinion or experiences of the respondent.

48 educators who were declared in excess were selected. 41 (85,4%) of them responded to the questionnaire and returned it.

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Section B (Question 1-23) and Section C of the questionnaire

Section contains statements/questions regarding the opinion or experiences of the respondent and Section C contains questions that require the respondent to give information on certain issues in relation to redeployment of educators.

This questionnaire was delivered to 1 Provincial Education manager, 2 district managers, 17 school principals and 7 union representatives were selected (Totalling to 27). The number of questionnaires that were completed and returned is 24 (88,9%).

They were also requested to respond to all the questions in section C. This section requested the respondents to supply information concerning rationalisation and redeployment of educators.

### **4.2. EMPIRICAL DATA COLLECTION**

The following is a summary of the results of the data collected:

#### **4.2.1. SECTION B (QUESTION 1-17) OF THE QUESTIONNAIRE**

4.2.1.1. The determination of educators in excess was done in a properly constituted staff meeting.

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	N	%
STRONGLY AGREE	12	29.3
AGREE	18	43.9
DISAGREE	4	9.8
STRONGLY DISAGREE	7	17.1
TOTAL	41	

43.9% of the educators in excess agree that the determination of educators in excess was done in properly constituted staff meeting. This number is almost similar to 40.9% of the managers and union members (par.4.2.2.1.)

This shows that most educators were not satisfied about the process, as the procedures stipulated in the Resolution 6 of 1998 were not followed. According to this resolution the process was to be done in a properly constituted staff meeting.

4.2.1.2. The procedures as prescribed by Resolution 6 of 1998 were followed.

	N	%
STRONGLY AGREE	8	19.5
AGREE	6	14.6
DISAGREE	9	22.0
STRONGLY DISAGREE	8	19.5
TOTAL	41	

22% of educators in excess disagree, 19.5% strongly disagree whereas 40.9% managers including union members (par.4.2.2.2) agree, and another 40.9% strongly agree that the procedure as prescribed by Resolution 6 of 1998 was followed.

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The implication is that the procedures were not followed. This might have been a source of grievances in most schools where the process was repeated a number of times.

#### 4.2.1.3. Redeployment raised fears in educators.

	N	%
STRONGLY AGREE	28	68.3
AGREE	4	9.8
DISAGREE	2	4.9
STRONGLY DISAGREE	3	7.3
TOTAL	41	

68.3% of educators in excess and 82.6% of managers and union members strongly agree that redeployment raised fears in educators.

There is uncertainty among educators. It is surprising if such a high number (17% more than educators) of managers agree that redeployment raised fears in educators. One could expect more educators to experience fear because they are not sure of their future.

#### 4.2.1.4. All staff members interpreted the Resolution 6 of 1998 in the same manner.

	N	%
STRONGLY AGREE	6	14.6
AGREE	3	7.3
DISAGREE	19	46.3
STRONGLY DISAGREE	13	31.7
TOTAL	41	



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46, 3% of educators in excess and 52.2% of managers and union members (par. 4.2.2.4) disagree that all staff members interpreted Resolution 6 of 1998 in the same manner.

The implication is that staff members did not interpret Resolution 6 of 1998 in the same manner. Probably principals did not hold staff meetings where this could be discussed and interpreted by all staff members to have common understanding. They might have been a deliberate omission so that they (principals) could apply unlawful procedures when determining excess educators.

4.2.1.5. Redeployment is the best alternative to secure educators' jobs.

	N	%
STRONGLY AGREE	2	4.9
AGREE	8	19.5
DISAGREE	13	31.7
STRONGLY DISAGREE	8	19.5
TOTAL	41	

31.7% of educators in excess and 30.4% of managers and union members (par. 4.2.2.5.) disagree, 19.5% of educators in excess and 30.4% of managers and union members strongly disagree whereas 19.5% of educators in excess and 23% of managers and union members agree that redeployment is the best alternative to secure educator' job.

The implication is that the managers and the educators feel that educators' jobs are at stake. This might be due to the incompleteness of the process of rationalisation and redeployment in the province. The other reason might be that the department talks of retrenchment.

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4.2.1.6. Principals understand the procedures as prescribed by Resolution 6 very well.

	N	%
STRONGLY AGREE	3	7.3
AGREE	6	14.6
DISAGREE	19	46.3
STRONGLY DISAGREE	13	31.7
TOTAL	41	

46.3% of educators in excess and 52.2% of managers and union members disagree whereas 31.7% of educators in excess and 34.8% of managers and union members (par. 4.2.2.6.) agree that principals understand the procedures as prescribed by Resolution 6 of 1998 very well.

The implication is that educators do not believe that principals applied the correct procedures because they misinterpreted the resolution.

4.2.1.7. Last in first out (LIFO) was the only criterion to declare educators in excess.

	N	%
STRONGLY AGREE	7	17.1
AGREE	3	7.3
DISAGREE	10	24.4
STRONGLY DISAGREE	21	51.2
TOTAL	41	

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51.2% of educators in excess strongly disagree that last in first out (LIFO) was the only criterion used to declare educators in excess.

It shows that there are other things that were considered when declaring educators in excess.

4.2.1.8. Curriculum needs were considered before LIFO could be considered.

	N	%
STRONGLY AGREE	10	24.4
AGREE	10	24.4
DISAGREE	12	29.3
STRONGLY DISAGREE	11	26.8
TOTAL	41	

29.3% of educators in excess disagree and 47.8% of managers and union members (par. 4.2.2.8.) agree whereas 24.4% of educators in excess and 34.8% of managers together with union members strongly agree that curriculum needs were considered before LIFO could be considered.

A significant number of schools did not consider curricular needs. They might have developed their own procedures apart from those prescribed by the Resolution of 1998.

4.2.1.9. Redeployment affected educators' job negatively.

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	N	%
STRONGLY AGREE	20	48.8
AGREE	7	17.1
DISAGREE	8	19.5
STRONGLY DISAGREE	6	14.6
TOTAL	41	

48.8% of educators in excess and 50% of managers and union members (par. 4.2.9.) strongly agree that redeployment affected educator's job negatively.

This is evident in the matric results that declined, as probably due to the uncertainty of their future, educators were demotivated.

4.2.1.10. The movement of educators from one school to another in the last term negatively affected the Grade 12 results.

	N	%
STRONGLY AGREE	25	61
AGREE	9	22
DISAGREE	4	9.8
STRONGLY DISAGREE	3	7.3
TOTAL		

61% of educators in excess and 52.4% of managers and union members strongly agree that the movement of educators from one school to another in the last term negatively affected the Grade 12 results.

Educators were demotivated. They left their work unfinished. Learners had to learn the subject matter and get to know a new

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teacher in the last term of the year. Consequently the results declined.

4.2.1.11. The department wanted to save money through redeployment.

	N	%
STRONGLY AGREE	21	51.2
AGREE	11	26.8
DISAGREE	2	4.8
STRONGLY DISAGREE	7	17.1
TOTAL	41	

51.2% of educators in excess and 52.4% of managers and union members strongly agree that the department wanted to save money through redeployment.

What the educators are saying differs from what the department has said. The department said that they wanted to redress the imbalances of the past to achieve equity in staff provisioning. The way the department is behaving shows that they really wanted to save money more than trying to realise equity. Presently they are still using the 1999 staff establishment where the number of learners has increased.

4.2.1.12. Redeployment is indirect retrenchment.

	N	%
STRONGLY AGREE	20	48.8
AGREE	7	9.8
DISAGREE	5	12.2
STRONGLY DISAGREE	9	22.0
TOTAL	41	

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48.8% of educators in excess and 43.5% of managers and union members (4.2.2.12.) strongly agree that redeployment is an indirect retrenchment.

The department did not fill the posts which were left vacant by the educators who opted for VSPs.

4.2.1.13. The department transported the redeployed educators to their new stations.

	N	%
STRONGLY AGREE	4	9.8
AGREE	3	7.3
DISAGREE	10	24.4
STRONGLY DISAGREE	24	54.5
TOTAL	41	

54.5% of educators in excess and 52.9% (par. 4.2.2.13.) of managers and union members strongly disagree that the department transported the redeployed educators to their new stations.

The implication is that the department saved money by not transporting the redeployees to their new stations. I was told by some of the affected educators that they received some small amounts that could not cover the costs for transport and accommodation.

4.2.1.14. The department provided the redeployed educators with accommodation (housing).

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	N	%
STRONGLY AGREE	1	2.4
AGREE	3	7.3
DISAGREE	5	12.2
STRONGLY DISAGREE	28	68.3
TOTAL	41	

68.3% of educators in excess and 75% of managers and union members strongly disagree that the department provided the redeployed educators with accommodation. In terms of the Resolution 6 of 1998 housing should be supplied to the redeployees who are transferred far from their homes. Educators had to seek accommodation at their own expenses or travel long distances daily to and from their new places of work. Consequently the department saved money at the expense of educators.

4.2.1.15. Some principals used redeployment as a tool to get rid of the educators they didn't like.

	N	%
STRONGLY AGREE	19	46.3
AGREE	7	17.1
DISAGREE	4	9.8
STRONGLY DISAGREE	11	26.8
TOTAL	41	

46.3% of educators in excess and 33.3% of managers and union members (4.2.2.15.) strongly agree whereas 17.1% of educators in excess and 38.1% of managers and union members agree that some principals used redeployment as a tool to get rid of the educators they didn't like.

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The implication is that a significant number of principals victimised educators through redeployment.

4.2.1.16. The trade unions sold the educators out by agreeing to the process of redeployment.

	N	%
STRONGLY AGREE	20	48.8
AGREE	7	17.1
DISAGREE	7	17.1
STRONGLY DISAGREE	7	17.1
TOTAL	41	

48.8% of educators in excess and 31.8% of managers and union members (4.2.2.16.) strongly agree whereas 17.1% of educators in excess, 31.8% of managers and union members strongly disagree that the trade unions sold the educators out by agreeing to the process of redeployment.

The implication is that the educators and principals did not believe in the redeployment. This might be due to the fact that the process was never completed in this province. Some educators are not absorbed and the department is quiet about a new staff establishment.

4.2.1.17. Being declared in excess frustrated most educators.

	N	%
STRONGLY AGREE	25	61
AGREE	11	26.8
DISAGREE	3	7.3
STRONGLY DISAGREE	2	4.9
TOTAL	41	



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61% of educators in excess and 63.6% (par. 4.2.2.17.) of managers and union members strongly agree that being declared in excess frustrated most educators.

Some educators had to start new lives from their families or travel for long distances daily. Others due to frustration they opted for VSPs.

#### 4.2.2. SECTION B OF THE QUESTIONNAIRE (QUESTION 1-23)

This part of the questionnaire was answered by managers and union members. Where in the analysis and interpretation of results I refer to managers, unions are also included. This section contains statements/questions regarding the opinion or experiences of the respondent.

4.2.2.1. The determination of educators in excess was done in a properly constituted staff meeting.

	N	%
STRONGLY AGREE	9	40.9
AGREE	9	40.9
DISAGREE	2	9.1
STRONGLY DISAGREE	2	9.1
TOTAL	22	

40.9% of managers strongly agree and 40.9% of them agree that the determination of educators in excess was done in a properly constituted staff meeting. 29.3% of educators strongly agree and 43.9% (Table 4.2.11.) of them agree with the view of the managers.

The implication is that the determination of educators in excess was done in properly constituted staff meetings.

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4.2.2.2. The procedures as prescribed by Resolution 6 of 1998 were followed.

	N	%
STRONGLY AGREE	9	40.9
AGREE	9	40.9
DISAGREE	2	9.1
STRONGLY DISAGREE	2	9.1
TOTAL	22	

40.9% of the managers strongly agree and 40.9% of them agree that the procedures as prescribed by the Resolution 6 of 1998 were followed. 19.5% of educators (Table 4.2.1.2.).

The implication is that in most schools the correct procedures were followed.

4.2.2.3. Redeployment raised fears in educators.

	N	%
STRONGLY AGREE	18	82.6
AGREE	2	8.7
DISAGREE	1	4.4
STRONGLY DISAGREE	1	4.4
TOTAL	23	

82.6% of the managers strongly agree that redeployment raised fears in the educators. 68.3% of educators (Table 4.2.1.3.) strongly agree with this view.

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One would expect more educators than managers to experience fear as they are directly affected and uncertain of their future. This surprising situation might be due to the fear of victimisation of some principals by educators for declaring them in excess.

4.2.2.4. All staff members interpreted the Resolution 6 of 1998 in the manner.

	N	%
STRONGLY AGREE	0	0
AGREE	5	21.7
DISAGREE	12	52.2
STRONGLY DISAGREE	6	26.1
TOTAL	23	

A significant number of managers indicate that Resolution 6 of 1998 was not interpreted in the same manner by all educators.

The implication is that principals did not explain and interpret this resolution together with the staff in a meeting. This might be one of the factors which caused grievances.

4.2.2.5. Redeployment is the best alternative to secure educators' jobs.

	N	%
STRONGLY AGREE	3	13.0
AGREE	6	26.1
DISAGREE	7	30.4
STRONGLY DISAGREE	7	30.4
TOTAL	23	

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13.0% of managers strongly agree that redeployment is the best alternative to save educators' jobs.

This indicates that principals do not know why educators should be redeployed. Consequently they will not support a process they do not understand. If information was well disseminated principals would understand why teachers should be redeployed.

4.2.2.6. Principals understand the procedures as prescribed by Resolution 6 very well.

	N	%
STRONGLY AGREE	0	0
AGREE	8	34.8
DISAGREE	12	52.2
STRONGLY DISAGREE	3	13.0
TOTAL	23	

0% of the managers state that the principals understand the procedures as prescribed by the Resolution 6 of 1998 very well.

It is surprising if the people who should implement the process do not understand the procedures they have to follow. The discrepancies that happened in most schools are not a surprise. Consequently in some schools the process was repeated many times. This is an indication that the department was only interested in saving money. If not so they would have trained the managers to avoid disputes.

4.2.2.7. Last in first out (LIFO) was the only criterion to declare educators in excess.

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	N	%
STRONGLY AGREE	3	13.0
AGREE	5	21.7
DISAGREE	7	30.4
STRONGLY DISAGREE	8	34.8
TOTAL	23	

4.2.2.8. Curriculum needs were considered before LIFO could be considered.

	N	%
STRONGLY AGREE	8	34.8
AGREE	11	47.8
DISAGREE	2	8.7
STRONGLY DISAGREE	2	8.7
TOTAL	23	

47.8% of the managers strongly agree, 34.8% agree that the curriculum needs were considered before LIFO could be considered.

One would expect the managers to follow the correct procedures. In this case only an insignificant number followed the procedures as prescribed by the Resolution 6 of 1998. This is due to the lack of interest on the part of the department. Otherwise they would have thoroughly workshopped them.

4.2.2.9. Redeployment affected educator's jobs negatively.

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	N	%
STRONGLY AGREE	11	50.0
AGREE	7	31.8
DISAGREE	2	9.1
STRONGLY DISAGREE	2	9.1
TOTAL	22	

50.0% of the managers strongly agree that redeployment affected educators' jobs negatively.

This is evident in the declining matric results. Teachers were demoralised, as they were uncertain of their future.

4.2.2.10. The movement of educators from one school to another in the last term negatively affected the Grade 12 results.

	N	%
STRONGLY AGREE	11	52.4
AGREE	6	28.6
DISAGREE	2	9.5
STRONGLY DISAGREE	2	9.5
TOTAL	21	

52.0% of the managers strongly agree and 28.6% agree that the movement of educators from one school to another in the last term negatively affected the grade 12 results.

The educators were demotivated. The teaching spirit declined and consequently learners' progress was negatively affected.

4.2.2.11. The department wanted to save money through redeployment.

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	N	%
STRONGLY AGREE	10	43.5
AGREE	6	26.1
DISAGREE	5	21.7
STRONGLY DISAGREE	1	4.4
TOTAL	23	

43.5% strongly agree and 26.1% agree that the department wanted to save money through redeployment. It is only 4.4. % that strongly disagree.

If the department's interest was not to save money they would have speeded up the process. The process would have long been completed, consequently new posts would be created.

4.2.2.12. Redeployment is indirect retrenchment.

	N	%
STRONGLY AGREE	8	34.8
AGREE	6	26.1
DISAGREE	6	26.1
STRONGLY DISAGREE	3	13.0
TOTAL	23	

34.8% of the managers strongly agree and 26.1% disagree that redeployment is an indirect retrenchment.

As the department seems to be interested in saving money they indirectly retrench educators. VSPs were use as such because the posts which were left vacant by educators who opted for them were never filled. Yet the department is saying no learner should be left without an educator.

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4.2.2.13. The department transported the redeployed educators to their new stations.

	N	%
STRONGLY AGREE	1	5.3
AGREE	4	21.1
DISAGREE	3	15.8
STRONGLY DISAGREE	11	52.9
TOTAL	19	

52.9% of the managers and 68.3% strongly (par.4.2.2.13.) disagree that the department transported the redeployed educators to their new stations.

The implication is that the department wanted to save money by not transporting the educators to their new stations. The department reneged from the collective agreement (Resolution 6 of 1998) which states that the department will pay for the transport costs on relocation.

4.2.2.14. The department provided the redeployed educators with accommodation (housing).

	N	%
STRONGLY AGREE	0	0
AGREE	2	10.0
DISAGREE	3	15.0
STRONGLY DISAGREE	15	75.0
TOTAL	20	

75.0% of the managers strongly disagree that no accommodation was provided to the redeployed educators, probably for the department to save money.



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4.2.2.15. Some principals used redeployment as a tool to get rid of the educators they didn't like.

	N	%
STRONGLY AGREE	7	33.3
AGREE	8	38.1
DISAGREE	1	4.8
STRONGLY DISAGREE	5	23.8
TOTAL	21	

33.3% of the managers strongly agree and 38.1% agree that some principals used redeployment as a tool to get rid of the educators they didn't like.

For the reason that principals were not workshopped they could apply any procedure outside the prescription of the collective agreement. In most schools declaration of excess educators was repeated many time. At some of those schools officials from head office were invited by staff members for determining the educators in excess as they (staff and principal) could not agree.

4.2.2.16. The trade unions sold the educators out by agreeing to the process of redeployment.

	N	%
STRONGLY AGREE	7	31.8
AGREE	4	18.2
DISAGREE	4	18.2
STRONGLY DISAGREE	7	31.8
TOTAL	22	

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There is a balance of the managers who strongly agree and those who strongly disagree that the trade unions sold the educators out by agreeing to the process of redeployment. Both consist of 31.1%.

Managers have mixed feelings on the redeployment. This shows that not all managers understood redeployment in the same manner, probably due to lack of information from the department.

4.2.2.17. Being declared in excess frustrated most educators.

	N	%
STRONGLY AGREE	14	63.6
AGREE	3	13.6
DISAGREE	3	13.6
STRONGLY DISAGREE	0	0
TOTAL	22	

63.6% of the managers strongly agree that being declared in excess frustrated most educators. This can be compared with 61.6% of educator who have the same feelings.

The implication is that redeployment did not go without problems. This might be due to lack of information from the department.

4.2.2.18. The proper and effectiveness of rationalisation and redeployment of educators is dependent on the NPDE having the correct facts and figures at its disposal.

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	N	%
STRONGLY AGREE	9	45.0
AGREE	7	35.0
DISAGREE	2	10.0
STRONGLY DISAGREE	2	10.0
TOTAL	20	

45% of managers and union members strongly agree that the proper and effectiveness of rationalisation and redeployment of educators is dependent on the NPDE having the correct facts and figures at its disposal.

4.2.2.19. While the process of rationalisation and redeployment was in progress, the NPDE was discovering new schools on a daily basis.

	N	%
STRONGLY AGREE	8	40.0
AGREE	10	50.0
DISAGREE	1	5.0
STRONGLY DISAGREE	1	5.0
TOTAL	20	

50% of managers and union members agree and 40% strongly disagree that while the process of rationalisation and redeployment was in progress, the NPDE was discovering new schools on a daily basis.

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4.2.2.20. The NPDE used incorrect information to determine the staff establishment.

	N	%
STRONGLY AGREE	7	35.0
AGREE	9	45.0
DISAGREE	3	15.0
STRONGLY DISAGREE	1	5.0
TOTAL	20	

45% of managers and union members agree and 35% strongly disagree that the NPDE used incorrect information to determine the staff establishment.

The implication is that the department was using wrong statistics.

4.2.2.21. The NPDE used severance pay to reduce the number of educators

	N	%
STRONGLY AGREE	12	57.1
AGREE	5	23.8
DISAGREE	3	14.3
STRONGLY DISAGREE	1	4.8
TOTAL		

57.1% of managers and union members strongly agree and 23% agree that the NPDE used severance pay to reduce the number of educators

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4.2.2.22. In some educational institutions the process of declaring educators in excess was repeated a number of times.

	N	%
STRONGLY AGREE	12	52.2
AGREE	10	43.5
DISAGREE	0	0
STRONGLY DISAGREE	1	4.4
TOTAL	23	

52.2% of managers and union members strongly agree and 43.5% agree that in some educational institutions the process of declaring educators in excess were repeated a number of times.

It shows that there were implementation problems.

4.2.2.23. In every instance where the process of declaring educators in excess was repeated, different educators were affected.

	N	%
STRONGLY AGREE	9	40.9
AGREE	8	36.4
DISAGREE	3	13.6
STRONGLY DISAGREE	2	9.1
TOTAL	22	

40.9% of managers and union members strongly agree and 36.4% agree that in every instance where the process of declaring educators in excess was repeated, different educators were affected.

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The implication is that managers were not following the stipulated procedures.

#### 4.2.3. SECTION C OF THE QUESTIONNAIRE

This section of the questionnaire was sent to the education managers and the members of educators unions.

4.2.3.1. Which factors influenced the Department of Education to opt for rationalisation and redeployment of educators?

Factor	N	%
1. Ensuring equitable redistribution of educators.	16	66,7
2. The Government wanted to save money by reducing the number of educators.	14	58,3
TOTAL	24	

66,7% of the respondents mentioned equitable distribution of educators as a factor, which influenced the department of education to opt for rationalisation and redeployment of educators. 58.3% indicated that the factor influencing rationalisation and redeployment of educators was that the Government wanted to save money.

Though rationalisation and redeployment of educators are seen as a tool for bringing equity in staff provisioning by educators the government wanted to save money through this process. If not, we would not be using outdated staff establishments in schools. It seems they use redistribution of educators as pretence so that the employees would agree to the redeployment process.

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4.2.3.2. What impact do you think rationalisation and redeployment had on the matric results?

Factor	No	%
1. Matric results declined.	18	75,0
2. Varied impact.	3	12,5
3. The impact was not significant.	2	8,3
TOTAL	24	

75% of the respondents indicated that matric results declined due to the process of rationalisation and redeployment of educators.

4.2.3.3. How many secondary schools were there in the Northern Province in 1998?

Factor	No	%
1. The respondent does not know.	24	100, 0
TOTAL	24	

100% of the respondents do not know the number of secondary schools, which were in the Northern Province in 1998.

One would expect the managers and the unions to know the number of schools in the province as this affects the staff establishment. It seems the department is withholding this important information from other stakeholders so that they may not question the integrity of staff establishments between the NPDE and other stakeholders.

4.2.3.4.1. How many secondary schools posts were established by the NPDE in September 1999?

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Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

100% of the respondents do not know the number of secondary school posts, which were established by the NPDE in September 1999, for the same reason as mentioned above.

4.2.3.4.2. What was the total number of secondary school educators during the time referred to above?

1. The respondent does not know.	24	100,0
TOTAL	24	

4.2.3.4.3. How many secondary schools posts were declared in excess?

Factor	N	%
1. The respondent does not know	24	100,0
TOTAL	24	

100% of the respondents do not know the number of secondary school posts, which were declared in excess.

The information was probably hidden by the department to save money, as some excess educators are not really in excess. Some posts are declared in excess incumbents had to create space for promotion posts, which are not yet filled. Some of the educators who were occupying those posts have since left the system without being replaced.

4.2.3.4.4. How many secondary schools posts were advertised in a closed vacancy list?



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Factor	N	%
1 The respondent does not know	24	100,0
TOTAL	24	

100% do not know the number of secondary school posts, which were advertised in a closed vacancy list.

This may be due to the ignorance on the part of managers as the advertisements were sent to schools.

4.2.3.4.5. How many of the posts referred to above, were successfully filled by the redeployees?

Factor	N	%
1. The respondent does not know	24	100,0
TOTAL		

100% of the respondents do not know the number of secondary school posts, which were successfully filled by the redeployees.

The reason might be the same as the above.

100% of the respondents do not know the number of secondary school educators who were successfully redeployed.

4.2.3.4.6. What is the total number of the secondary school educators declared in excess, who are not yet redeployed?

Factor	N	%
1. The respondent does not know	24	100,0
TOTAL	24	

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4.2.3.4.7. Could you please explain why some educators were declared in excess while their institutions' staff establishments reflected a shortage of educators?

Factor	N	%
1. Old unreliable statistics were used.	9	37,5
2. Wrong staff establishments.	3	12,5
3. Some subjects were not listed in the staff establishments.	1	4,2
5. Curriculum needs.	9	37,5
6. Creation of promotion posts.	3	12,5
TOTAL	24	

37.5% of the respondents indicated that some educators were declared in excess while their institutions staff establishment reflected a shortage because the department used unreliable statistics. 37.5% referred to the curriculum needs as a cause. 12.5% referred to the wrong staff establishments as a cause. Another 12.5% referred to the establishment of promotion posts as a cause.

3.2.3.4.8. What will happen to those educators who were declared in excess, should they not be absorbed in the existing posts (not due to their fault)?

Factor	N	%
1. They will be held additional to their original institutions.	8	33,3
2. They will be retrenched.	4	16,7
3. They will be retrained in other fields.	3	12,5
4. The respondent does not know	8	33,3
TOTAL	24	

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33.3% of the respondents indicated that those educators who were declared in excess who could not be absorbed in the existing posts, (not due to their fault) will be held additional to their original institutions. Another 33.5% do not know what will happen to those educators. 15.7% state that those educators will be retrenched. 12.5% state that they will be retrained in other fields of employment.

The implication is that they will be held additional to their original institutions until they are suitably placed.

4.2.3.5. How did rationalisation and redeployment of educators and the Northern Province Department of Education's budget influence each other?

Factor	N	%
1. There is no influence.	17	70.0
2. The influence is negative.	7	29,2
TOTAL	24	

70.8% do not know how did the rationalisation and redeployment and the NPDE's budget influenced each other. 29.2% indicated that there was an over spending due to VSPs.

4.2.3.5.1. How much money did the South African Government receive from the international world for teacher retraining?

Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

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100% do not know how much money the South African Government received from the international world for teacher retraining.

The department hides the information because they have reneged from the agreements.

4.2.3.5.2. How much of the South Africa's tax payer's money is reserved for the above named project?

Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

100% do not know how much of the South Africa's taxpayer's money is reserved for the retraining of educators who were not absorbed in the existing posts.

4.2.3.5.3. How much was allocated to the Northern Province Department of Education (NPDE) by the National Education Department?

Factor	N	%
1. The respondent does not know	24	100,0
TOTAL	24	

100% do not know how much money did the National Education Department allocate to the NPDE.

4.2.3.5.4. When will educators' retraining start?

Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

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100% do not know when will retraining of educators will start.

The possibility is that it will never start, otherwise it would have long started.

4.2.3.6.1. How were the social lives of the educators who were declared in excess affected after they were redeployed?

Factor	N	%
1. Affected most educators negatively.	19	79,2
2. It was favourable to those who moved nearer their homes.	2	8,3
3. The respondent does not know.	3	12,5
TOTAL		

79.2% state that the social lives of the educators who were declared in excess were negatively affected after they were redeployed. 8.3% state that the social lives of those who were absorbed closer to their homes were positively affected.

4.2.3.6.2. How were the social lives of the excess educators who are not yet redeployed affected?

Factor	N	%
1. They were negatively affected, as they are uncertain of their future.	12	50,0
2. The respondent does not know.	12	50,0
TOTAL	24	

50% state that the social lives of those who are not yet redeployed are negatively affected, as they are uncertain of their future.

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4.2.3.6.3. What was the morale of excess educators after being declared in excess?

Factor	N	%
1. Their morale was low.	20	83,0
2. The respondent does not know	4	17,0
TOTAL	24	

83.3% indicate that the morale of educators who were declared in excess was very low.

Due to low morale the teaching spirit deteriorated; consequently they produced poor academic results.

4.2.3.7. The determination of staff establishments in education institutions has often omitted some subjects that are offered at those institutions. What impact did this omission have on the staff establishment?

Factor	N	%
1. It affected the staff establishment negatively as it increased educators in excess resulting in some subjects being faced out.	20	83,0
3. The respondent does not know.	4	16,7
TOTAL	24	

83.3% state that the omission of some of the subjects that are offered at some institutions affected the staff establishments at those institutions negatively as it increased the number of educators in excess.

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4.2.3.8. After receiving complaints from schools whose staff establishments were wrongly determined what did the Department do?

Factor	N	%
1. Recalculation was done.	7	29,2
2. Nothing was done.	17	70,8
TOTAL	24	

70% state that the department did nothing after receiving complaints from schools whose staff establishments were wrongly determined. 29.2% state that recalculation was done.

Instead of rectifying the mistake the department saved money by not responding.

4.2.3.9. What criteria were used to allocate posts, which were in the ad-hoc pool (reserved posts)?

Factor	N	%
1. The respondent does not know.	20	83,3
2. Schools had to apply for those posts.	3	12,5
3. They were allocated for Maths and Science.	1	4,2
TOTAL	24	

83.3% do not know how the posts which were in the ad-hoc pool were allocated to schools. 12.5% state that schools had to apply. 4.2% state that these posts were allocated to Maths and Science.

Though schools applied for the posts in the ad-hoc pool most schools did not receive them.

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4.2.3.10. Since 1999 enrolment in some schools changed upwards or downwards. Today, in 2004, the 1998 staff establishment is still being used. How does this affect the present learner enrolment in schools?

Factor	N	%
1. In some schools they engaged the services of temporary educators.	1	4,2
2. Most schools are negatively affected as the number of learners has increased tremendously, with the same number of educators or less.	19	79,2
3. The respondent does not know	4	16,7
TOTAL	24	

79.2% state that the 1999 staff establishment which is still being used today affected most schools negatively as enrolments have tremendously increased.

Consequently some learners are without educators. It seems the department is not interested in completing the process because its completion would demand the determination o new staff establishments. Further more, it will require more educators and more money for their salaries.

4.2.3.11. What happened to those educators, who refused to be redeployed?

Factor	N	%
1. They are still employed.	9	37,5
2. Disciplinary action was taken against them.	6	25,5
3. They were retrenched.	1	4,2
4. The respondent does not know.	8	33,3
TOTAL	24	



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37.5% state that educators who refused to be redeployed are still employed. 25% state that disciplinary action was taken against those educators. 4.2% say that they were retrenched. 33.3% do not know what happened to those educators.

4.2.3.12. What happened to those students who were left without educators after their educators were transferred due to redeployment?

Factor	N	%
1. Their results declined as learners were frustrated.	16	66,7
2. The respondent does not know.	7	29,2
3. Learners were not affected as only educators who did not meet curriculum requirements were declared in excess.	1	4,2
TOTAL	24	

66.7% state that the results of learners whose educators were redeployed declined, as they were frustrated. 29.2% do not know what happened. 4.2% indicate that learners were not affected as only educators who did not meet the curricular requirements were declared in excess.

Even if some of the educators did not meet curricular needs they had been teaching those learners who became frustrated, particularly that those educators left them in the second half of the year.

4.2.3.13. Could you please explain the reasons which led to the incompleteness of the educator's redeployment process?

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Factor	N	%
1. Unwillingness of school managers.	2	8,3
2. Not starting with promotion posts.	2	8,3
3. Not having readily available statistics.	3	12,5
4. The respondent does not know.	1	4,3
5. Grievances.	11	45,8
6. Educators not meeting requirements.	2	8,3
7. Deadlocks between the department and the unions.	2	8,3
TOTAL		

45.5% refer to the unresolved grievances due to the department's incompetence or reluctance and poor planning as the factors which led to the incompleteness of educator's redeployment process. 8.3% refer to the unwillingness of some school managers as the cause. Another 8.3% state that it was caused by the fact that redeployment process did not start with the filling of promotion posts. 12.5% state that not readily available statistics was the cause. 8.3% refer to the deadlocks between the unions and the employer as the cause. 8.3% state that the process was not completed, as some educators in excess did not meet curricular needs.

It might as well be due to the unwillingness on the part of the department. Completion of the process would require more money for new posts.

4.2.3.14. What happened to the educators who were holding substantive posts on a temporary basis (educators who were employed prior to 01 June 1996)?

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Factor	N	%
1. They were permanently employed.	13	54,2
2. Those who did not qualify relinquished their posts	6	25,0
3. The respondent does not know.	5	20,0
TOTAL	24	

54.2% state that temporary educators who were holding substantive posts who were employed before 01 June 1996 are now permanently employed. 25% state that some of them relinquished their posts as they did not qualify. 20.8% don't know what happened.

Most if not all of them were permanently employed, as the Resolution 6 of 1998 requires

4.2.3.15. Nation-wide ±19000 educators applied for voluntary severance pay.

4.2.3.15.1. How many of those educators were in the NPDE?

Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

100% of the respondents don't have the figures of educators who applied for severance pay in the NPDE.

It is surprising if the managers do not know the figures.

4.2.3.15.2. How many of those educators were granted severance pay by the province?

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Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL	24	

100% of the respondents don't have the figures of the educators who applied for voluntary severance pay that were granted it.

One would expect the managers to know these figures.

4.2.3.15.3. Can you please explain the reasons for not granting severance pay to all those who applied for it?

Factor	N	%
1. The respondent does not know.	8	33.3
2. Budgetary constraints.	9	37.5
3. The department feared to lose some skilful educators.	13	54,2
TOTAL	24	

54% state that the department did not grant severance pay to all those who applied for it for the fear of losing some skilful educators. 37.5% state that the budgetary constraints were the cause. 33.3% don't know why.

The department wanted the old educators who were nearing their retirement age quit as the former MEC, Dr Aron Motswaledi said when he was addressing the SADTU meeting. To the department's sup prise the opposite was happening. Young educators who are marketable applied for VSPs.

4.2.3.15.4. What are the advantages and disadvantages of voluntary severance pay?

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Factor	N	%
1. It would be advantageous to the department because they would save money by reducing educators.	4	16,7
2. The disadvantage would be to lose skilful educators.	13	54,2
3. The respondent does not know	7	29,2
TOTAL	24	

16.7% state that voluntary severance pay would help the department to save money, as the number of educators would be reduced. 54.2% state that this would be disadvantageous, as the department would lose some skilful educators.

Should the department lose skilful educators, particularly in scarce subjects, namely Maths and Science it would lose more money by retraining new teachers for those subjects.

4.2.3.16.1. How many posts were left vacant due to death, retirement, and resignation dismissal and voluntary severance pay?

Factor	N	%
1. The respondent does not know.	24	100,0
TOTAL		

100% do not know the number of posts, which were left due to death, retirement, resignation, dismissal and severance pay.

4.2.3.16.2. Could you briefly explain what happened to those posts, referred to, above?

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Factor	N	%
1. The respondent does not know.	2	8,3
2. Almost all the posts were frozen.	20	74,1
3. Replacement by temporary educators in very few instances.	3	12,5
TOTAL	24	

74.1% state that the posts referred to above were frozen. 12.5% state that replacement by temporary educators was done in few cases.

Freezing those posts saved money for the department.

#### **4.3. CONCLUSION**

From the opinions, views and experiences of the stakeholders one can deduce that rationalisation and redeployment of public secondary school educators in the Northern Province were mainly influenced by the need to redress the imbalances of the past to achieve equity. Secondly this process was influenced by the government's need to save money.

## **CHAPTER 5**

### **5.1. OVERVIEW**

The researcher wanted to find out which factors influenced the rationalisation and redeployment of secondary school educators in the Northern Province.

In chapter 1 the background of the situation that has prevailed in our schools was given. The problem that is pressing was highlighted. Key concepts were clarified so that one can understand and follow the report.

In chapter 2 labour relations in education were discussed because rationalisation and redeployment are labour issues and therefore involve employer - employee relationships. One has to understand how the relationships in education are affected by the process of redeployment.

Chapter 3 discussed the process of rationalisation as it was intended.

Chapter 4 dealt with data collection, interpretation and analysis.

In chapter 5 an overview of the research is given, findings are brought to the fore, conclusions are drawn and recommendations are given.

### **5.2. FINDINGS**

In most schools the determination of educators in excess was done in properly constituted staff meetings.

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A significant number of educators who were declared in excess believe that the procedures as prescribed by Resolution 6 of 1998 were not followed. This opinion contradicts the opinion held by managers who might be trying to protect themselves by stating that they followed the prescribed procedures. In some schools declaration of educators in excess was repeated a number of times. Every time different educators were declared in excess.

In a letter written by SADTU's attorneys to the SG on 20 September 1999 it was stated that some schools used unauthorised and improper guidelines for determining who is in excess.

In our circuit meeting where each of us (the principals) was explaining how he/she determined who is in excess, one could infer that some principals did not follow the procedure as prescribe by the resolution. Some principals targeted educators who are not in their good books. This is evident in our neighbouring secondary school where both science educators were declared in excess. After they were redeployed their learners were without a science educator. The principal had to secure permission from the district to employ a temporary science educator.

Generally redeployment raised fears among educators (par. 4.2.2.3.). This might have led to the fact that not all staff members did understand Resolution 6 of 1998 in the same manner (par. 4.2.2.4.). Most educators who were declared in excess were frustrated, as they were not sure of their future (par. 4.2.1.17 and 4.2.2.17).



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A significant number of educators do not believe that redeployment is the best alternative to save the educators' jobs. Their disagreement might have been caused by the bad way in which the department is handling the rationalisation and redeployment process, which raised fear in educators (par. 4.2.2.3.).

However I maintain that redeployment is the best alternative to save educators' jobs. Unions agreed to redeployment as an alternative to retrenchment, (The Teacher, March 1997:4). If teachers are transferred from where their services are no longer required to where they are required they will remain working on permanent basis. As opposed to retrenchment I value redeployment as the best alternative.

A significant number of respondents indicated that LIFO was not the only criterion used to determine educators in excess (par.4.2.1.7).

The educators' job was negatively affected (par. 4.2.2.9.). This was seen in the matric results, which declined (4.2.3.2). This was also caused by the movement of educators from one school to another in the last school term (par. 4.2.2.10).

A significant number of respondents indicated that redeployment is an indirect retrenchment (par. 4.2.1.12). The Resolution 6 of 1998 stated clearly that the educators who are declared in excess are not redundant and therefore will not be retrenched. On the other hand the department wanted to use redeployment to reduce the number of educators by freezing the posts which were left vacant due to VSPs, death, retirement resignation and dismissal. According to the agreement these posts were supposed to be transferred to where they were needed rather than freezing them. The department reneged from

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this agreement by freezing those posts in order to reduce the number of educators to save money (par. 4.2.1.11).

The department did not transport (4.2.1.13. and par.4.2.2.13) nor supply the redeployees with accommodation (par. 4.2.1.14 and par.4.2.2.14). Some of them received a small amount, which cannot cover both transport and accommodation. It seems the department had a hidden agenda, to save money.

A significant number of both managers and union members believe that proper and effectiveness of rationalisation and redeployment of educators is dependent on the NPDE having the correct statistics (4.2.2.18 and 4.2.2.19). The NPDE proceeded with the process although they did not have the correct statistics. This is seen in the three staff establishments they issued to schools. In every instance the number of schools and of educators differs. These discrepancies were also indicated in the letter that was written by SADTU's attorneys to the SG. In that letter it is stated that in some schools staff establishments were not determined as the department did not know that those schools did exist. The letter indicated few examples of such schools. Looking at these three staff establishments, one could conclude that the department is discovering new schools on a daily basis. It is possible that if the department had the correct statistics before starting with the process, the number of excess posts might have been less. Consequently the department would be required to employ more educators, as there might be more vacant posts. However this might be against the wish of the department as their intention is to save money by reducing the number of educators.

A significant number of both managers and union members indicated that the department wanted to distribute educators

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equitably. They also stated that the department wanted to save money (4.2.3.1.) The Parliamentary Bulletin No. 24 (29 October 1997:1) state that the Government has a clear commitment to equity and to redress the educational injustices of the past. It further states that this commitment has to be met from an education budget that has not increased.

It seems that the department was not timeously updating the other stakeholders with the correct statistics, as all the respondents do not have information on the statistical issues (4.2.3.3-4.2.3.4.6). For instance they do not know the number of secondary schools which were in the province in 1998, the number of posts established in those secondary schools in 1999 and the posts which were declared in excess. They also do not know the number of those posts, which were successfully filled by the redeployees. These might have been caused by the department's unreliable statistics.

The department violated the stakeholders' constitutional right - the right of access to information which is protected in section 32 of the Constitution Act, (Act 108 of 1996).

Some educators were declared in excess, as they did not meet the curricular needs of their original institutions. Some were declared in excess to pave way for the promotion posts (4.2.3.4.7.). At the school where I am teaching there were no real excess educators. However two educators were redeployed to other schools to pave way for two promotion posts.

33.3% of respondents indicated that those educators who could not be redeployed would be held additional to their original schools until they are suitably placed. Even if this number is insignificant, it is supported by the Resolution 6 of 1998. Though the resolution also states this, the department seems

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to be talking a different language: - "retrenchment", which the unions oppose.

"...the public service could be scaled down-were concocted last year after public service unions gave the government a definite no to retrenchments. The plan has ever since drawn severe criticism from several quarters including teacher organisations which say the process has been badly managed in the education sector, (The Teacher, March 1997:4)

A significant number of respondents do not know of any relationship between redeployment and the NPDE's budget. However, The Teacher, (March 1997:4) stated that more educators opted for the VSP than the department had expected. The Northern Review, (October 23 1998) states that the MEC, Joe Phaahla and other senior officials during a frank exchange with media representatives spelt out some of the constraints.

"The department spends 92 percent of its budget on salaries. This means only 8 percent is available for all the vital educational ingredients - the administration of the system, new schools, additional classrooms, textbooks, etc.

The department is hoping to reduce the salary bill to a figure of 80 percent of the budget. This will be done by gradually reducing the number of teaching posts in the province."

The department did not reveal the amount they received from the international world or the amount they generated from taxes for teacher retraining. They did not reveal if there is any money allocated by the national government for the same.

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Nobody knows when excess educators will be retrained (par. 4.2.3.5.1. -4.2.5.3.).

Most of the redeployees' social lives were negatively affected, as they had to start new relationships. Their morale also became low.

A high number of respondents stated that the department did nothing after receiving complaints from schools whose staff establishments were wrongly determined. In a letter that was written to the SG by SADTU's attorneys it was indicated that even if the subjects which were originally omitted were later added, the department didn't adjust the number of educators in those schools accordingly.

Generally the respondents do not know how the posts in the ad-hoc pool were allocated. In a letter written by SADTU's attorneys it was indicated that the department failed to disclose the submissions from schools whose staff establishments were wrongly determined.

45.8 of respondents indicated that the process of rationalisation and redeployment was never completed due to the unresolved grievances caused by the department's incompetence (par.4.3.13.).

Temporary educators who were holding substantive posts who were employed before 01 June 1996 were permanently employed (par. 4.2.3.14). The Resolution 6 of 1996 state that they were to be treated like any other permanently employed educator.

The department did not reveal the number of educators in the province who applied for VSPs and the number of educators who

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were granted it (par.44.2.3.15.2.) A significant number of respondents indicated that the department did not grant VSP to all those who applied for it for the fear of losing some skills (par.a.2.3.15.3.) Dr Aron Motswaledi, the then MEC for education once (in a trade union meeting) said that they wanted some old educators to move out of the system. The Northern Review, October 23 1998) refers to the same sentiments that were repeated by Motswaledi's successor, Dr Joe Phaahla who said:

"..it is clear that a lot of dead wood will have to go."

Unfortunately the opposite was happening as young educators with specialisation were leaving the system for private sectors, Motswaledi said. Budgetary constraints were also a cause as more educators than expected applied for VSP.

The respondents do not know the number of posts, which were left due to death, retirement, dismissal, resignation and VSPs (par.4.2.3.16.1.). The department did not reveal the number of these posts. This indicates that the department was interested in saving money by downsizing but not in the redeployment.

### 5.3. CONCLUSIONS

"Some experts find the problem has more to do with where the teachers are found than how many there are, raising the possibility of redeployment", (The Teacher April 1996).  
Redeployment hasn't been an easy route. There has been resistance of some communities to outside educators. For example an educator from our neighbouring school was to be absorbed at another school where educators and the SGB refused

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her because local educators have no jobs. Trevor Schoole, a member of the research that conducted the study indicated that much of the problem could be traced back to apartheid education era. Tony Mkhathshwa, a career guidance expert states that for many the only affordable profession to study was teaching. He further stated that many opted for softer subjects due to poor career guidance and subject choice at high school. (The Teacher April 1996).

The rationalisation and redeployment of educators were influenced by a number of factors, among which is to redress past injustices in education provisioning (South African Schools Act, 1996 (Act 84 of 1996)).

There are no any other alternatives of bringing equity in educator provisioning except through this process. If teachers were not redeployed to where their services are most needed they would lose their job through retrenchment. All educators who are employed by the NPDE whether they belong to a trade union or not who are in excess of their original school staff establishment must be redeployed for the efficient, economic and effective use of resources.

Money is another factor that influenced rationalisation and redeployment of educators

"Funds that are allocated for the creation of educators posts need to be utilised optimally and the creation and distribution of these posts, therefore need to be fair and in line with the funds that have been allocated for this purpose (Resolution 6 of 1998 of the ELRC)

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This is also supported by Section 195(a) of the Constitution Act, 1996 (Act 108 of 1996) which states that "efficient, economic and effective use of resources must be promoted."

This section is promoted by the movement of educators from where their services are no longer needed to where they are most needed. Educators whose services are no longer needed at particular institutions are those educators who are redeployable. In contrary some principals determined their own criteria known to themselves only. This resulted in wrong educators being declared in excess. Consequently some subjects in some schools were left without educators.

Curriculum needs of the school were to be used for the determination of an excess educator in an institution as a first step. Where there was more than one educator competing for the same post, LIFO could be applied.

The role, which should be played by some stakeholders, was not clear. At the implementation level only the principals were workshopped. It was their responsibility to determine the educators who are in excess. Some of them deliberately interpreted Resolution 6 of 1998 (ELRC 1998) in their own way to suit their own personal needs. As a result of this, wrong educators were declared in excess. Some principals went to an extent of influencing the SGB to refuse educators who were coming from other schools to be absorbed in their schools.

From the views and experiences of stakeholders one could realise that the process had many problems. Some principals determined their own procedures that are outside the scope of collective agreement for determining educators in excess.



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The department started the process without having the correct statistics. It is clear from the views of the stakeholders and the documents that the principals did not adhere to the prescribed procedures. This might be due to lack of training and communication breakdown between managers and the department.

From the views, opinions and experiences of the stakeholders one can finally conclude that the main aim of the department was to save money. Should the department not have decided on rationalisation and redeployment they would be compelled to employ more educators. Therefore this process was influenced by the fact that the department wanted to save money. For instance VSP was used as a tool to realise the objective of the department. Posts left through VSP, resignation, death and dismissal were never filled. The department was interested in downsizing rather than redressing the imbalances of the past.

The unions agreed to this process to avoid retrenchment and to redistribute educators equitably. They viewed this process as an alternative to retrenchment. Consequently rationalisation and redeployment process was also influenced by the fact that equitable redistribution of resources was needed as demanded by the Constitution of South Africa.

### **5.4. RECOMMENDATIONS**

5.4.1. For rationalisation and redeployment to be successful, the process should start by the filling of promotion posts. Most of the post level 1 educators would be absorbed in those posts. This may result in few posts being in excess.

5.4.2. As some principals are declaring educators in excess in wrong ways, to remove educators they do not like; this

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responsibility should be assigned to a committee, which includes external people like union representatives, to minimise subjectivity. The team responsible for the determination of educators in excess should be thoroughly trained.

5.4.3. Posts left due to attrition, retirement, resignation and VSP should be immediately filled and not frozen.

5.4.4. The department should update the statistical information in their database regularly and supply all the stakeholders with such information.

5.4.5. The department's budget should be determined by human resource needs and not vice-versa.

### 5.5. CONCLUSION

From the literature review, opinions views and experiences of the stakeholders one can conclude that the rationalisation and redeployment of public secondary school educators was influenced by two main factors, namely the need to redress the imbalances of the past injustices in education as stipulated in the Resolution 6 of 1998 and the preamble to the SASA.

The Teacher (January 1999:7) states that SADTU supported the rationalisation and redeployment agreement contained in the Resolution 6 of 1998 for basic two reasons as follow:

- To prevent unilateral retrenchments from the employer's side.
- To further the struggle for equity and redistribution of resources - including teachers.

Through the process of rationalisation and redeployment equity in education can be achieved.

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Although the department's intention was to achieve equity, it made it clear that the government had financial constraints. The government could therefore not make any more money available to employ extra educators ((SA Labour Bulletin, vol. 21 Number 1 February 1997:70)).

The department could therefore save money through the process of rationalisation and redeployment.

The department wanted to redistribute educators without increasing the salary budget. The department reneged from the agreement by applying indirect retrenchment. Instead of transferring the posts which were left vacant through VSPs, resignation, death and dismissal the department froze those posts (par. 4.2.3.16.2) of the questionnaire.

Although rationalisation and redeployment of educators had good intentions, in the Northern Province public secondary schools it had many implementation problems. The process was badly managed.

SA Labour Bulletin (Vol. 21 Number1 February 1997:70) points that the process moved extremely slowly and unevenly, leaving teachers demoralised and plagued by uncertainty and that there was also critical lack of information. In this bulletin it is also stated that there was administration "chaos" in the Northern Province, which further complicated the process.

This is also evident in the questionnaire results where it is indicated that there was lack of information from the department to the principals.

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Because of the problems that were encountered in the implementation of rationalisation and redeployment the process is not yet completed.

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