

# Educators' perceptions of corporal punishment

by

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## UNIVERSITY OF PRETORIA

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## DEDICATION

I dedicate this mini-dissertation to God Almighty who gave me the wisdom, strength and patience to complete the study.

My thanks are due to my wonderful life partner and soul mate, Elaine, for your support and encouragement, and to my children, Carlo and Elana, who kept asking how many pages still had to be completed.

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- \* Available on CD  
Copy of Mini-dissertation in Microsoft Word included on CD

## ABBREVIATIONS AND ACRONYMS

ANC	African National Congress
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CJCP	Centre for Justice and Crime Prevention
CRC	The Convention on the Rights of the Child
DoBE	Department of Basic Education
DoE	Department of Education
GDE	Gauteng Department of Education
ICCPR	International Covenant on Civil and Political Rights of the United Nations
LOLT	Language of Learning and Teaching
OBE	Outcomes Based Education
RAPCAN	Resources Aimed at the Prevention of Child Abuse and Neglect
RSA	Republic of South Africa
UDHR	The Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
USA	United States of America

## Abstract

Corporal punishment is a widespread phenomenon in South African schools in spite of legislation prohibiting spanking of learners. Section 10 of the South African Schools Act No 84 of 1996 states that *No person may administer corporal punishment at a school to a learner*. The legal consequences for an educator administering corporal punishment could result in dismissal. However, empirical evidence indicates that seven in every ten primary school learners and one in every two secondary school learners still receive corporal punishment from educators. Hence, the purpose of the study is to understand and explain corporal punishment from educators' perceptions. Six educators from three schools were interviewed using a qualitative approach.

Participant educators are not convinced that the use of corporal punishment is illegal and a criminal offence. The findings of the study show that these frustrated educators believe that corporal punishment is effective to maintain discipline in classes with a high educator-learner ratio. Furthermore, the participant educators are convinced that alternatives to corporal punishment are ineffective in comparison with the positive effect of corporal punishment on instruction and learning. The ineffectiveness of alternatives to corporal punishment is exacerbated by the poor support provided by the Department of Education in implementing these measures. The study concluded that the implementation of the abolishment of corporal punishment is a tug-of-war between legislation and reality.

## Keywords

corporal punishment	human rights
Department of Education	job satisfaction
discipline	learners
educators	legislation
educator-learner ratio	perceptions

## CHAPTER 1 ORIENTATION

### 1.1 INTRODUCTION

*“BANNING CORPORAL PUNISHMENT HAS CREATED TOUGH  
CHALLENGES”<sup>1</sup>*

The author of this newspaper article claims that it is difficult for educators<sup>2</sup> to maintain learner<sup>3</sup> discipline in the absence of corporal punishment. On 15 November 1996 the prohibition of corporal punishment in South African schools became law.<sup>4</sup>

- (1) No person may administer corporal punishment at a school to a learner.
- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault.

This means that educators have legally been prohibited from spanking learners since November 1996. Mecoamere<sup>5</sup> positively acknowledged the efforts of the Department of Education (DoE) when a manual entitled *“Alternatives to Corporal Punishment: The Learning Experience. A practical guide for educators. To develop and maintain a culture of discipline, dignity and respect in the classroom”*<sup>6</sup> (*Alternatives to Corporal Punishment*) was published in 2000 to support and assist educators in applying the necessary legislation in schools. He remarked that it was very difficult for educators to discipline learners without spanking, as this was the mode of punishment they had been used to. In my view this legislation has affected the majority of educators on many levels, such as classroom management, school discipline, learning and teaching, educator-learner relationship and employer-employee relationship. Furthermore, despite it

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<sup>1</sup> Mecoamere V “Banning corporal punishment has created tough challenges” *Sowetan* (12 February 2008) 12.

<sup>2</sup> Teachers, facilitators.

<sup>3</sup> Pupil, student, scholar.

<sup>4</sup> Section 10 of the South African Schools Act No 84 of 1996 (Schools Act).

<sup>5</sup> Note 1 at 12.

<sup>6</sup> *Alternatives to Corporal Punishment: The Learning Experience. A practical guide for educators. To develop and maintain a culture of discipline, dignity and respect in the classroom* (2000).

being banned, one often reads in the media about corporal punishment being administered in our schools.<sup>7</sup>

In fact, the work environment of those educators who had practised corporal punishment before 22 November 2000 changed even more when the Education Laws Amendment Act<sup>8</sup> came into effect:

The Employment of Educators Act, 1998, is hereby amended by the substitution for sections 18 to 24 of the following section:

Misconduct<sup>9</sup>

18(5) An educator may be dismissed if he or she is found guilty of –

(f) contravening section 10 of the South African Schools Act, 1996 as contemplated in subsection (1)(dd).<sup>10</sup>

It is clear that an educator can be dismissed if found guilty of spanking a learner. Consequently, South African schools are supposed to be violence-free zones, especially in respect of the administering of corporal punishment by educators to learners. More specifically, educators are expected to enforce the prohibition of corporal punishment for the simple reason of avoiding disciplinary action and possible dismissal.

The Minister of Education expects that educators are informed about all legislation that is associated with the profession because “ignorance of the law is no excuse” (*S v De Blom*).<sup>11</sup> The school principal is a representative of the DoE and one of the core duties of a principal is to manage compliance with legislation as enforceable law.<sup>12</sup> Thus the law and the Minister of Education expects the principal to assist in “handling disciplinary actions” should an educator violate legislation.<sup>13</sup> Principals are

<sup>7</sup> For example, Matomela D “Corporal punishment ‘widespread’” *The Herald (EP Herald)* (21 March 2008) 3; Anon “Teacher gets jail for fan belt incident” *Diamond Fields Advertiser* (9 April 2009) 2; Van Wyk M “Teacher vows to stop hitting kids” *Diamond Fields Advertiser* (4 September 2009) 4; Jones M “Boy assaulted by teacher over missing phone” *Cape Times* (4 March 2010) 3; Matomela D “Teacher faces assault charge after water pipe attack” *The Herald (EP Herald)* (15 April 2010) 8; Maponya F “Teachers rely on the rod” *Sowetan* (5 May 2010) 9 and Rademeyer A “Principal fined after spanking with bat” (translated) *Beeld* (21 October 2010) 3.

<sup>8</sup> Section 11 of the Education Laws Amendment Act No 53 of 2000.

<sup>9</sup> Section 18(1): Misconduct refers to a breakdown in the employment relationship and an educator commits misconduct if he or she commits a common law or statutory offence.

<sup>10</sup> Employment of Educators Act No 76 of 1998.

<sup>11</sup> 1977 (3) SA 513 (A) at 43.

<sup>12</sup> “Personnel Administrative Measures” *Government Gazette* No 19767 (18 February 1999) and Section 16A(1)(a) of the Schools Act.

<sup>13</sup> Section 16A(2)(a)(i), (2)(e) & (2)(f) of the Schools Act.

well aware of the fact that corporal punishment is illegal.<sup>14</sup> Despite this, 1 500 principals from all over the country applauded Mandla Sibikwe, a representative of the Eastern Cape principals, when he asked the government to bring corporal punishment back into schools to restore order.<sup>15</sup> They argued that this would be the way to restore discipline in the education sector. President Jacob Zuma did, on this occasion, hold a national interaction with school principals “to share our vision on the revival of our education system”.<sup>16</sup> The request by Sibikwe, which was enthusiastically supported by principals, was in direct violation of the prohibition of corporal punishment<sup>17</sup> and the Employment of Educators Act as discussed above.

Why did the principals appeal to Government to bring corporal punishment back when the prohibition of corporal punishment became legislation 14 years ago? I have to assume that their request originated from the increasing number of disciplinary problems that schools experienced then and have been experiencing since. One historic method of ensuring discipline in schools was the administering of corporal punishment. It seems that educators, who are nowadays battling with discipline, persisted using corporal punishment and that this practice is therefore still common practice in schools.

## 1.2 BACKGROUND

Since 1996 South Africa has taken giant leaps with regard to the advancement of human rights. One of these advancements involves the rights of children to basic education as stipulated by section 29(1) of the Constitution of the Republic of South Africa.<sup>18</sup> Unquestionably effective learning can only take place where proper discipline is maintained, and therefore one way of promoting the right of a child to basic education is by promoting effective discipline. Porteus, Vally and Ruth<sup>19</sup> support this fact in the subtitle of their book *Growing discipline and respect*

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<sup>14</sup> Schools Act n 4.

<sup>15</sup> Anon “Bring back hidings in schools – principals” *Saturday Argus* (8 August 2009) 6.

<sup>16</sup> Zuma J *National interaction with school principals* (2009) <http://www.info.gov.za/speeches/2009/09080712351001.htm> [accessed 12 April 2010].

<sup>17</sup> Schools Act n 4.

<sup>18</sup> The Constitution of the Republic of South Africa Act No 108 of 1996.

<sup>19</sup> Porteus K, Vally S & Ruth T *Alternatives to corporal punishment: Growing discipline and respect in our classrooms* (2001).

in our classrooms. Blandford<sup>20</sup> also acknowledges that discipline is evident in every aspect of school life.

School discipline is a widely discussed topic and many ways are suggested for implementing it. One conventional practice is the use of corporal punishment by educators to maintain discipline in schools. The educator is the practitioner who needs to balance the human rights<sup>21</sup> of the learner while ensuring a disciplined environment that is conducive to learning. According to section 4(b) of the National Education Policy Act,<sup>22</sup> an educator's main goal is to equip a child to be a future productive, responsible citizen. President Jacob Zuma has emphasised the fact that education is the "most powerful weapon in the struggle against poverty".<sup>23</sup> However, to achieve this, order and harmony in the teaching milieu are a prerequisite. In fact, section 8(2) of the Schools Act<sup>24</sup> states that a school environment must be disciplined and purposeful to ensure that the quality of education is improved and maintained.

### 1.3 RATIONALE FOR THE STUDY

Before the turn of the century it was common practice for educators (especially males) to administer corporal punishment. Female educators usually sent the unruly and most undisciplined boys to be punished by male educators. Although principals warned of the implication of section 10 of the Schools Act, it was only later that the impact of this legislation was realised when the first educators were prosecuted and found guilty of a criminal offence. As educators my colleagues and I have tried different alternatives to maintain effective discipline without spanking learners. I believe that we have achieved limited success. In the last ten years my colleagues and I attended many workshops, meetings and courses (for example Curriculum 2005 and Revised New Curriculum Statement courses) on almost all aspects of education, but never once were we trained or supported in alternative ways of practising discipline.

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<sup>20</sup> Joubert R & Squelch J *Learner discipline in schools* (2005) 1.

<sup>21</sup> Section 10, 12(1)(e), 24(a) & 28(1)(d) of the Constitution.

<sup>22</sup> Act No 27 of 1996.

<sup>23</sup> Zuma n 16.

<sup>24</sup> Schools Act n 4.

In 2000 the DoE<sup>25</sup> published *Alternatives to Corporal Punishment*. I found this book in my mailbox at the school where I was employed. The principal advised us to take notice of its content and warned us that if we, in future, were to hit a child, we were doing it at our own risk and would receive a written warning. However, looking back now, it seems that after 2000 the majority of educators simply persisted in administering corporal punishment to ensure good discipline in class, despite the fact that it had clearly been ruled illegal.<sup>26</sup>

#### 1.4 THEORETICAL FRAMEWORK

The literature study confirmed that the practice of corporal punishment by educators is unconstitutional and an illegal practice. The significant question then is: Why do educators continue with this criminal offence in spite of 14-year-old legislation to abolish corporal punishment?

It is important to acknowledge the first assumption that the classroom environment determines the quality of teaching and learning. It is the educator's responsibility to ensure that the learners in his or her class master/obtain the necessary knowledge, skills and norms within an allocated timeframe.<sup>27</sup> However, it is difficult for educators to deliver quality education when unruly learners disrupt classes that have a high educator-learner ratio.<sup>28</sup> This ratio refers to the number of learners that is in the care of one educator. Therefore I make the assumption that a class with a high educator-learner ratio has a negative effect on the culture of instruction and learning in South African schools; such an educator-learner ratio could result in the continuation of corporal punishment.<sup>29</sup>

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<sup>25</sup> Note 6.

<sup>26</sup> Schools Act n 4.

<sup>27</sup> Coleman M, Graham-Jolly M & Middlewood D *Managing the curriculum in South African schools* (2003) 138.

<sup>28</sup> Masitsa MG "Discipline and disciplinary measures in the Free State township schools: unresolved problems" (2008) 40/3 *Acta Academica* 264.

<sup>29</sup> Porteus *et al* n 19; Meier C "The origins and development of child-centered education: Implications for classroom management" (2003) 32/1&2 *Educare* 222-239; Van der Puye I, Deku P & Kwarteng SA "The state of support services and effect of class size in mainstreamed schools: Implication for inclusive education in Ghana" 2006 14/1 *Ife Psychol: A Journal* 145-157; Chisholm L, Hoadley U, Wa Kivulu M, Brookes H, Prinsloo C, Kgobe A, Mosia D, Narsee H & Rule S *et al Educator workload in South Africa* (2005); Pedder D "Are small classes better? Understanding relationships between class size classroom processes and pupils' learning" (2006) 32/2 *Oxford Review of Education* 213-212; Bissetty M "Call to cut back on large classes" *The Mercury* (4 April 2007).

My second assumption is that the DoE fails to implement legislation regarding corporal punishment. As has been mentioned earlier, corporal punishment was prohibited in schools in 1996<sup>30</sup> and in 2000 the DoE published its *Alternatives to corporal punishment in the classroom*.<sup>31</sup> The purpose of the booklet is to support educators in disciplinary matters in the absence of corporal punishment. In retrospect it seems clear that the implementation of the booklet was not successful – not if seven out of ten primary school learners and one out of two secondary school learners still claim to receive corporal punishment in schools.<sup>32</sup> Educators are faced by difficult disciplinary situations in their classrooms and the most effective solution seems to administer corporal punishment to disruptive learners.<sup>33</sup> Therefore I make the assumption in this study that the legal abolishment of corporal punishment has had a negative effect on the attitude of educators due to the sudden change in legislation and little or no guidance or training from the authorities with regard to alternative discipline methods.

It seems that some educators have low morale and experience limited job satisfaction, and their high stress levels not only affect productivity but also render effective teaching and learning virtually impossible.<sup>34</sup> Therefore in this study I also assume that educators have low job satisfaction because of classes with high educator-learner ratios that make it difficult to maintain discipline, and that they receive minimal support from authorities who advocate alternatives to corporal punishment that educators consider ineffective. I believe that educators are well aware of corporal punishment legislation and this awareness places a serious strain on job satisfaction. In other words, since educators are frustrated by the low level of discipline in schools and the negative influence it has on effective instruction and learning, they resort to a quick, well-known and effective way of addressing their frustration, namely administering corporal punishment.

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<sup>30</sup> Schools Act n 4.

<sup>31</sup> Note 6.

<sup>32</sup> Burton A *Merchants skollies and stones: Experiences of school violence in South Africa* (2008) 29.

<sup>33</sup> Porteus *et al* n 19; Narain AP *Discipline and disciplinary measures used at selected secondary schools* (2006); Burton n 32.

<sup>34</sup> Porteus *et al* n 19; Van Deventer I & Kruger AG (eds) *An educator's guide to school management skills* (2002); Pedder n 29; Bissetty n 29.

The last assumption is a result of the first two assumptions, namely that the participant educators have low job satisfaction because of classes with high educator-learner ratios where it is difficult to maintain discipline, combined with minimal support from authorities that advocate alternatives that participant educators believe to be ineffective.

Several arguments could be tendered to justify corporal punishment but it remains illegal because “a child’s best interests are of paramount importance in every matter concerning the child”. The right to human dignity,<sup>35</sup> the right not to be degraded,<sup>36</sup> the right to a safe environment<sup>37</sup> and the right to be protected from abuse or degradation<sup>38</sup> are violated when corporal punishment is administered. The administering of corporal punishment unquestionably violates the human rights of learners. Yet, as has been mentioned, there is evidence in literature that this practice is still rife in our schools. The perceptions of educators regarding the issue of corporal punishment will be discussed against the background of the relevant legislation.

To conclude, before 1996 corporal punishment was legal and a traditionally accepted practice to maintain and enforce discipline in classrooms. However, post-1996 legislation adopted in the Constitution, Schools Act and the Employment of Educators Act made corporal punishment an illegal practice in schools. Despite this recent surveys have revealed that the majority of learners still receive corporal punishment – 14 years later. I make the assumption that the continued use of corporal punishment is the result of poorly motivated and stressed educators who have to struggle in classes with high educator-learner ratios because of the sudden change in legislation and minimal support from the DoE. Table 1.1 summarises the theoretical framework of the study on corporal punishment.

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<sup>35</sup> Section 10 of the Constitution.

<sup>36</sup> Section 12(1)(e) of the Constitution.

<sup>37</sup> Section 24(a) of the Constitution.

<sup>38</sup> Section 28(1)(d) of the Constitution.

Table 1.1 Theoretical framework depicting legislation, evidence and assumptions about corporal punishment

	Legislation and other measures	Evidence	Assumptions
<b>Before 1996</b>	Corporal punishment – legal	Corporal punishment – traditional and accepted practice to maintain learner discipline	<b>Assumption 1</b> Minimal support from DoE when legalisation was changed.  <b>Assumption 2</b> Educators have poor job satisfaction because of legal implementation of abolishment of corporal punishment  <b>Assumption 3</b> Classes with high educator-learner ratio contribute to necessity of illegal corporal punishment
<b>After 1996</b>	Corporal punishment – illegal because of the Constitution: → Human dignity (s 10) → Freedom and Security of the person (s 12) → Environment (s 24) → Children (s 28) → Prohibition of corporal punishment (s 10 of the Schools Act)  → S 18 of Employment of Educators Act → DoE's book on <i>Alternatives to Corporal Punishment</i>	Surveys determined that 50- 80% of learners still receive corporal punishment:  7 out of 10 primary school learners  1 out of 2 secondary school learners	

## 1.5 RESEARCH PROBLEM

Joubert and Squelch<sup>39</sup> as well as Van Deventer and Kruger<sup>40</sup> agree that a disciplined teaching context is widely accepted by all stakeholders involved in education. However, reality and the day-to-day practice in the classroom often come into conflict with this point of view. Every day the modern educator faces a range of challenges in the school with the minimal practical guidance from the authorities.<sup>41</sup> Literature and recent empirical studies provide ample evidence that corporal punishment is still used in schools.<sup>42</sup> Wa Kivilu and Wandai<sup>43</sup> conducted a study over a period of four years, from 2003 to 2006, among learners who were 16

<sup>39</sup> Note 20.

<sup>40</sup> Van Deventer I & Kruger AG n 34 at 11,12.

<sup>41</sup> Chisholm L *et al* n 28; HSRC *Educator Supply and Demand in the South African Public Education System* (2005) and Porteus *et al* n 18.

<sup>42</sup> Maree K "What cannot be endured must be cured: Untying the Gordian knot of violence in South African schools" (2000) 13/3 *Acta Criminologica*. 1-13; Netshitahame NE & Van Vollenhoven WJ "School safety in rural schools: Are schools as safe as we think they are?" (2002) 22/4 *South African Journal of Education* 313-318; Frank C *Missed opportunities: The role of education, health and social development in preventing crime* (2006).

<sup>43</sup> Wa Kivilu M & Wandai M 'Spare the rod and save the child, most Africans believe' (2009) 7/1 *HSRC Review*.

years and older. Their sample comprised 4 980 respondents in 2003, 5 583 in 2004, 2 850 in 2005 and 2 904 in 2006. They determined that 51% of these respondents received corporal punishment from the educator or principal. Another survey was conducted by Vally<sup>44</sup> between 2005 and 2006 and involved 1 700 learners from Ekurhuleni and Soweto in the Gauteng province. About 80% of the learners indicated that they had been victims of corporal punishment administered by educators. According to Burton<sup>45</sup> seven out of ten primary school learners and one out of two secondary school learners still receive corporal punishment in South African schools. Burton argues that provincial statistics are an important indicator of the fact that learners receive corporal punishment at school. Primary schools in the Northern Cape, Limpopo and Eastern Cape and secondary schools in the Free State, Gauteng and Eastern Cape regularly administer corporal punishment and in 2008 had the highest occurrence of corporal punishment in schools among the provinces (see table 1.2).

Table 1.2 The occurrence of corporal punishment according to province (%)<sup>46</sup>

	Primary schools	Secondary schools
Gauteng	74.9	61.0
Limpopo	81.1	41.5
Free State	60.6	61.8
Mpumalanga	50.5	43.6
North West	73.4	44.0
Eastern Cape	77.7	58.5
Northern Cape	90.0	55.7
KwaZulu-Natal	67.3	47.7
Western Cape	50.0	17.1
<b>Total</b>	<b>70.1</b>	<b>47.5</b>

It seems from the above empirical evidence that an average of 50% to 80% of learners regularly receive corporal punishment from their educators. I have experienced the same phenomenon as an educator, namely that educators continue to practise corporal punishment in spite of legislation. Several

<sup>44</sup> Vally S "Disturbing statistics on corporal punishment" (2007) 3/1 *Article* 19 5-6.

<sup>45</sup> Burton n 32 at 29.

<sup>46</sup> Burton n 32 at 29 Table 5.

assumptions, remarks and speculation could be derived from this evidence. Reasons for the continued prevalence of this practice in South African schools are about non-existent in the available literature. The question that comes to mind is therefore: Why do educators continue to spank learners, knowing that it is against the law?

This study constitutes an in-depth investigation into understanding educators' perceptions of the continued use of corporal punishment in schools. I followed a qualitative research approach and used qualitative data collection methods which allowed me to extract data from which I extracted the perceptions of the participants on the continued use of corporal punishment. The research problem follows from the background and the rationale of this study. Therefore the purpose of the research, research question and sub-questions are formulated as follows:

### **1.5.1 Research question**

What are educators' perceptions regarding the continued use of corporal punishment?

### **1.5.2 Sub-questions**

The sub-questions supporting the main question will be:

- What are educators' perceptions regarding support from DoE with regard to the implementation of changed legislation on corporal punishment?
- What are educators' perceptions on the relevancy of the abolishment of corporal punishment to job satisfaction?
- What are educators' perceptions regarding the correlation between educator-learner ratio and the continued use of corporal punishment?

### **1.5.3 Purpose of the research**

The purpose of this study is to understand and explain the continued illegal use of corporal punishment in South African schools as seen from educators' perceptions. In order to reach this purpose the research objectives are as follows:

- To determine educators' perceptions regarding support from DoE with regard to the implementation of changed legislation on corporal punishment.
- To investigate educators' perceptions on the relevancy of the abolishment of corporal punishment to job satisfaction.
- To determine educators' perceptions regarding the correlation between educator-learner ratio and the continued use of corporal punishment.

## 1.6 RESEARCH DESIGN

The research constitutes an in-depth investigation into educators' perceptions of the continued use of corporal punishment in schools in South Africa by means of a case study. The research was designed to study and understand this social phenomenon from the perspective of the participants; in other words, the participants had to explain to the researcher their reasons for administering corporal punishment. It is therefore a qualitative study. I used this qualitative approach in an attempt to understand the phenomenon of administering corporal punishment as a social phenomenon from the perceptions of educators. Qualitative and quantitative research studies conducted in the last decade<sup>47</sup> have revealed that the majority of educators still use corporal punishment. I believe that a qualitative approach is the most suitable for this specific study in order to determine participants' perceptions on this phenomenon.

### 1.6.1 Type of design

I relied on the characteristics of qualitative research;<sup>48</sup> such as naturalistic inquiry, emergent design flexibility and purposive sampling; to understand the continued and illegal use of corporal punishment by educators – from their perceptions. Quantitative research, in contrast, uses objective measurement and statistical analysis to explain a particular social phenomenon. Cohen, Manion and Morrison<sup>49</sup>

<sup>47</sup> Maree K n 42 at 1-13; Morrell R "Corporal punishment in South African schools: A neglected explanation for its persistence" (2001) 21/4 *South African Journal of Education* 292-299; Netshitahame & Van Vollenhoven n 42; Prinsloo IJ "How safe are South African schools?" (2005) 25/1 *South African Journal of Education* 5-10; Frank n 42; Maxwell AM, Enslin P & Maxwell TI "Educating for peace in the midst of violence: A South African experience" (2006) 1/1 *Journal of Peace Education* 103-121; Wa Kivilu & Wandai n 43; Vally n 44; Burton n 32.

<sup>48</sup> Patton MQ *Qualitative Research and Evaluation Methods* (2002) (3<sup>rd</sup> ed.) 40,41.

<sup>49</sup> Cohen L, Manion L & Morrison K *Research methods in education* (2000) (5<sup>th</sup> ed.) 79.

argue that case studies have the unique ability to analyse a specific situation that is not always “susceptible to numerical analysis”. In other words, in this case study I intended to analyse educators’ perceptions towards and persistence in an illegal activity so as to understand their motivation for such actions. An important purpose of a case study is to represent reality and explain the viewpoint of the participant. Hence I wanted to understand educators’ perceptions for continuing with corporal punishment.<sup>50</sup> Another advantage of a case study is that it can be used to determine “cause and effect”.<sup>51</sup> I believe that most educators know that corporal punishment has been prohibited in schools.<sup>52</sup> Therefore, participants should have their own perceptions about their continued use of corporal punishment. Six educators from three primary schools, two schools in the same district, were interviewed to determine why they persist in the use of corporal punishment as the research design is qualitative and I do not intend to generalize the findings but rather to develop a hypothesis.

### 1.6.2 Epistemology

Epistemology<sup>53</sup> is concerned with the way in which knowledge is collected and communicated to others. In other words, how do we know what we know? It is a fact that corporal punishment is illegal and it is therefore easy to pass judgement on educators. However, I intend to explain the personal perspectives of educators who defy legislation and continue using corporal punishment. The truth is subjective, as every participant interprets the world around him in his own subjective way. Each person creates his or her own truth in an effort to give meaning to his or her own world and personal circumstances. Educators interpret the reality of their working environment in the way that they experience it at school. This implies that I cannot claim “*the truth*” and the interpretations of participant educators will determine my reality as I interpret their perceptions in the continued use of corporal punishment. In other words, I wanted to put myself in the educators’ shoes in an effort to understand their perceptions for persisting with the administering of corporal punishment. I created “*my truth*” based on my

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<sup>50</sup> Cohen *et al* n 49 at 79.

<sup>51</sup> Cohen *et al* n 49 at 79.

<sup>52</sup> Schools Act n 4.

<sup>53</sup> Cohen *et al* n 49 at 6.

understanding of “*their truth*”. Therefore, the research paradigm is interpretive in nature.

### 1.6.3 Research paradigm

A paradigm is a “worldview” or a set of “basic beliefs”.<sup>54</sup> A paradigm involves one’s view of the world or truth and constitutes a certain set of boundaries in which one believes one could approach the study. The purpose of this study is to understand and explain the use of corporal punishment in South African schools from the participant educators’ view. Corporal punishment is an illegal action in terms of section 10 of the Schools Act and therefore the Act should serve as a deterrent to help an educator avoid running the risk of earning a record of misconduct. However, I assume that most educators administer corporal punishment with the consent of the particular child’s parents and the knowledge of the principal. I return to my initial research question which includes questions such as: Why do educators persist in the use of corporal punishment? What are their reasons and perceptions when they administer corporal punishment?

Furthermore I believe that there are specific boundaries and stakeholders that define the research paradigm. The stakeholders involved are the educator and learners, while the boundaries are the school environment, more specifically the classroom. The classroom is the focus of my research because it is where the educator and the learner interact with each other.

### 1.6.4 Research method

It was important for me to follow the “rules” of research methodology. The study would be meaningless if there was no discipline in the research that I conducted.

#### 1.6.4.1 Sampling

Purposive sampling<sup>55</sup> was used to select three schools in Pretoria that are culturally different from one another. The three schools were selected because of their diversity. Six educators were interviewed, two from each of the three

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<sup>54</sup> Shtarkshall as cited by Voce *A Introduction to research paradigms* Handout for the Qualitative Research Module (2004) 1 <http://www.docstoc.com/docs/18652270/What-is-a-research-paradigm> [accessed 2 June 2010].

<sup>55</sup> Cohen *et al* n 49 at 103,104.

schools. I relied on volunteers from the school, specifically educators who administer corporal punishment.

#### 1.6.4.2 Data collection procedure

Data were collected by means of interviews. Cohen *et al*<sup>56</sup> identifies four different types of interview, namely informal conversational interview, interview guide approach, standardized open-ended interviews and closed quantitative interviews. Interviews are the most suitable data collection method for the specific study to understand and explain the continued use of corporal punishment in schools. Educator participants are able to express their perceptions of corporal punishment. Prompts and probes were used in the individual semi-structured interviews.<sup>57</sup> Prompts enabled me to clarify issues regarding the practice of corporal punishment while probes enabled me to clarify and qualify participants' responses. Participants gave permission for the recording of the interviews. Interviews were recorded on two digital voice recorders. Interviews lasted approximately 30 minutes. Records of the interviews are safeguarded in a safe place determined by the Committee for Research Ethics and Integrity (the Committee) of the University of Pretoria (the University).

#### 1.6.4.3 Data analysis and interpretation

Hycner's procedure,<sup>58</sup> combined with figure 1.1<sup>59</sup> was used to analyse the interviewed data. Firstly, the interviews were transcribed from the recorded interviews. Secondly, I listened and read the interviews several times to ensure an accurate interpretation of the subjective perspective of the participants. This second procedure was important in determining possible themes that could emerge from the data. Thirdly, bracketing and phenomenological reduction were applied to understand what the participant was saying and not what I wanted to hear. Clustering units of relevant meaning was the next procedure to determine the relation between different themes or units. Following this themes were

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<sup>56</sup> Cohen *et al* n 49 at 271.

<sup>57</sup> Cohen *et al* n 49 at 278.

<sup>58</sup> Cohen *et al* n 49 at 285, 286.

<sup>59</sup> McMillian JH & Schumacher S *Research in education: A conceptual introduction* (2001) (5<sup>th</sup> ed.).

determined from the clusters of meaning. Lastly, a summary of the interviews was compiled.

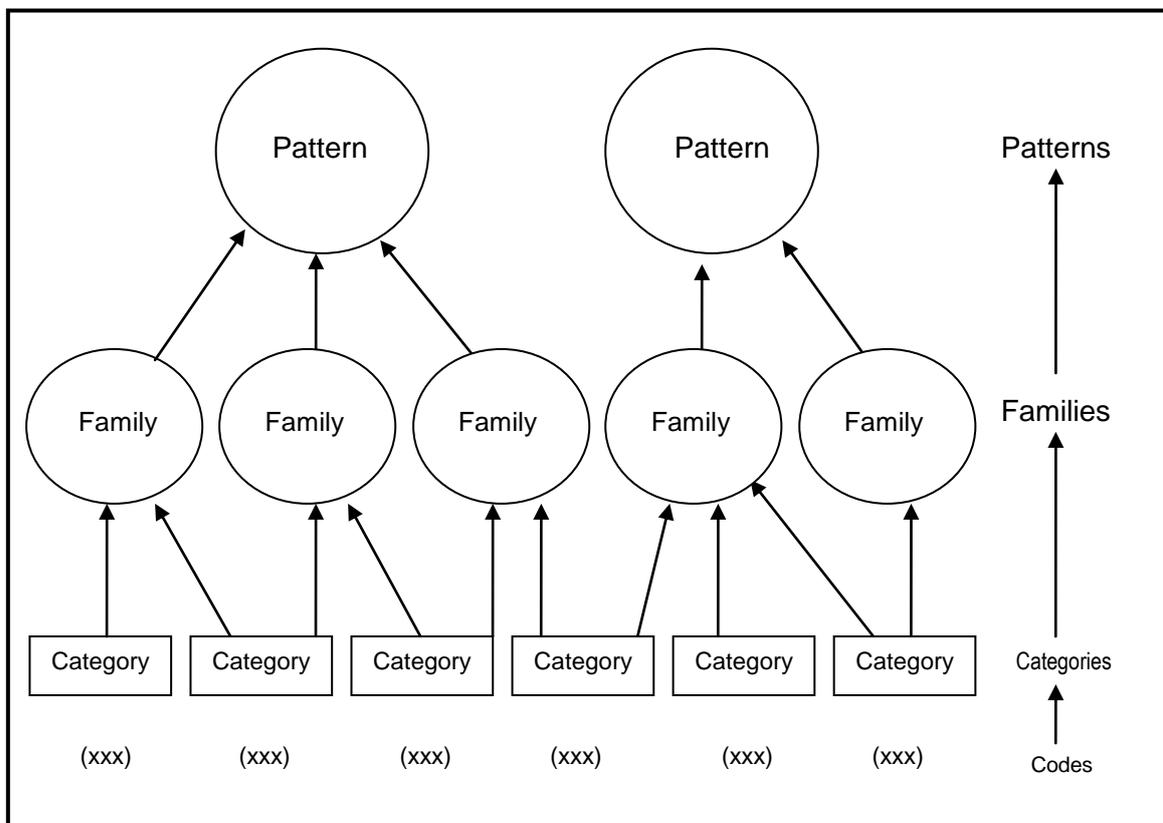


Figure 1.1 Diagram of the process of clustering the codes until patterns are identified

Data obtained were analysed<sup>60</sup> into smaller manageable themes, trends and relationships to understand the continued use of corporal punishment as indicated by the codes in figure 1.1. The transcribed data were sorted into different categories.<sup>61</sup> The categories were then sorted into families. A category could be placed into more than one family (see figure 1.1) depending on the theme related to the categories and families. The data were sorted into patterns in an attempt to understand the continued use of corporal punishment in schools. The aim of the analysis was to understand and establish relationships between concepts, variables or trends and possible categories. Possible categories are the following:

<sup>60</sup> Mouton J *How to succeed in your Master's & Doctoral studies* (2005) 108.

<sup>61</sup> Cohen *et al* n 49 at 282-284.

- A summary of the participants, their experiences, type of school and background of the school community;
- legal knowledge concerning corporal punishment;
- current use of corporal punishment in schools;
- methods used in practising of corporal punishment;
- possible explanation for the continued use of corporal punishment; and
- general comments from participants regarding corporal punishment.

#### 1.6.4.4 Trustworthiness and validity

Because this research aims to investigate educators' perceptions regarding the illegal use of corporal punishment among educators, two types of validity<sup>62</sup> were prominent, namely interpretive validity and internal validity. Interpretive validity enabled me to understand the intentions that the issues around corporal punishment have for educators. Internal validity was used to explain accurately and describe educator's perceptions towards the illegal administering of corporal punishment. This was to ensure accuracy in the explanation of the administering of corporal punishment and to have a complete understanding of my participants' perceptions for the continued use of corporal punishment.

Recordings of the interviews, with the permission of the participants, ensured validity and a backup on a compact disc is available to verify validity by the University.

Reliability was ensured by using the same semi-structured interview in all the interviews. I ensured reliability by making a deliberate effort not to put words in my participants' mouths and by attempting to be objective when creating my own truth. Silverman<sup>63</sup> argues that open-ended interviews enable the participants to "demonstrate their unique way of looking at the world" – to define their own understanding and explanation of the use of corporal punishment. The six sets of data collected from the participants at three different schools also helped with the trustworthiness of the research the sets of data correlated and the same patterns emerged. Criteria for the credibility strategy to increase trustworthiness were

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<sup>62</sup> Cohen *et al* n 49 at 107,108.

<sup>63</sup> As cited by Cohen *et al* n 49 at 121,122.

improved with the interview technique because it was internally consistent.<sup>64</sup> Indirect questions about participants' experiences were asked to verify meanings. This implied that a logical rationale could determine educators' perceptions on the continued use of corporal punishment.

#### 1.6.4.5 Ethical considerations

There are three main areas of ethical issues, namely informed consent, confidentiality and the consequences of the interviews. Kvale<sup>65</sup> argues that each area is problematic. Firstly, permission was obtained from the Gauteng Department of Education (GDE),<sup>66</sup> the principals and participants.<sup>67</sup> Permission was not obtained from the school districts and School Governing Bodies because the interviews were done after official school hours without disrupting any school activities and no learners were interviewed. Furthermore, the schools were not under investigation.

Secondly, the participants had to be ensured of confidentiality. This mainly depends on the trustworthiness of the researcher. The identity of the schools was replaced by an anonymous identity, namely school A, school B and school C.

The last area is the consequences of the interview and this area can be combined with the first area of informed consent. The practice of corporal punishment is a criminal offence and consequently the nature of the research is very sensitive. Although the correct procedure was followed in obtaining permission from all stakeholders, table 4.3 on page 6 of the GDE's research request form is an offence regarding the insurance of confidentiality applicable to the paper. This particular page, which requests the names of institutions to be researched, was problematic for me because to ensure confidentiality<sup>68</sup> the names of the schools could not be revealed. The names of the schools were therefore not revealed and permission<sup>69</sup> was granted to conduct the research.

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<sup>64</sup> Krefting L "Rigour in qualitative research: The assessment of trustworthiness" (1991) 45/3 *The American Journal of Occupational Therapy* 220.

<sup>65</sup> As cited in Cohen *et al* n 49 at 292.

<sup>66</sup> Completion of research request form.

<sup>67</sup> See Addendum A.

<sup>68</sup> See Addendum A.

<sup>69</sup> See Addendum B.

#### 1.6.4.6 Demarcation

I have indicated that purposive sampling<sup>70</sup> was used to select three schools in Pretoria that are culturally different from one another. School A is a primary school located in an eastern urban area that has a very good socio-economic status. School B is an inner city primary school of medium socio-economic status. This school is a multi-cultural school. School C is a primary school, located in a township west of Pretoria of poor socio-economic status.

#### 1.6.4.7 Limitations

Because of the illegal practice that was researched, it was difficult to find volunteers. I had to create a relationship of mutual trust with the participants by introducing myself to the staff, explained what the research entailed and emphasised the ethical considerations of the study, e.g. that their names and schools would be kept anonymous. Participants could also refuse the recording of the interview; this would affect the reliability of the research. Therefore I was prepared to take shorthand notes and validated the transcribed interview with the particular participant. Fortunately this was not necessary and all participants agreed to a recording of the interview. Another important aspect is the nature of the legislation, namely that the practice of corporal punishment is illegal and those educators could be found guilty of committing a criminal offence. I did not intend to accuse educators of illegal practices and therefore had to take extra precautions in the guaranteeing confidentiality, e.g. signing a letter of confidentiality prior to the interview. The choice of the type of school was also a limitation because the study focuses mainly on primary government schools and not on secondary or private schools.

Another limitation was the bias of the participants concerning the research topic. I only interviewed educators who acknowledge the fact that they are illegally practicing corporal punishment. I also cannot deny the bias that I am bringing into the study. It is understandable that the participants could have been subjectively influenced because of the qualitative nature of the research. The research intended to understand the continued administering of corporal punishment

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<sup>70</sup> Cohen *et al* n 49 at 103,104.

among educators and the perceptions of the educators towards corporal punishment.

#### **1.6.4.8 Significance of the study**

The significance of the study is that it could inform the DoE of the participant educators' perceptions on using corporal punishment and guide the DoE in supporting all educators who currently use corporal punishment. Although the findings of this study cannot be generalized, the reasons why the participant educators persist in using corporal punishment may give the DoE ideas on the problems affecting the implementation of the law and policy prohibiting corporal punishment. Furthermore, the study could also contribute towards effective classroom management to create an atmosphere in which quality instruction and learning can take place; in other words a classroom atmosphere of mutual respect and tolerance between the participant educators and the learners to promote order and harmony in their classrooms.

### **1.7 CONCLUSION**

The social phenomenon of continued corporal punishment investigated from the perceptions of educators' merited qualitative research. Quantitative research<sup>71</sup> has proved that corporal punishment is still rife in schools. Literature, however, provides little explanation for educators' persistence in administering corporal punishment. Consequently a study to determine the attitudes and perceptions of educators was required. This chapter supplies the background and rationale for the study and indicates the research design suitable to answer the research question.

In the next chapter the literature review introduces a global overview of corporal punishment. I will discuss learners' rights and duties, the educators' legal duties and duty of care. In this chapter I focus mainly on relevant International and Regional Human Rights Instruments and national legislation that discuss the legal status of the learner and the educator. Arguments for and against corporal punishment as well as the effects of corporal punishment are discussed. I then

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<sup>71</sup> Vally n 44; Burton n 32; Wa Kivilu & Wandai n 43.



discuss in detail educators' perceptions on the persistence of corporal punishment in schools.

## CHAPTER 2

### CORPORAL PUNISHMENT IN CONTEXT

#### 2.1 INTRODUCTION

The classroom is ground zero where the educator and the learner interact with each other and where successful instruction and learning should take place. The classroom is the place where learners receive corporal punishment from their educator to correct undesirable behaviour. I intend to address issues that have an impact on the learner as a victim of corporal punishment. The duty of care of the educator and possible reasons for the continued use of corporal punishment are discussed in an effort to understand the perceptions of educators that persist in using corporal punishment.



Figure 2.1 Logo of the Global Initiative to End All Corporal Punishment of Children

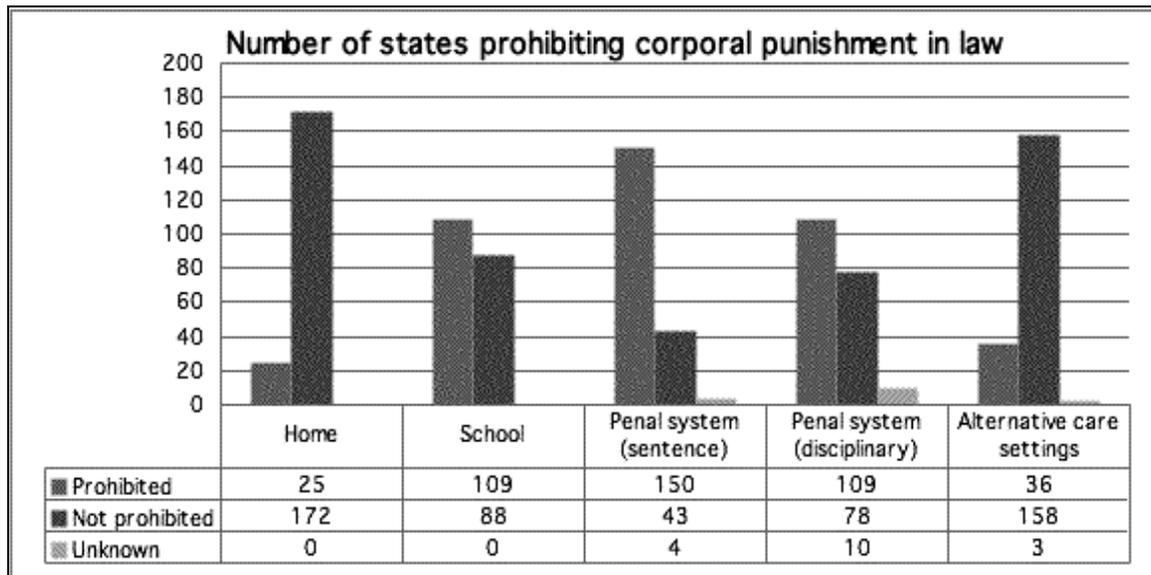
The logo and the name of the Global Initiative to End All Corporal Punishment of Children<sup>1</sup> (Global Initiative) (see figure 2.1) are a powerful global message regarding the prohibition of corporal punishment, as it is a violation of many human rights of the child. The organisation's main aim is to stop corporal punishment as quickly as possible. Another aim of the Global Initiative is to establish a pact with human rights agencies, key individuals and non-governmental organisations against corporal punishment. The organisation also

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<sup>1</sup> Global Initiative to End All Corporal Punishment of Children *Progress towards prohibiting all corporal punishment in East and Southern Africa* (2009a)  
<http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-East-SouthernAfrica.pdf>  
[accessed 24 May 2010].

aims to advance awareness of children's rights to protection and public education about positive, non-violent forms of discipline for children. The Global Initiative claims that 55% (see table 2.1) of all countries have legally prohibited corporal punishment in schools. South Africa and the United Kingdom (UK) feature as part of the statistics.

Table 2.1 Countries that legally prohibit corporal punishment<sup>2</sup>



The purpose of this study is to understand and to explain the use of corporal punishment in selected South African schools from educators' perceptions. I believe that there are three variables determining the continued use of corporal punishment. These variables are the learner, the educator and the classroom.

Therefore, the literature study is divided into three parts, starting with a global perspective and comparison of corporal punishment. The connection between corporal punishment at home and the prohibition of corporal punishment at school will be discussed. It is important to understand what corporal punishment is, the effect of it on the learner and arguments for and against corporal punishment.

<sup>2</sup> Global Initiative to End All Corporal Punishment of Children *Countdown to universal prohibition* (2010)  
<http://www.endcorporalpunishment.org/pages/frame.html?http%3A//www.endcorporalpunishment.org/pages/progress/countdown.html> [accessed 24 April 2010].

The second part looks in more detail at the child as receiver of corporal punishment. Issues such as rights and duties of learners, and human rights as determined by national and International and Regional Human Rights Instruments, are focused on.

I discuss the educator's role as administrator of corporal punishment in the third part. Related issues are duty of care, the continued use of corporal punishment and possible perceptions for its persistent use in schools. Relevant case law will also be mentioned.

## 2.2 ACCELERATING PROGRESS TOWARDS PROHIBITION

The next few paragraphs focus on the global prohibition of corporal punishment both at home and at school. There are two reasons why it is important to know whether there is a difference between the legal prohibition of corporal punishment at home and at school. Firstly, the comparison between the application of corporal punishment at home and at school will contribute to understanding the phenomenon of corporal punishment in South African schools. Secondly, I believe that the legal process of the prohibition of corporal punishment starts at school level before the process moves on to the home level. Thus, I introduce the literature study with an overview of a global comparison to determine South Africa's progress regarding the prohibition of corporal punishment.

Corporal punishment at home is legal in 87% of 197<sup>3</sup> countries (see table 2.1). However, legal reform is progressing in five countries to prohibit parents from using corporal punishment on their children (see table 2.2). In Canada, the Supreme Court determined in 2004 that parents have the right to discipline their 2-12 year old children physically but prohibit the use of objects and the hitting of children on their heads.<sup>4</sup> An unsuccessful attempt was made in 2004 to repeal this particular legislation. It is worthwhile to note that the Supreme Court has

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<sup>3</sup> Note: For the purposes of this analysis, the total number of states is 197, comprising all those that have ratified the UN Convention on the Rights of the Child except for Vatican City (which has no child population), plus Palestine, Somalia, Taiwan, USA and Western Sahara.

<sup>4</sup> *Canadian Foundation for Children Youth and the Law v Canada (Attorney General)* [2004] 1 SCR 76; 2004 SCC 4 <http://scc.lexum.umontreal.ca/en/2004/2004scc4/2004scc4.html> [accessed 18 August 2010].

indicated that section 43 of the Criminal Code (Canada 1985) “permits only corrective force that is reasonable”. Canada’s Criminal Code<sup>5</sup> states the following:

Correction of child by force

- 43 Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

Table 2.2 Countries partial legal reforms to full prohibition of corporal punishment<sup>6</sup>

State	Prohibited in the home	Prohibited in schools	Prohibited in penal system		Prohibited in alternative care settings
			As sentence for crime	As disciplinary measure	
Canada	NO	YES	YES	YES	SOME
Mongolia	NO	YES	YES	NO	NO
Nicaragua	NO	YES	YES	YES	NO
Philippines	NO	YES	YES	YES	SOME
South Africa	NO	YES	YES	NO	NO

Prohibiting corporal punishment in homes is a controversial issue and Mongolia’s prohibition of corporal punishment in the home is an example of such a discussion. Mongolia’s prohibition of corporal punishment is an example of the controversial issues of prohibiting corporal punishment in homes. In Nicaragua, a proposal was submitted in 2009 to prohibit all forms of corporal punishment. In 2009, the Philippines discussed an “Anti-Corporal Punishment Bill” to legalise the prohibition of corporal punishment.

South Africa is the fifth country classified by the Global Initiative as a country with legal reform but without explicit commitment to full prohibition. An effort was made to change the “NO” of South Africa under the heading of “Prohibited in the

<sup>5</sup> Canada *The Criminal code of Canada* (1985) (RS 1985 c C-46) [http://laws.justice.gc.ca/eng/C-46/page-2.html#anchorbo-ga:s\\_3\\_1-gb:s\\_25](http://laws.justice.gc.ca/eng/C-46/page-2.html#anchorbo-ga:s_3_1-gb:s_25) [accessed 18 August 2010].

<sup>6</sup> Global Initiative n 2.

home” but the specific clause<sup>7</sup> was excised from the Children’s Amendment Bill<sup>8</sup>. A non-profit organisation and public benefit organisation, Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), has been active in its advocacy to prohibit parental corporal punishment and remains positive and hopeful in its advocacy in spite of clause 139 that was excised from Children’s Amendment Bill to prohibit parents from disciplining their children by using physical force.<sup>9</sup>

It is noteworthy to discuss the common denominator among the five countries, namely that corporal punishment in schools is illegal and that there were several attempts between 2004 and 2010 to legalise the prohibition of corporal punishment at home. These attempts are an ongoing process that is discussed and reviewed regularly in the specific countries. I agree with the Global Initiative that there is an accelerated progress towards universal prohibition (see figure 2.2). In other words, more and more countries legalise the prohibition of corporal punishment in homes and in schools. I surmise that there is a good probability that the prohibition of corporal punishment in the homes of the five countries could be legalised within the next few years.

An analysis of the report of the Global Initiative on *Global progress towards prohibiting all corporal punishment*<sup>10</sup> discloses a phenomenon. Countries first start prohibiting corporal punishment at school level before attempting to prohibit it at home level. This is only a theory that could merit a comparative study to investigate and discuss the progression made among countries towards the prohibition of corporal punishment.

The above-mentioned discussion provides a global overview of the progress towards the prohibition of corporal punishment. It is clear that South Africa allows, for now, corporal punishment at home and prohibits corporal punishment at school. However, more than half of South African schools and educators still use

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<sup>7</sup> Clause 139 as submitted to the Portfolio Committee in the National Assembly.

<sup>8</sup> “Children’s Amendment Bill” *Government Gazette* No 29150 (23 August 2006).

<sup>9</sup> Bower C *Banning corporal punishment: The South African experience* (2008) 3, 7-9,13.

<sup>10</sup> Global Initiative n 2.

corporal punishment.<sup>11</sup> In the next few paragraphs, I will briefly discuss the issue of corporal punishment in the UK and link it with the current situation of corporal punishment in South African schools.

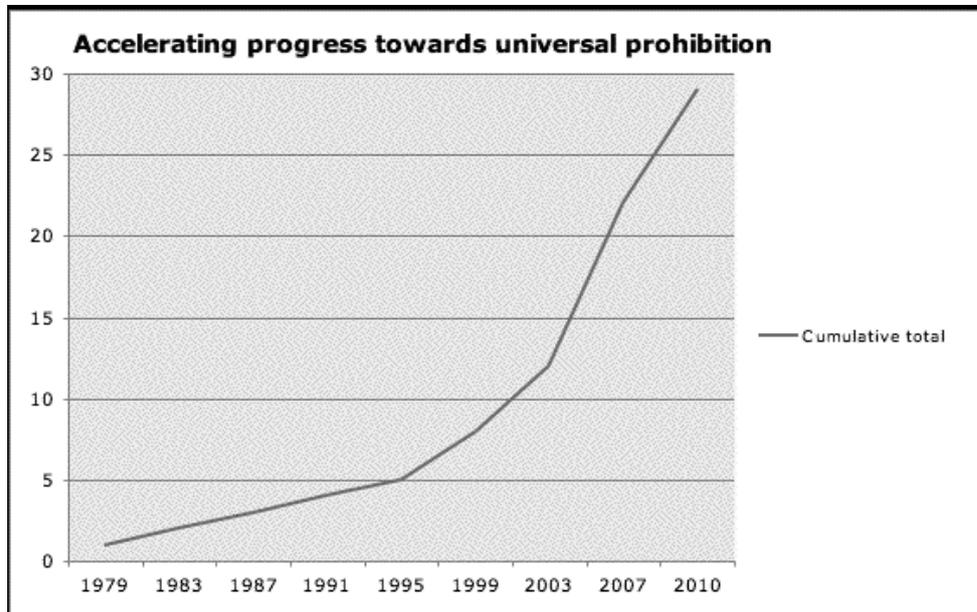


Figure 2.2 Accelerating progress towards universal prohibition<sup>12</sup>

### 2.3 DISCIPLINE PROBLEMS vs. DISCIPLINE SOLUTIONS

The Global Initiative states that the UK prohibited corporal punishment in 1986 in all government schools.<sup>13</sup> Section 548 of the UK Education Act of 1996<sup>14</sup> states the following:

- 548 No right to give corporal punishment
- (1) Corporal punishment given by, or on the authority of, a member of staff to a child—
- (a) for whom education is provided at any school, or
  - (b) for whom education is provided, otherwise than at school, under any arrangements made by a local education authority, or
  - (c) for whom specified nursery education is provided otherwise than at school,

<sup>11</sup> See ch 1 par 1.5.

<sup>12</sup> Global Initiative n 2. Note: For the purposes of this analysis, the total number of states is 197, comprising all those that have ratified the UN Convention on the Rights of the Child except for Vatican City (which has no child population), plus Palestine, Somalia, Taiwan, USA and Western Sahara.

<sup>13</sup> Global Initiative n 2.

<sup>14</sup> United Kingdom *Education Act 1996* (1996)  
<http://www.legislation.gov.uk/ukpga/1996/56/section/548> [accessed & updated 12 January 2011].

cannot be justified in any proceedings on the ground that it was given in pursuance of a right exercisable by the member of staff by virtue of his position as such.

However, on 13 April 2010<sup>15</sup> Ed Balls, UK School Secretary, told UK educators that they could use force to keep order. Furthermore, the *International Express*<sup>16</sup> reported in the same section that “[t]he Conservatives would change the law so that teachers could use reasonable force without fear of legal action”. There are similarities between the above-mentioned issue in the UK regarding corporal punishment and South African principals asking the government to re-instate the use of corporal punishment.<sup>17</sup>

I agree with Global Initiative<sup>18</sup> that discipline problems should not be confused with discipline solutions. Global Initiative argues that corporal punishment is used to solve discipline problems. For example, a learner is walking around in the class and disrupting the class; the educator “corrects” the disruptive behaviour by using corporal punishment. The discipline problem is temporarily solved at the cost of violating the learner’s human rights. A discipline solution’s outcome is the correction of disruptive behaviour of learners without violating their human rights. This also results in a positive solution to avoid any misbehaviour of the learners in future. For example, why is the learner walking around in the class? Does the educator have positive and effective classroom management skills? Is the educator creative, emphatic and respectful towards the learner when correcting the discipline problem? Discipline solutions take more time but their effect and outcome are long-term. Nevertheless, it would seem that the educators of both countries are frustrated with school discipline. Educators often use corporal punishment to vent their frustrations.<sup>19</sup>

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<sup>15</sup> Anon “Teachers told: You CAN use force to keep order” *International Express* (13 April 2010) 15.

<sup>16</sup> Global Initiative n 2.

<sup>17</sup> See ch 1 par 1.1.

<sup>18</sup> Global Initiative to End All Corporal Punishment of Children *Prohibiting corporal punishment in schools: Positive responses to common arguments* (sine anno) <http://www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf> [accessed 24 April 2010].

<sup>19</sup> Waterhouse S & Frank C *Submission to the South African Human Rights Commission on violence in schools* (2006) 6, 7.

At this stage, it is necessary to define corporal punishment and to determine what it entails before focusing on the arguments for and against corporal punishment.

## 2.4 DEFINITIONS OF CORPORAL PUNISHMENT

The DoE's defines corporal punishment as:

A deliberate act against a child that inflicts pain or physical discomfort to punish or contain him/her. This includes, but is not limited to, spanking, slapping, pinching, paddling or hitting a child with a hand or with an object; denying or restricting a child's use of the toilet; denying meals, drink, heat and shelter, pushing, or pulling a child with force, forcing the child to do exercise.<sup>20</sup>

The United Nations (UN) indicated in 1982 that corporal punishment was added to the definition of torture because the practice of corporal punishment used unwarranted rebuke as an educational or disciplinary measure.<sup>21</sup> Maree<sup>22</sup> defines corporal punishment as:

the infliction of pain by an educator or other educational official upon the body of the student (learner) as a penalty for doing something, which has been disapproved of by the punisher.

More definitions of corporal punishment will emerge in the discussion of International and Human Rights Instruments. There are many different forms of punishment that educators and parents use on a daily basis to punish children, which will affect the physical, psychological, socially, and educational development of children. However, it is only when the child is physical harmed that it can be classified as corporal punishment.

## 2.5 ARGUMENTS IN FAVOUR OF AND AGAINST CORPORAL PUNISHMENT

The use of corporal punishment can never be approved in a democratic society. Democracy is a cornerstone of the South African Constitution, and is vital in the development and preservation of human rights. The documents *Alternatives to*

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<sup>20</sup> *Alternatives to Corporal Punishment: The Learning Experience. A practical guide for educators. To develop and maintain a culture of discipline, dignity and respect in the classroom* (2000) 6.

<sup>21</sup> Note 20 at 6.

<sup>22</sup> Cited by De Wet A & Van Huyssteen A "Elements of an unsafe school environment" in Oosthuizen IJ (ed) *Safe schools* (2005) 50.

*corporal punishment*<sup>23</sup> and *Prohibiting corporal punishment in schools: Positive responses to common arguments*<sup>24</sup> form the basis of the discussion of the arguments for and against corporal punishment. Although the titles of the sources are biased towards arguments against corporal punishment, arguments used in favour of corporal punishment are referred to as well.

Porteus, Vally and Ruth<sup>25</sup> argue that most parents and educators believe in the effectiveness of corporal punishment because it is “deeply woven into the fabric of our [South African] society”. Jonathan Jansen,<sup>26</sup> previous Dean of the Faculty of Education at the University of Pretoria, agrees with Porteus *et al*<sup>27</sup> that this is the *status quo* in practice, but adding the negative results of this habit by refers to corporal punishment as a violent tsunami that has been accepted as the norm in South African society. Jansen states that South Africa is a violent nation and that parents bully their children when corporal punishment is used. Corporal punishment is an act of violence and children learn from the violent example that one is allowed to assault someone physically if one disagrees with him or her. Jansen emphasises the fact that children learn these violent examples at home and that he is very concerned by the way in which this aggressive behaviour is transferred from one generation to the next. Smit<sup>28</sup> partially agrees with Jansen that the corporal punishment of teenagers can cause them to be violent at a later age. He acknowledges that there are parents that use corporal punishment to abuse their children, which could cause negative behaviour. However, Smit strongly disagrees with Jansen on his views that corporal punishment is the cause of the high incidence of violence in South Africa. Smit<sup>29</sup> argues that a good and balanced spanking could not cause a society to be violent.

Smit<sup>30</sup> emphasises that parents who administer corporal punishment correctly and fairly on their children, are definitely not the cause of the high incidence of

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<sup>23</sup> Porteus K, Vally S & Ruth T *Alternatives to corporal punishment: Growing discipline and respect in our classrooms* (2001) 5.

<sup>24</sup> Global Initiative n 18.

<sup>25</sup> Porteus *et al* n 23.

<sup>26</sup> Jansen J “Violence already the norm in SA” (translated) *Burger* (8 February 2007) 14.

<sup>27</sup> Porteus *et al* n 23.

<sup>28</sup> Smit M “Good spanking no poor results” (translated) *Beeld* (27 February 2007) 15.

<sup>29</sup> Smit n 28 at 16.

<sup>30</sup> Smit n 28 at 16.

violence levels in South Africa. He also claims that several studies have concluded that well-timed and appropriate corporal punishment for children between the age of two and twelve years has no negative side effects and this type of application of corporal punishment successfully corrects that negative behaviour of children. There is a link between Smit's latter statement and the Canadian legislation "Correction of child by force" section 43 of the Criminal Code.<sup>31</sup>

Both Jansen and Smit<sup>32</sup> have valid arguments but conflicting views of the effect of corporal punishment on children. The discussion between Jansen and Smit serves as an example that the administering of corporal punishment is a controversial issue about which even academics differ. Therefore, it is important to discuss the pros and cons of corporal punishment.

### 2.5.1 Arguments in favour of corporal punishment

There were mainly two reasons<sup>33</sup> why educators used corporal punishment centuries ago. Firstly, corporal punishment was used to impose moral training. Secondly, physical intimidation was used because the survival of educators in problematic urban areas depended upon it. The latter is in line with Porteus *et al*<sup>34</sup> who state that learners are becoming all the more undisciplined and disrespectful.

A popular argument why educators administer corporal punishment can be traced to the 150-year-old implementation of the *in loco parentis* principle.<sup>35</sup> *In loco parentis* status is a familiar phrase for educators worldwide and literally means that the educator is in the place of the parent;<sup>36</sup> the parent delegates his or her duty of care to the educator.<sup>37</sup> Joubert and Prinsloo<sup>38</sup> state that the educator now has a delegated authority to care for learners' safety and well-being under his or her

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<sup>31</sup> See par 2.2.

<sup>32</sup> See par 2.5.1.

<sup>33</sup> Jones D "The genealogy of the urban schoolteacher" in Ball SJ (ed) *Foucault and education: Disciplines and knowledge* (1990) 68.

<sup>34</sup> Porteus *et al* n 23 at 1.

<sup>35</sup> Parker-Jenkins M *Sparing the rod: Schools, discipline and children rights* (1999) 10.

<sup>36</sup> Joubert HJ & Prinsloo IJ *Education law: A practical guide for educators* (2001) 97.

<sup>37</sup> Joubert & Prinsloo n 36 at 97.

<sup>38</sup> Joubert & Prinsloo n 36 at 97.

supervision. Bray<sup>39</sup> affirms that this legal principle of delegated authority has developed from common law and includes responsibilities for the physical and psychological well being of the learner. *In loco parentis* could be used as an argument and reason to practice corporal punishment because it might be viewed as being in the best interest of the child to maintain order and harmony.<sup>40</sup> The argument of these advocates is that good discipline is in the best interest of the child and good discipline could easily be maintained by applying corporal punishment. As parents would use corporal punishment to ensure that their children behave well and are well-disciplined, they expect the same behaviour from teachers and therefore argue that corporal punishment will therefore be in the best interest of the child. Therefore, *in loco parentis* could be used by some advocates as an argument and reason to practise corporal punishment because it is in the best interest of the child to maintain order and harmony.<sup>41</sup> The other side of the coin, however, is that order and harmony might be obtained through other means. Oosthuizen<sup>42</sup> claims that the common law principle of *in loco parentis* empowers the educator to have the right to maintain discipline over the learner, together with the obligation of duty of care for the learner. The question remains if corporal punishment really is in the interest of the child.

Johnson<sup>43</sup> lists three reasons to justify corporal punishment, namely “the need of society to produce people who would conform to accepted norms; a moral need to beat out obstinacy, a symptom of ‘original sin’,” and as a necessary tool to ensure that learning takes place. Although the reasons that Johnson advocates for the persistence of corporal punishment seem justified, this is in direct conflict with a democratic system<sup>44</sup> that intends to develop and promote the democratic values of human dignity, equality and freedom.

Porteus *et al*<sup>45</sup> state that there are several arguments for the use corporal punishment. Corporal punishment “works in the short term” to discourage learners from misconduct because it is effective to maintain classroom discipline in reality.

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<sup>39</sup> Bray W *Human rights in education* (2005) 67.

<sup>40</sup> Section 28(2) of the Constitution.

<sup>41</sup> Section 28(2) of the Constitution.

<sup>42</sup> Note 22 at 71.

<sup>43</sup> Dr Samuel Johnson, an 18<sup>th</sup> century English author, as cited in Parker-Jenkins n 35 at 2.

<sup>44</sup> Sections 1 and 7 of the Constitution.

<sup>45</sup> Porteus *et al* n 23 at 9-19.

“The long-term impact is not so bad” because supporters of corporal punishment have been administering corporal punishment for many years. “Corporal punishment is useful as a last resort” to take care of the most challenging children who cause the most problems. Another argument is that “[i]t happened to me, and I am OK”. Supporters of corporal punishment argue that corporal punishment did not have any negative effect on them and therefore corporal punishment can be used successfully. Religion and culture are used to qualify the argument that “corporal punishment is part of our culture”. *Porteus et al*<sup>46</sup> argue that communities use the latter argument to address behaviour that is not acceptable to encourage “moral correctness”. In line with the above arguments, Global Initiative<sup>47</sup> reports five arguments that are used to justify the use of corporal punishment:

- 1 Most teachers oppose the prohibition of corporal punishment. We should listen to them, as they are the ones who have to deal with school discipline every day.
- 2 Corporal punishment is necessary to teach children respect and discipline.
- 3 Obviously beating to the point of injury or death is unacceptable, but when regulations on how to administer corporal punishment are followed properly, it forms an important and effective element of a school’s disciplinary policy.
- 4 In religious schools, corporal punishment is mandated by our faith.
- 5 Many teachers and other staff are under stress from overcrowded classes and lack of resources. Prohibiting corporal punishment under these conditions would simply add to the stress.

*Porteus et al*<sup>48</sup> and Global Initiative do not approve of the use of corporal punishment. Some of the above-mentioned arguments could be used in defense of the concept *in loco parentis* to support corporal punishment. This comparison between *in loco parentis* and corporal punishment is discussed in more detail in the section of duty of care of educators<sup>49</sup>.

### 2.5.2 Arguments against corporal punishment

The argument of “[i]t works in the short term”<sup>50</sup> has been proven invalid by research. Vally<sup>51</sup> (1996) claims that the misconduct of learners is not solved by corporal punishment and that the learners are repeatedly spanked for the same offense. The

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<sup>46</sup> *Porteus et al* n 23 at 19.

<sup>47</sup> Global Initiative n 18 at 2-5.

<sup>48</sup> *Porteus et al* n 23.

<sup>49</sup> See par 2.7.1.

<sup>50</sup> *Porteus et al* n 23 at 9.

<sup>51</sup> As cited by *Porteus et al* n 23 at 10.

DoE<sup>52</sup> confirms the argument of *Porteus et al*<sup>53</sup> that the use of corporal punishment on learners does not address the real problem, e.g. problems that learners face at home or problems with the classroom management of the educator. Vally states that alternatives to corporal punishment are minimised in the presence of corporal punishment. In other words, it will be more difficult to implement alternatives to corporal punishment when educators rely heavily on corporal punishment to maintain discipline in the classroom.

Children that are exposed to corporal punishment manifest violent behaviour in conflict situations. The DoE<sup>54</sup> agrees, “violence begets violence”. A school’s role in the development of learners to be responsible citizens is hampered by violence in the classrooms.<sup>55</sup>

The “[i]t happened to me, and I am OK” argument<sup>56</sup> can also be disputed. *Porteus et al*<sup>57</sup> refer to fact that people that received corporal punishment as a child. Corporal punishment did not have a negative effect on them and *Porteus et al*<sup>58</sup> state this specific group of people has “a gift of strength and resilience that not all people have”. However, not all children have the same mental make-up. The harmful effects of corporal punishment cannot be ignored.

Corporal punishment is an illegal activity – it is against the law, even if corporal punishment should be in the best interest of the child and should therefore be in balance with the entrenched human rights in the Bill of Rights.<sup>59</sup> The plaintiff in the case of *Christian Education SA v Minister of Education of the Government of the RSA*<sup>60</sup> also argued that corporal punishment is in the best interest of the child, but the court case was lost in spite of this argument. In essence, the judgment determined that the administering of corporal punishment in all schools is

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<sup>52</sup> Note 20 at 8.

<sup>53</sup> *Porteus et al* n 23 at 11.

<sup>54</sup> Note 20 at 7.

<sup>55</sup> *Porteus et al* n 23 at 11.

<sup>56</sup> *Porteus et al* n 23 at 16, 17.

<sup>57</sup> *Porteus et al* n 23 at 17.

<sup>58</sup> *Porteus et al* n 23 at 17.

<sup>59</sup> Chapter 2 of the Constitution.

<sup>60</sup> 2000 (10) BCLR 1051(CC).

unconstitutional, unlawful and community (minority) rights are subjected to the Constitution.

Another argument against the use of corporal punishment using religion and culture as an excuse is that more than 800 religion leaders have endorsed “a religious commitment to combat violence against children” at the 2006 World Assembly of Religions for Peace.<sup>61</sup>

In conclusion, it remains a challenging endeavor to persuade the die-hards that the practice of corporal punishment is not in the best interest of the child. Therefore, I agree with Bray<sup>62</sup> and Parker-Jenkins<sup>63</sup> that an educator must set an example of a law-abiding citizen to the learners in his or her care. An educator, as a law-abiding and contributing member of society, must set an example to learners to refrain from using violence to solve problems that we are confronted on a daily basis.

## 2.6 THE LEARNER AS RECIPIENT OF CORPORAL PUNISHMENT

The first part of the literature study in understanding the continued use of corporal punishment focuses on the learner. Firstly, it is important to understand the definition of a learner. Thereafter I discuss a learner’s rights and duties<sup>64</sup> and focus on national legislation and International and Regional Human Rights Instruments.

Synonyms to the meaning of *learner* are pupil, student, scholar and assimilator that imply acquiring knowledge and learning from an educator. In other words, a learner is someone that is taught or trained by an educator.<sup>65</sup> The Schools Act defines a learner as “any person receiving education or obliged to receive education”.<sup>66</sup>

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<sup>61</sup> Note 20 at 5.

<sup>62</sup> Note 39 at 2.

<sup>63</sup> Note 35 at 161.

<sup>64</sup> Obligations, responsibilities.

<sup>65</sup> Oosthuizen IJ *Aspects of educational law* (1998) 96.

<sup>66</sup> Section 1(ix) of the Schools Act.

Many educators argue<sup>67</sup> that learners have more rights than educators. It seems to me that educators feel that they are more and more powerless to correct a learner's behaviour because of his or her "additional rights", as will be discussed in the national legislative framework part of the research. The focus is now on the learner has a responsibility towards the educator.

### 2.6.1 Rights and responsibilities (duties) of learners

Every right has a corresponding duty.<sup>68</sup> Every person is entitled to rights. However, every person also has a responsibility stemming from his rights. You cannot demand a right if you are not prepared to perform your corresponding duty specific to a right. Different rights will have different duties assigned to them. For example, a football player has a right to be paid after a football match but he also has a duty to abide by and respect the rules of football. Nevertheless, what do rights and duties mean for learners? The duty of a child is described in section 16 of the Children's Act<sup>69</sup> as "Every child has responsibilities appropriate to the child's age and ability towards his or her family, community and the state". Section 16 implies that a learner has restricted responsibility according to the age and ability of the child. Stated differently, a child's responsibility will increase according to his age. There must be a balance between a child's rights and his or her responsibilities. Figure 2.3 is an example of the "*Buddy Zone*" and it explains the difference between a right and a duty.

The learner has a right to education and a responsibility to respect his or her educators, to attend school and to learn:<sup>70</sup> thus to behave appropriately. Furthermore, learners are expected to have a responsibility towards the code of conduct for learners.<sup>71</sup> Rights must be balanced by duties;<sup>72</sup> however, in reality it is entirely a different matter. For example, O'Neal<sup>73</sup> claims that African children

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<sup>67</sup> Machaisa R *Educators rights and responsibilities regarding safety and security in schools* (2008) at 4.

<sup>68</sup> Joubert & Prinsloo n 36 at 25.

<sup>69</sup> Children's Act No 38 of 2005.

<sup>70</sup> Van Rooyen JW *Accountability and liability – a look at South African education* (2008) 32.

<sup>71</sup> Collection of norms and standard of learners' acceptable behaviour, a summary of school rules that have legal status; section 8(4) of SASA.

<sup>72</sup> Joubert & Prinsloo n 36 at 25.

<sup>73</sup> O'Neal N "Corporal punishment in public schools: A call for legal reform" (2008) 8/1 *African Human Rights Law Journal* 62.

have to endure physical pain (corporal punishment) to exercise their right to education in public schools because parents cannot afford a private school.



Figure 2.3 Children's right to education and its corresponding duties<sup>74</sup>

As some educators believe that children have too many rights, the focus now moves to children's national and International and Regional Human Rights Instruments.<sup>75</sup>

## 2.6.2 National legislative framework

Five relevant South African Acts are discussed to determine the rights of the child. They are the Constitution of the Republic of South Africa No 108 of 1996; the South African Schools Act No 84 of 1996; the Children's Act No 38 of 2005; the Children's Amendment Act No 41 of 2007 and the Occupational Health and Safety Act No 85 of 1993.

### 2.6.2.1 The Constitution of the Republic of South Africa No 108 of 1996

The founding provisions of the Constitution of the Republic of South Africa are the values in section 1. The Constitution and therefore everything that happens in South Africa is founded on these values together with the three democratic values in section 7, namely human dignity, equality and freedom. The Bill of Rights<sup>76</sup>

<sup>74</sup> Childline *Children's Rights & Responsibilities* (2010) [www.childline.org.za/Buddies/buddies\\_rightsandresponsibilities.htm](http://www.childline.org.za/Buddies/buddies_rightsandresponsibilities.htm) [accessed 8 May 2010].

<sup>75</sup> Machaisa n 67 at 11.

<sup>76</sup> Chapter 2 of the Constitution.

decrees 26 human rights but this study focuses only on four of these rights for the purpose of the research, namely:

- Everyone has inherent dignity and the right to have their dignity respected and protected (section 10);
- Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources; not to be tortured in any way; and not to be treated or punished in a cruel, inhuman or degrading way (section 12(1)(c, d, e))
- Everyone has the right to an environment that is not harmful to their health or well-being (section 24(d));
- Every child has the right to be protected from maltreatment, neglect, abuse, or degradation (section 28(1)(d)); and
- A child's best interests are of paramount importance in every matter concerning the child (section 28(2)).

Section 12 practically highlights the fact that educators and managers are responsible for creating a safe school environment.<sup>77</sup> Stated differently, every learner has the right to human dignity, freedom and security of the person, an environment that is not harmful, and protection from neglect and abuse. Section 28(2) points out that the essence of a child's human rights is too important to ignore.

#### 2.6.2.2 South African Schools Act No 84 of 1996

The practice and use of corporal punishment is prohibited in terms of section 10 of the Schools Act:

- (1) No person may administer corporal punishment at a school to a learner.
- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence, which could be imposed for assault.

The implication and application of this section<sup>78</sup> is that an educator could be dismissed and/or get a criminal record. However, this was not the case as reported in a media report, "Violent teacher back at school".<sup>79</sup> The media report claimed that an educator who had been suspended for a violent attack on a learner was back at school. This poses a question regarding the emphasis of our law system on the legislation of the abolishment of corporal punishment and might send mixed messages to educators.

<sup>77</sup> De Wet & Van Huyssteen n 22 at 15.

<sup>78</sup> See ch 1 par 1.5.

<sup>79</sup> Baadjies M "Violent" teacher back at school (2010) <http://www.iol.co.za/news/south-africa/violent-teacher-back-at-school-1.672071> [accessed 8 August 2010].

### 2.6.2.3 Children's Act No 38 of 2005

The preamble of the Children's Act declares:

. . . AND WHEREAS the United Nations has in the Universal Declaration of Human Rights proclaimed that children are entitled to special care and assistance.

The Universal Declaration of Human Rights<sup>80</sup> is discussed in more detail in paragraph 2.7.3.1. The preamble refers to the Convention on the Rights of the Child<sup>81</sup> and the African Charter on the Rights and Welfare of the Child.<sup>82</sup> The fact that the Children's Act considers International and Regional Human Rights Instruments pertaining to the child emphasises the importance of children's rights as an internationally phenomenon. Furthermore, section 9 the Children's Act reconfirms section 28(2) of the Constitution that the best interest of child is vital. I believe that educators should be made aware of sections 4 and 8(2) because they stipulate that all government officials, e.g. educators, must implement the Act and "respect, protect and promote the rights of children contained in this Act". Section 7(1)(h) is also important for educators, because it states that a "child's physical and emotional security and his or her intellectual, emotional, social and cultural development" must be applied as a requirement for the best interests of the child standard.

### 2.6.2.4 Children's Amendment Act No 41 of 2007

The Children's Amendment Act<sup>83</sup> states that an abused or neglected child and child in need of care and protection must be reported to the authorities as stipulated in section 110(1). In other words, an educator who is aware that a learner has been "abused in a manner causing physical injury" must report the learner to welfare or to police. I have already indicated in paragraph 2.4 that corporal punishment causes physical pain. The implication of this is that an

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<sup>80</sup> United Nations *The Universal Declaration of Human Rights* (1948)  
<http://www.un.org/en/documents/udhr/index.shtml> [accessed 17 May 2010].

<sup>81</sup> United Nations *Convention on the Rights of the Child* (1990)  
<http://www2.ohchr.org/english/law/crc.htm> [accessed 17 May 2010].

<sup>82</sup> African Union Commission *African Charter on Rights and Welfare of the Child* (1999)  
[http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf) [accessed 17 May 2010].

<sup>83</sup> Act No 41 of 2007.

educator must report colleagues and parents who hit their children on school property to the authorities. This is indeed a heavy burden on educators, seen in the light of the fact corporal punishment is still rife in more than 50% of public schools<sup>84</sup>. Waterhouse and Frank<sup>85</sup> state that educators and schools do not report incidents of corporal punishment because they have become complicit.

#### **2.6.2.5 Occupational Health and Safety Act No 85 of 1993**

The Occupational Health and Safety Act<sup>86</sup> decrees “the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work”. If there were to be a health or safety threat at school to educators, the same threat would be there to learners. Nevertheless, in a different perspective on this Act, one needs to determine if the educator is a source of danger when a learner is exposed to corporal punishment. As the Act continues to state that everyone must be protected at “work”, the educator who is administering corporal punishment definitely is a source of danger at school. Stated differently, the educator’s duty to care for the safety and well-being of the learner is emphasised in this particular Act<sup>87</sup>. The educator is responsible for protecting learners against hazards and to refrain from hitting a learner. The educator must “take reasonable care for the health and safety for himself and of other persons who may be affected by his acts or omissions” (section 14(a)). It is therefore necessary to determine the extend of the educators’ duty of care, e.g. when a learner’s safety and well-being is threaten and educator who has knowledge of the danger, fails to act. The educator who has a duty of care has failed to fulfill that duty. In other words, the educator must ensure that learners are not victims of corporal punishment because of his or her deeds that could have an effect(s) on the learner’s general well-being and safety.

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<sup>84</sup> See ch 1 par 1.5.

<sup>85</sup> Note 19 at 4.

<sup>86</sup> Amended Occupational Health and Safety Act No 181 of 1993.

<sup>87</sup> See par 2.5.1.

### 2.6.2.6 Conclusion

The child is a minor with limited *iudicium*.<sup>88</sup> Children will therefore make decisions and take actions that can cause damage to themselves and people around them. From table 2.3 it is evident that learners are legally protected.

Human rights are entrenched in the supreme law of South Africa, namely the Constitution.<sup>89</sup> The Bill of Rights stipulates what human rights entail while the rest of the discussed legislation refers to the application of protection and promoting human rights, especially those of children. An educator who administer corporal punishment break the law. Other educators who are aware of such actions are obliged to report that. Educators are responsible for protecting and promoting the human rights of learners in their care. Furthermore, educators cannot claim that they were unaware of legislation that pertains to corporal punishment of learners because “ignorance of the law is no excuse”.<sup>90</sup> Before discussing the extent of educators’ duty of care<sup>91</sup>, I considered to what extend national law comply with the obligations under International and Regional Human Right Instruments? The overarching question remains to determine why educators persist in the use of corporal punishment in spite of the above-mentioned legislation.

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<sup>88</sup> Discretion, decision, judgment.

<sup>89</sup> Human rights are entrenched and 2/3 majority of the parliament's vote are needed to amend human rights.

<sup>90</sup> See ch 1 par 1.1.

<sup>91</sup> See par 2.7.1.

Table 2.3 Legal protection of learners against corporal punishment

Legislation	Section no	Summary of section
The Constitution, 1996	Section 1 (a) Section 7	Constitutional values: Human dignity, equality and freedom
	Section 10	Right to human dignity
	Section 12(1)(c, d, e)	Right to freedom and security of the person and in particular the right not to be treated or punished in a cruel, degrading or inhuman manner
	Section 24(d)	Right to an environment that is not harmful to their health or well-being
	Section 28(1)(d)	Right to be protected from maltreatment, neglect, abuse or degradation
	Section 28(2)	A child's best interests are of paramount importance in every matter concerning the child
South African Schools Act (Schools Act 1996)	Section 10	Prohibition of corporal punishment
The Employment of Educators Act, 1998	Section 18(5)(f)	Misconduct by contravening section 10 of Schools Act
Children's Act, 2005	Section 4 & 8(2)	Respect, protect and promote the children's rights
	Section 7(1)(h)	Best interest of child paramount Child's physical and emotional security and his or her intellectual, emotional, social and cultural development
	Section 9	Best interest of child paramount
Children's Amendment Act, 2007	Section 110(1)	Reporting of abused or neglected child and child in need of care and protection
Occupational Health and Safety Act, 1993 as amended by Occupational Health and Safety Act, 1993	Section 14(a)	Take reasonable care for the health and safety for him and of other persons who may be affected by his acts or omissions.

### 2.6.3 International and Regional Human Rights Instruments

O'Neal<sup>92</sup> argues that the legal administration of corporal punishment in African schools violates learners' human rights. Corporal punishment is prohibited in South African schools on paper but in the real life, it is another story<sup>93</sup>. It is therefore imperative to look at what the stance of International and Human Rights Instruments on this issue are.

#### 2.6.3.1 The Universal Declaration of Human Rights (UDHR) of 1948<sup>94</sup>

The UN has adopted and proclaimed the UDHR in 1948.<sup>95</sup> An effective video clip on the Internet summarises the UDHR (see figure 2.4). Article 26 states that everyone has the right to go to school as illustrated in the “oo” of school of the video clip.



Figure 2.4 The right to go to school<sup>96</sup>

The promotion of peace is used in the first sentence of the preamble as indicated in figure 2.4. Peace is one of the central themes in the UDHR. Article 5 summarises the essence of peace, which proclaims, “no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment”. Article 1 and

<sup>92</sup> Note 73.

<sup>93</sup> See ch 1 par 1.5.

<sup>94</sup> Note 80.

<sup>95</sup> The UN Charter was amended and the general Assembly of the United Nations adopted and proclaimed the UDHR on 10 December 1948. There was no vote against this proclamation, but eight countries, including South Africa, abstained.

<sup>96</sup> YouTube *The Universal Declaration of Human Rights* (2010) <http://www.youtube.com/watch?v=hTlrSYbCbHE> [accessed 11 August 2010].

2 state that everyone is born free with rights and freedoms without any discrimination. Hence, children are included in the UDHR and are entitled to the same rights and freedom as adults. In other words, learners have the right to an environment that is free of any form of corporal punishment.

### **2.6.3.2 International Covenant on Civil and Political Rights (ICCPR) of 1976<sup>97</sup>**

Similarly, Article 7 of the ICCPR of the United Nations confirms that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. In fact, a child’s status as a minor entitles the child the right of protection,<sup>98</sup> for example “the right to liberty and security of person”.<sup>99</sup> I agree with O’Neal<sup>100</sup> that corporal punishment and fulfilling the mandate to protect children are mutual incompatible. In other words, the learner has the right not be tortured based on his or her legal status. Thus, protection of the child while at school could ensure the security of the child. Schools must promote peace; therefore, educators are responsible for the protection and security of the learner.

### **2.6.3.3 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1987<sup>101</sup>**

The introductory paragraphs of the CAT highlight article 5 of the Universal Declaration and article 7 of ICCPR “that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. While the UDHR and ICCPR is the foundation for CAT, CAT specifically defines torture. CAT also indicates that countries must ensure the prohibition of torture. Article 1 of CAT defines torture as:

... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... for such purposes as ... punishing ... when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

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<sup>97</sup> United Nations *International Covenant on Civil and Political Rights* (1976) <http://www.hrweb.org/legal/cpr.html> [accessed 17 May 2010].

<sup>98</sup> Article 24 of ICCPR.

<sup>99</sup> Article 9 of ICCPR.

<sup>100</sup> Note 73 at 66.

<sup>101</sup> United Nations *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (1987) <http://www2.ohchr.org/english/law/cat.htm> [accessed 17 May 2010].

O'Neal<sup>102</sup> argues that CAT's definition of torture (article 1) does not necessarily include corporal punishment; however, article 16 addresses the use of corporal punishment as:

... other acts of cruel, inhuman or degrading treatment or punishment, which does not amount to torture as, defined in article 1, ... acts are committed by or at the instigation of or with the consent or acquiescence of a public official ...

In other words, an educator is a public official, an employee of the DoE, and is "acting in an official capacity"<sup>103</sup> on behalf of the government when corporal punishment is administered to learners. This does not mean that the Government, more specially the DoE, approves corporal punishment by their officials. On the other hand, articles 2, 10, 11, 12 and 13 of CAT determine the country's responsibility in the implementation of the prohibition of corporal punishment. I intend to investigate these articles further to determine whether the DoE has successfully implemented the necessary legislation.

#### 2.6.3.4 Convention on the Rights of the Child (CRC) of 1990<sup>104</sup>

The CRC of UN consists of 54 articles and states the following in the preamble:

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Articles that are relevant to the study are articles 19(1), 28(2) and 37. Article 19(1) of the CRC expects countries to protect children against all forms of violence, abuse and exploitation, whether the child is at home, school or other places of caretaking. Article 28(2) states that schools must protect learners' human rights when applying discipline. Article 37(a) refers to the legal removal of freedom, e.g. children that commit serious crimes or misconduct and emphasises that "[n]o child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". In short, every educator, those employed at private schools included, must ensure that learners are safe from all physical or psychological damage whether it is intentionally or accidental. Learners should

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<sup>102</sup> Note 73 at 68.

<sup>103</sup> O'Neal n 73 at 68.

<sup>104</sup> Note 81.

be in a child-friendly environment where the educators respect their inherent dignity.<sup>105</sup>

Throughout the years, the CRC has issued several general comments concerning the human rights of children. The objectives of General Comment no 8 are to assist countries to understand the provisions of the CRC where corporal punishment of children is “very widely accepted”; to urge countries to eliminate corporal punishment as a matter of urgency and lastly, to eliminate “the widespread acceptance or tolerance of corporal punishment”, and reduce and prevent “all forms of violence in societies”.<sup>106</sup> General Comment no 8 highlighted the importance of articles 19, 28(2) and 37 of the CRC. Article 37 states that countries must ensure that no one punishes children in a cruel or harmful way. This is enforced by article 19 which guarantees children protection from all forms of violence. At “any level legalized violence against children” is not to be tolerated. Article 28(2) emphasises that schools should respect children’s human dignity.

### **2.6.3.5 African Charter on Human and Peoples’ Rights (African Charter) of 1986<sup>107</sup>**

The purpose of the African Charter (African Union Commission 1981) is to promote and protect human rights in Africa. Two articles of the African Charter are important for the purpose of the study, namely articles 5 and 18(3). Article 5 states that everyone has the right to human dignity and reconfirms the UDHR, ICCPR, CAT and CRC that “torture, cruel, inhuman or degrading punishment and treatment” are not tolerated. Article 18(3) states that countries must ensure the protection of children’s rights as determined by the UDHR, CCPR, CAT and CRC. According to the Global Initiative’s 2009 report on Africa,<sup>108</sup> 25 countries

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<sup>105</sup> O’Neal n 73 at 65.

<sup>106</sup> United Nations “General Comment no 8 (2006)” *Convention on the Rights of the Child* (2007) [http://www.unhchr.ch/tbs/doc.nsf/0ac7e03e4fe8f2bdc125698a0053bf66/6545c032cb57bff5c12571fc002e834d/\\$FILE/G0740771.pdf](http://www.unhchr.ch/tbs/doc.nsf/0ac7e03e4fe8f2bdc125698a0053bf66/6545c032cb57bff5c12571fc002e834d/$FILE/G0740771.pdf) [accessed 17 May 2010].

<sup>107</sup> African Union Commission *African Charter on Human and Peoples’ Rights* (1981) [http://www.achpr.org/english/\\_info/charter\\_en.html](http://www.achpr.org/english/_info/charter_en.html) [accessed 17 May 2010].

<sup>108</sup> Global Initiative to End All Corporal Punishment of Children *Progress towards prohibiting all corporal punishment in West and Central Africa* (2009b) <http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-West-CentralAfrica.pdf> [accessed 24 May 2010].

have prohibited corporal punishment and 29 countries still allow corporal punishment in schools. More than half of African countries are in violation of the African Charter and International and Regional Human Rights Instruments. In other words, 53% of African countries do not protect children's inherent right to human dignity.

#### **2.6.3.6 African Charter on the Rights and Welfare of the Child (African Children's Charter) of 1999<sup>109</sup>**

Lastly, the African Children's Charter has two provisions worth mentioning: articles 11 (Education) and article 16 (Protection Against Child Abuse and Torture). Article 11(5) of the African Children's Charter expects that learners', who are subjected to school discipline, must be protected by all means necessary and countries must take appropriate measures to ensure that article 11(5) is enforced. Article 16 strengthens article 11(5) in by stating fact that countries must have the necessary legislation in place to protect the child "from all forms of torture, inhuman, or degrading treatment, physical or mental injury or abuse, neglect or maltreatment and sexual abuse". Although article 11(5) is vague about the way in which school discipline must protect learners' humanity and human dignity, article 16 specifies that learners must be protected from all forms that can violate their humanity and human dignity. Table 2.5 provides a summary of International and Regional Human Rights Instruments.

It is evident that International and Regional Human Rights Instruments determine that countries must protect learners from corporal punishment in schools. Furthermore, countries must protect and promote learners' human rights. Governments are responsible to ensure that legislation is in place to protect learners from harm. In other words, a school must be a place of safety for a child and the educator is responsible for ensuring a peaceful environment. Several International and Regional Human Rights Instruments as well as national law are violated when learners are the victims of corporal punishment. Learners' well-being must be a top priority in all countries.<sup>110</sup> It is clear that the Constitution and supporting legislation are in line with International and Regional Human Rights Instruments.

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<sup>109</sup> Note 82.

<sup>110</sup> O'Neal n 73 at 78.

Table 2.4 International and Regional Human Rights Instruments

Instrument	Article no	Summary of Article
Universal Declaration (UN 1948)	Article 1	Everyone is born free and equal in dignity and rights
	Article 2	Everyone is entitled to all rights in the Universal Declaration
	Article 5	No-one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment
CCPR (UN 1976)	Article 7	No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
	Article 9	Everyone has the right to liberty and security
	Article 24	Every child shall have, without any discrimination, the right of protection as a minor
CAT (UN 1987)	Article 1	Any act by which severe pain/suffering (physical or mental), is intentionally inflicted on a person
	Article 16	Prevent acts of less severe cruel, inhuman or degrading treatment
CRC (UN 1990)	Article 19(1)	Countries shall take all measures to protect the child from violence, injury, abuse, maltreatment
	Article 28(2)	School discipline administered in a manner consistent with the child's human dignity
	Article 37(a)	No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment
African Charter (African Union Commission 1981)	Article 5	Everyone has the right to human dignity. Torture, cruel, inhuman, degrading punishment shall be prohibited
	Article 18 (3)	Countries must ensure that children's rights are protected
African Children's Charter (African Union Commission 1999)	Articles 11 (5)	Children subjected to school discipline shall be treated with humanity and with respect
	Article 16	(1) Countries must ensure specific legislation to promote the protection of children (2) Effective procedures and monitoring must provide support for learner and educator

I have discussed the national legislative framework and International and Regional Human Rights Instruments with regards to corporal punishment and will now discuss the facilitator of corporal punishment in schools.

## 2.7 THE EDUCATOR AS FACILITATOR OF CORPORAL PUNISHMENT

In this section the focus will turn to teachers who administer corporal punishment. The issue at stake is whether they are acting according to the South African Council for Educators' (SACE) Code of Professional Ethics (the Code). De Villiers, Wethmar and Van der Bank<sup>111</sup> state that the Code is a set of official rules that is propagated by SACE to ensure that all educators comply with the moral and professional standards of education and the teaching profession. The Code, established from the South African Council for Educators Act, applies to all educators.<sup>112</sup> Moreover, section 21 determines that all educators must register with SACE before a person is employed as an educator. SACE expect that a registered educator must be professional. For example, two steps could be taken against an educator who administers corporal punishment. Firstly, an educator could be dismissed.<sup>113</sup> Secondly, an educator's name could be removed from the register if "the educator was found guilty of a breach of the code of professional ethics".<sup>114</sup> The argument is that teachers who administer corporal punishment are not acting according to their professional Code of Ethics. Nevertheless, empirical evidence<sup>115</sup> indicates that many educators still practise corporal punishment and it will require more than legislation to remove this criminal offence<sup>116</sup> even if they could be dismissed for doing it.

### 2.7.1 Duty of care

Parents take legal accountability and responsibility the moment their child is born. They therefore get original duty legally by birth to care for the child. It is an acceptable expectation throughout the world that parents must care for their children. Parents must also legally care for their children e.g. national legislation and International and Regional Human Rights Instruments. For example, it is compulsory for parents to ensure that their child attend school when the child is seven (7) years of age.<sup>117</sup> At this stage of the child's life, parents delegate the responsibility to take

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<sup>111</sup> De Villiers E, Wethmar M & Van der Bank A (eds.) *Ethics for partners in education* (2000) 6, 7, 15, 16.

<sup>112</sup> Section 3 of the South African Council for Educators Act No 31 of 2000.

<sup>113</sup> Section 18(5)(f) of the Employment of Educators Act No 76 of 1998 & see ch 1 par 1.1.

<sup>114</sup> Section 23(1)(c) of the South African Council for Educators Act No 31 of 2000.

<sup>115</sup> See ch 1 par 1.5.

<sup>116</sup> Porteus *et al* n 23 at 1.

<sup>117</sup> Section 3 of the Schools Act No 84 of 1996.

care of the child during school hours, extra-mural activities or while busy with official school activities to the educator. In other words, when the child arrives at school until the child leaves the school, the school is responsible for taking care of the child. The educator is in place of the parent and is now “*in loco parentis*”.<sup>118</sup> Although the primary duty of educators is to instruct children in curricula, Joubert and Prinsloo<sup>119</sup> state that one of the most important duties of educators is to supervise learners while they are at school and participate in activities organised by the school, e.g. excursions, sporting events and fundraising events. Oosthuizen<sup>120</sup> claims that it is an international practice that educators take care of learners when in their care, irrespective of the type of activity. Item 3.7 of the *Guidelines for consideration of governing bodies in adopting a code of conduct for learners*<sup>121</sup> confirm the latter statement and suggest on a national level that “an educator at the school shall have the same rights as a parent to control and discipline the learner” irrespective of the type of activity. Educators are now responsible for the safety and well-being of learners. I believe that the duty of care of educators over learners in their charge is divided into two parts.<sup>122</sup> The first part of duty of care is that the parent has delegated his or her parental responsibility to the educator to protect the child against dangers. The educator therefore has delegated authority to exercise their duty of care.

The second part of the duty of care of the educator is an original authority. This authority is automatically given to educators by means of their professional status.<sup>123</sup> The legal implication of original authority is that educators must safeguard learners against dangers. The legal responsibility of educators has been thoroughly discussed in the legislative framework.<sup>124</sup> Legally, educators have a double duty to ensure that no child is physically or psychologically harmed at school. An educator who practises corporal punishment is negligent in his or her double duty of care towards the child. Even more so, if this double duty of

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<sup>118</sup> See par 2.5.1.

<sup>119</sup> Note 36 at 94.

<sup>120</sup> Note 65 at 70.

<sup>121</sup> “Guidelines for the consideration of governing bodies in adopting a code of conduct for learners” *Government Gazette* No 18900 (15 May 1998).

<sup>122</sup> Beckmann cited by Botha in “The educator as caring supervisor” in Oosthuizen IJ (ed.) *Aspects of educational law* (1998) 72.

<sup>123</sup> Botha n 122 at 72, 73.

<sup>124</sup> See pars 2.6.2 & 2.6.3.

care of educators is denied, they still have a legal statutory duty as citizens to respect the human rights of learners.

Educators must not only protect learners' rights but they must be pro-active to ensure that these rights are protected. Corporal punishment is a specific act committed by the educator with the intention to cause pain and harm to a learner. There is specific national and International and Regional Human Rights Instruments in place that addresses the issue of corporal punishment.<sup>125</sup> The administering of corporal punishment is a deliberate action by the educator to harm the learner in trying to correct unwanted behaviour.

Parents cannot delegate their authority to the educator to apply corporal punishment at school. Delegated and original authority of the educator requires that the educator must always ensure that the best interest of the child is paramount.<sup>126</sup> The educator must actually take pro-active steps to protect the learner from any harm or danger (section 24(d) and section 28(1)(d) of the Constitution and section 14(a) of the Occupational Health and Safety Act), that threatens the well-being and safety of a learner, e.g. corporal punishment. Not only must the educator protect the learner from corporal punishment the educator must report incidents of corporal punishment (section 110(1) of the Children's Amendment Act). Empirical research<sup>127</sup> have shown that seven out of every ten primary school learners and one out of every two secondary school learners receive corporal punishment. Educators could be held liable if any harm come to the child and educators can be sued if found guilty of negligence. Therefore, one can argue that educators, who administered corporal punishment, are not only breaking the law (see tables 2.4 & 2.5) but also are guilty of negligence of their double duty of care. Educators must not only ensure that they meet the requirements of double duty of care to avoid being negligent but also need to act in accordance of their statutory duty.

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<sup>125</sup> See pars 2.6.2 & 2.6.3.

<sup>126</sup> Section 28(2) of the Constitution and sections 7(1)(h) and Section 9 of the Children's Act.

<sup>127</sup> See ch 1 par 1.5.

### 2.7.2 Case law

In the *Christian Education SA v Minister of Education of the Government of the RSA*<sup>128</sup> case the Constitutional Court determined that corporal punishment was unconstitutional. Corporal punishment is outlawed in all schools, and community rights<sup>129</sup> must be limited when an individual's human rights (as protected in the Bill of Rights) are violated.

Regarding this issue, the European Court of Human Rights at Strasbourg played a vital role in deciding whether human rights had been violated and adjudicated more than 400 cases up to 1999. During 1985 more than 30 cases involving issues of corporal punishment and school suspension were lodged at this Court by British parents and their children.<sup>130</sup> It seems there is already a familiar pattern between the UK and South Africa<sup>131</sup> in its court cases of human rights vs corporal punishment. Apparently, the administering of corporal punishment is an international issue.<sup>132</sup> Moreover, it seems that educators across the globe ignore relevant legislation.

### 2.7.3 Continued use of corporal punishment

Empirical evidence has proven that corporal punishment is still widespread in South African schools.<sup>133</sup> Narain<sup>134</sup> initially determined that most educators would not use corporal punishment in his research *Discipline and disciplinary measures used at selected schools*. He researched nine secondary schools in the suburb, Verulam situated in Durban and 105 educators participated in the research. However, he reported in a later qualitative analysis that a fair amount of educators would use corporal punishment "in different degrees of severity".

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<sup>128</sup> 2000 (10) BCLR 1051 (CC).

<sup>129</sup> Section 31 of the Constitution.

<sup>130</sup> Parker-Jenkins n 35 at 41, 42, 68.

<sup>131</sup> See par 2.3.

<sup>132</sup> See par 2.1.

<sup>133</sup> See ch 1 par 1.5.

<sup>134</sup> Narain AP *Discipline and disciplinary measures used at selected secondary schools* (2006) 93.

The illegal use of corporal punishment is a widespread phenomenon in education.<sup>135</sup> Porteus *et al*<sup>136</sup> state that “a large number of South African educators still see corporal punishment as a necessary classroom tool”. In line with this Cereseto, chairperson of SACE in 2006, admitted that educators want to bring back corporal punishment.<sup>137</sup> There seems to be an overwhelming occurrence of practitioners that persist in the administration of corporal punishment. As this is the core of my research, discussion will follow in the next sections to investigate possible reasons why educators continue to use corporal punishment.

#### **2.7.4 Assumptions why educators persist in using corporal punishment**

In this section I state my assumptions from the literature review. These assumptions become the working assumptions for this study. I would like to believe that the majority of educators that administer corporal punishment are not necessarily bad educators and really care for learners under their care. The question that remains to be answered is why they still use corporal punishment, knowing that it boils down to an illegal action. I believe that the educator in figure 2.5 does not consider corporal punishment; but he is unable to manage the class. There could be a number of reasons for the chaos in the class.

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<sup>135</sup> Frank C *Missed opportunities: The role of education health and social development in preventing crime* (2006) 41 & Maxwell AM, Enslin P & Maxwell T *et al* “Educating for peace in the midst of violence: A South African experience” (2006) 1/1 *Journal of Peace Education*.

<sup>136</sup> As cited by Maxwell *et al* n 135 at 107.

<sup>137</sup> Joubert JJ “Bring back the cane” *Burger* (14 November 2006) 7.

Figure 2.5 Classroom management<sup>138</sup>

#### 2.7.4.1 Educator-learner ratio

The official educator-learner ratio determined by the DoE for South African class size is 1:40 for primary schools and 1:35 for secondary schools.<sup>139</sup> In line with these statistics the DoE<sup>140</sup> reported in their annual statistic report for 2009 that the ratio between state-paid/School Governing Bodies-paid educators and learners was 1:31, two learners per educator lower than the ratio for state paid educators and learners. This indicates not a severe improvement on the ratio since 2005. School Governing Bodies hire educators in order for the classes to have smaller educator-learner ratios. In other words, the average class is approximately eight learners fewer for primary schools and approximately two learners fewer for secondary schools. However, *School Realities 2009*<sup>141</sup> does not distinguish between primary and secondary school educator-learner ratios; it seems to me that the average of primary and secondary schools ratios is calculated together. These statistics are not a true reflection of the real educator-learner ratio. Firstly, the secondary school educator-learner ratio of 1:35 will

<sup>138</sup> Class Room Management Online *Preventing Discipline Problems* (2010) <http://www.classroommanagementonline.com> [accessed 24 April 2010].

<sup>139</sup> De Lannoy A & Hall K "Education – Learner-to-educator ratio" *Statistics on children in South Africa* (July 2010) <http://www.childrencount.ci.org.za/indicator.php?id=6&indicator=44> [accessed 12 January 2011] 2.

<sup>140</sup> *School realities* (2009).

<sup>141</sup> Chisholm L, Hoadley U, Wa Kivulu M, Brookes H, Prinsloo C, Kgobe A, Mosia D, Narsee H & Rule S *et al Educator workload in South Africa* (2005) at 19.

affect a lower statistic for primary schools classes. Secondly, The Human Rights Commission of South Africa has indicated in a report<sup>142</sup> on school-based violence that overcrowding<sup>143</sup> in some schools negatively affects instruction and learning. The SAHRC has advised the DoE in the report<sup>144</sup> that overcrowding must be reduced and acknowledges that classes with a high educator-learner ratio causes violence among learners and that it is difficult for educators to maintain order and harmony in these classes. Educator-learner ratio must be reasonable to ensure that effective instruction and learning takes place. Lastly, a possible explanation for classes with high educator-learner ratios is a high demand for educators. HSRC<sup>145</sup> claims that more than 70 000 educators<sup>146</sup> were needed by 2008. In another report the HSRC<sup>147</sup> has predicted that approximately 32 000 educators were needed by 2008 for the educator-learner ratio to be 1:35 for primary and secondary schools.

However, I agree with Chisholm *et al*<sup>148</sup> that classes in reality have high educator-learner ratios. It is difficult for educators to refrain from using corporal punishment in a difficult working environment, namely classes with high educator-learner ratios, few educators and insufficient support services.<sup>149</sup> Waterhouse and Frank<sup>150</sup> argue that educators are inundated by poor class discipline because of high educator-learner ratios. Classes with high educator-learner ratios cause educators to be “stretched to the limit”.<sup>151</sup> In other words, educators are unable to teach effectively because of a high workload.<sup>152</sup> Classes with high educator-learner ratios place a high demand on educators’ energy, stress and morale because of various challenges in instruction and learning.<sup>153</sup> Masitsa<sup>154</sup> argues that educators are

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<sup>142</sup> The Human Rights Commission of South Africa *Report on School-based Violence* (2008) 22.

<sup>143</sup> 50 to 60 learners in a class.

<sup>144</sup> Note 142 at 33, 34.

<sup>145</sup> Human Sciences Research Council *Human Resources Development Review 2003: Education employment and skills in South Africa* (2003) 472.

<sup>146</sup> 20 000 educators needed over five years, from 2004-2008.

<sup>147</sup> Human Sciences Research Council *Educator supply and demand in the South African Public Education System* (2005) xviii.

<sup>148</sup> Note 141 at 20.

<sup>149</sup> Porteus *et al* n 23 at 1.

<sup>150</sup> Note 19 at 6, 7.

<sup>151</sup> Van Deventer and Kruger *An educator's guide to school management skills* (2002) 16.

<sup>152</sup> Chisholm *et al* n 141 at x.

<sup>153</sup> Pedder D “Are small classes better? Understanding relationships between class size classroom processes and pupils’ learning” (2006) 32/2 *Oxford Review of Education* 225.

forced to use corporal punishment in classes with high educator-learner ratios to implement effective control over the class. Furthermore, Masitsa<sup>155</sup> argues that the DoE must circumvent classes with high educator-learner ratios when it is expected of educators to deliver quality. Educators must spend more time on classroom management and discipline issues because of classes with high educator-learner ratios. The disadvantages and effects of classes with high educator-learner ratios are a major contribution to why educators persist in corporal punishment.

Meier<sup>156</sup> argues that there should not be more than 20 learners in a class, as a child-centered education approach requires individualisation. Van der Puye *et al*<sup>157</sup> indicate that the desired class size is 20-30 learners in a class. Van der Puye *et al*<sup>158</sup> cite Bennett on the effects of a class with a low educator-learner ratio. Bennett compared previous studies and the following conclusions were drawn:

- (1) Smaller classes result in increased student-teacher contact.
- (2) Smaller classes appear to result in greater achievement gains for students with lower academic ability and for those who are economically or socially disadvantaged.
- (3) Classroom management improves in smaller classes (fewer discipline problems).
- (4) Smaller classes result in higher teacher morale and reduced stress.
- (5) Individualisation is more likely to occur in smaller classes.
- (6) Class size appears to have more influence on student attitudes, attention, interest, and motivation than on academic achievement.
- (7) Very small classes of five or fewer students produce considerably higher achievement.

I was unable to find any literature that discusses the advantage of classes with high educator-learner ratios to compare it to the seven effects of classes with low educator-learner ratios. Nevertheless, the seven effects of a class with a low educator-learner ratio is the opposite of what was discussed in previous sections regarding classes with high educator-learner ratios. Classes with high educator-learner ratios in South Africa have a negative impact on instruction and learning

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<sup>154</sup> "Discipline and disciplinary measures in the Free State township schools: Unresolved problems" (2008) 40/3 *Acta Academica* 264.

<sup>155</sup> Note 154 at 264.

<sup>156</sup> Meier C "The origins and development of child-centered education: Implications for classroom management" (2003) 32/1&2 *Educare* 237.

<sup>157</sup> Van der Puye I Deku P & Kwarteng SA "The state of support services and effect of class size in mainstreamed schools: Implication for inclusive education in Ghana" 2006 14/1 *IFE Psychologia Journal* 145, 151, 152, 154, 155.

<sup>158</sup> Note 157 at 146, 147.

but in an effort to establish some order and harmony in the class the frustrated educator might revert to corporal punishment as a disciplinary measure.

#### 2.7.4.2 DoE support for implementation of legislation

Fourteen years ago, legislation to abolish corporal punishment<sup>159</sup> from schools was adopted. It is therefore illegal to punish a learner using corporal punishment or any other punishment that will constitute cruel, degrading or inhuman punishment or treatment. I was an inexperienced educator when the change came about and I was still hitting learners a few years after that. I believe that it was difficult for the majority of educators to accept the change because it had been the traditional way of punishing learners. I believe that educators have evaluated the advantages and disadvantages on the prohibition of corporal punishment in 1996 on an ongoing basis every year.<sup>160</sup> A change in legislation as controversial as corporal punishment must be supported by those who execute the change,<sup>161</sup> referring to support that educators must receive from the DoE in the prohibition of corporal punishment.

One of the advantages on the prohibition of corporal punishment is that it uphold learners' human rights.<sup>162</sup> *Porteus et al*<sup>163</sup> claim that some educators believe that the change in legislation was implemented too fast without considering problems that educators have to face every day. There was not enough training or alternatives to administer effective discipline in the classroom without spanking learners. Educators believed that corporal punishment was the only way to maintain discipline in the classroom.<sup>164</sup> Narain<sup>165</sup> agrees that educators believe that corporal punishment is an effective way to manage difficult situations. An educational leader confirmed that educators do not know how to discipline learners because alternatives to corporal punishment are ineffective.<sup>166</sup> Le

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<sup>159</sup> Section 10 of the Schools Act.

<sup>160</sup> Welch as cited by Pryor BW & Pryor CR *The school leader's guide to understanding attitude and influencing behavior* (2005) at 10.

<sup>161</sup> Pryor & Pryor n 160 at 11, 12.

<sup>162</sup> See pars 2.6.2 & 2.6.3.

<sup>163</sup> Note 23 at 1.

<sup>164</sup> *Porteus et al* n 23 at 1 and Burton A *Merchants skollies and stones: Experiences of school violence in South Africa* (2008) at 4.

<sup>165</sup> Note 134 at 98.

<sup>166</sup> Narain n 134 at 98.

Roux<sup>167</sup> claims that the persistence in corporal punishment is the result of the lack of training in alternative methods for corporal punishment. “Unfortunately, only minimal and sporadic training on alternatives to corporal punishment has been provided”.<sup>168</sup> The DoE<sup>169</sup> published *Alternatives to Corporal Punishment* four years after corporal punishment in schools was abolished. However, policy without guidance on implementation might have no effect at grass root level as the following research shows.

Eight schools in the Eastern Cape Province participated in a research project to implement positive measures of discipline in the absence of corporal punishment. The findings of the project were that the DoE’s *Alternatives to Corporal Punishment* was not used or not available in the eight schools and that there was no support from the DoE regarding discipline problems.<sup>170</sup> The educators of the eight schools were “demotivated, stressed and depressed” because of the lack of support from the DoE. Narain<sup>171</sup> confirms that the majority of 105 KwaZulu-Natal educators have indicated that they did not receive support from the DoE in discipline matters. A qualitative analysis of Narain’s research revealed that the DoE is passive in discipline matters of “problem” schools and that it is difficult to expel learners who are guilty of serious misconduct. Narain confirms that the *Alternatives to Corporal Punishment* were handed out, but no training was supplied or workshops were held to implement the guidelines. Again, it was confirmed by Van den Heever (Member of Parliament for the African National Congress (ANC)) that educators are not equipped to practise alternatives to corporal punishment.<sup>172</sup> The DoE did not supply sufficient training in *Alternatives to Corporal Punishment* for educators.<sup>173</sup> Furthermore, School Governing Bodies are dissatisfied with the manner in which provincial education departments

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<sup>167</sup> “An educator’s view ...” (2005) 1/3 *Article 19* at 7.

<sup>168</sup> Le Roux n 167 at 7.

<sup>169</sup> *Alternatives to corporal punishment* n 20.

<sup>170</sup> Wylie J Discipline in South African schools” (2006) 2/2 *Article 19* 10, 11.

<sup>171</sup> Note 134 at 109,110.

<sup>172</sup> Cited by Joubert n 137 at 7.

<sup>173</sup> *Star* as cited by Masitsa n 154 at 239.

respond to recommendations for the expulsion of a learner.<sup>174</sup> These recommendations are seldom supported.<sup>175</sup>

Educators have expressed their dissatisfaction towards the DoE regarding the implementation and support of section 10 of Schools Act.<sup>176</sup> This leads me to the last possible reason why educators still use corporal punishment, namely low job satisfaction.

### 2.7.4.3 Job satisfaction

Increased productivity and a satisfying work environment are the result of high morals in the workplace.<sup>177</sup> This is not the case with South African educators. HSRC<sup>178</sup> has reported that low job satisfaction (lack of discipline and support) and high job stress are reasons why educators leave the profession. Du Plessis and Loock confirm that disruptive learners are the major reason why educators are resigning. This in turn has led to a serious educator shortage<sup>179</sup> and a shortage of educators implies classes with higher educator-learner ratios.

USA educators leave the profession because of disruptive learner behaviour.<sup>180</sup> It is the same situation for South African educators. Learners challenge the authority of educators and it is difficult to teach unruly learners.<sup>181</sup> Porteus *et al*<sup>182</sup> state that most educators have trouble to find non-violent solutions for disruptive learners. Research has shown that educators who use corporal punishment believe that it effectively motivates undisciplined learners to behave appropriately.<sup>183</sup>

Furthermore, educators seem to get tied up in lots of administration and paper work. High school educators feel that they become more like administrators because of an

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<sup>174</sup> Rossouw JP *We can't take Peter's classroom harassment any more – let's go on strike* (2008) 3.

<sup>175</sup> Colditz as cited by Rossouw n 174 at 3.

<sup>176</sup> Prohibition of corporal punishment.

<sup>177</sup> Weakliem DL & Frenkel SJ "Morale and workplace performance" (2006) 33/3 *Work and Occupations* 357.

<sup>178</sup> Note 147 (2005) xvi.

<sup>179</sup> Kassiem A "Unruly pupils 'driving teachers out of profession'" *Cape Times* (2 April 2007).

<sup>180</sup> Vail K "Create great school climate" (2005) 71/4 *Education Digest: Essential Readings Condensed for Quick Review* 9.

<sup>181</sup> Porteus *et al* n 23 at 1.

<sup>182</sup> Note 23 at 1.

<sup>183</sup> Narain n 134 at 127.

overburdened workload and they feel less like educators.<sup>184</sup> Waterhouse and Frank<sup>185</sup> state that educators who are unfamiliar with the new curriculum requirements have more stress. Waterhouse and Frank remark that educators sometimes administer corporal punishment as an outlet for stress and not necessarily due to the misbehaviour of learners. Jiya, deputy chairperson of SACE in 2006, acknowledges the fact that educators who use corporal punishment suffer from insecurities e.g. lack of confidence.<sup>186</sup>

An important factor in educators' motivation is that they play an important role in building and raising the future citizens of the country, namely the learners. Educators are responsible for teaching children to become productive citizens that will contribute towards a better South Africa for everyone.

Educators that are overworked and have low job satisfaction must maintain discipline in classes with high educator-learner ratios with minimum support from the DoE. They are likely to use corporal punishment. Figure 2.6 is a short summary of assumptions from the literature of reasons for the use of the corporal punishment in South African schools. I will test the assumptions and the empirical evidence of the research will determine whether the assumptions are correct or wrong.

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<sup>184</sup> Chisholm *et al* n 141 at 130.

<sup>185</sup> Note 19 at 6, 7.

<sup>186</sup> Joubert n 137 at 7.

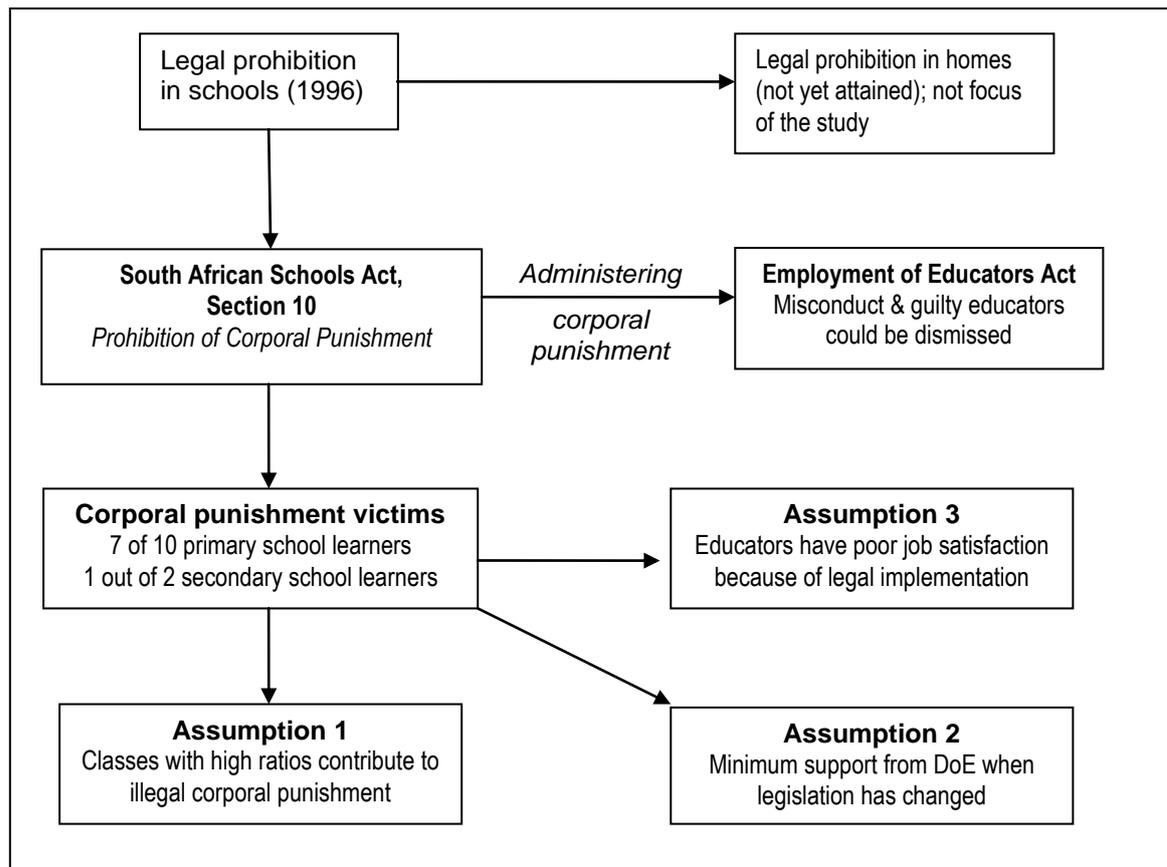


Figure 2.6 Legislation about and assumptions for administering of corporal punishment

## 2.8 CONCLUSION

Figure 2.7 presents a model and summary of the literature study. The model explains the route that a learner takes to meet the educator in the classroom. Legislation determines the status and importance of a child and the child is already a bearer of all these rights as discussed when he or she enters the school.<sup>187</sup> Classes with high educator-learner ratios, violence in schools and discipline issues will affect the relationship between learner and educator. There is a good possibility that the learner might receive corporal punishment because of the situation in which the learner finds himself/herself.

The educator's route through the school environment (see figure 2.7) includes legislation and the duty of care that ensures that the educator must protect the learner's human rights. However, when the educator interacts with the learner in

<sup>187</sup> See par 2.6.1.

the classroom, factors such as classes with high educator-learner ratios, poor support from authorities, low job satisfaction, violence in schools, discipline matters and overload of administrative work have an effect on the behaviour of the educator. Therefore, the use of corporal punishment is practical and effectively used by a frustrated educator. Hence, the use of corporal punishment could be justified from the perspective of the educator.

The school is the centre of everything, where the educator meets the learner. It is in the classroom where a relationship develops between the educator and the learner. It could be a relationship of trust, respect and tolerance where quality education is taking place in a classroom atmosphere that stimulates, maintains and promotes effective instruction and learning. However, the classroom could also be the centre of conflict between the educator and the learner where there is an effective breakdown of respect, trust and tolerance. The classroom is also the centre for the development of definitions for corporal punishment in the past fifty years.<sup>188</sup> Moreover, it is the centre for arguments for and against corporal punishment.

It is important to note that I was unable to investigate and discuss issues such as violence in school,<sup>189</sup> the important role of the classroom and the relationship between the learner and the educator because of the requirements of a mini-dissertation as determined by the University.

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<sup>188</sup> See par 2.6.3.1.

<sup>189</sup> Recommended that everyone must be aware of the content of *Merchant, skollies and stones. Experiences of school violence in South Africa* by Patrick Burton, Director of Research at the Centre for Justice and Crime Prevention (CJCP).

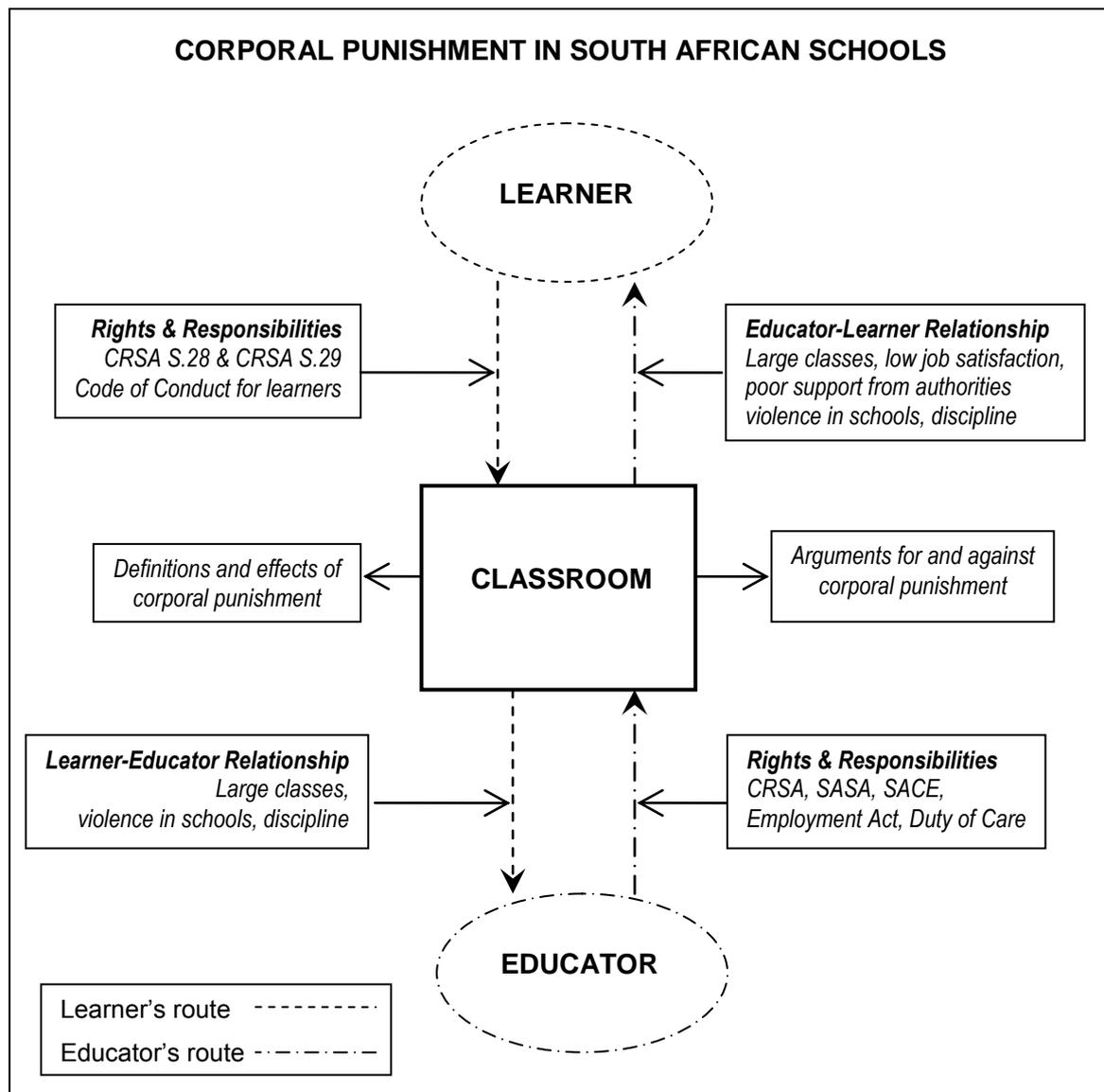


Figure 2.7 Model for possible reasons for the use of corporal punishment in South African Schools

To conclude, there is an undisputed relation between corporal punishment and the effects it has on its victims. In other words, the practice of torture, abuse and degradation will have a serious negative impact on the physical and psychological development of children. It is not only section 10 of Schools Act that enforces the prohibition of corporal punishment but the Constitution (always the supreme authority in South Africa) and several other acts and policies supported this particular legislation. The corporal punishment practice has been classified as a criminal offence. In spite of arguments against corporal punishment and legislation to support

it, many educators remain faithful to the practice of corporal punishment.<sup>190</sup> A few possible reasons and arguments have been discussed in an effort to understand the motivation why educators still use corporal punishment but still the issue is not clear. I am convinced it is important to understand the social phenomenon among South Africa's educators of the persisting administering of corporal punishment in South African schools from their perception.

The next chapter addresses the research design to determine educators' perceptions about the continued use of corporal punishment and to determine whether the assumptions deduced from the literature review are valid.

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<sup>190</sup> Maree n 22; Morrell R "Corporal punishment in South African schools: A neglected explanation for its persistence" (2001) 21/4 *South African Journal of Education* 292; Porteus *et al* n 23; Netshitahame NE & Van Vollenhoven WJ "School safety in rural schools: Are schools as safe as we think they are?" (2002) 22/4 *South African Journal of Education* 161; Prinsloo IJ "How safe are South African schools?" (2005) 25/1 *South African Journal of Education* 8; Frank n 135; Joubert n 137; Maxwell *et al* n 135; Wa Kivilu M & Wandai M "Spare the rod and save the child most Africans believe" (2009) 7/1 *HSRC Review*; Vally (1996) as cited by Porteus *et al* n 23 & Burton n 164.

## CHAPTER 3

### THE RESEARCH DESIGN

#### 3.1 INTRODUCTION

The aim of the research<sup>1</sup> is to understand and investigate the perceptions of educators regarding the continued administering of corporal punishment. Consequently, four research questions were determined in an attempt to answer the research problem, the main research question<sup>2</sup> and sub-questions.<sup>3</sup> The main research question is:

What is educators' perception regarding the continued use of corporal punishment?

The sub-questions asked are:

- What are educators' perceptions regarding support from DoE with regard to the implementation of changed legislation on corporal punishment?
- What are educators' perceptions on the relevancy of the abolishment of corporal punishment to job satisfaction?
- What are educators' perceptions regarding the correlation between educator-learner ratio and the continued use of corporal punishment?

Legislation<sup>4</sup> prohibits corporal punishment in schools and educators administering corporal punishment could be charged with misconduct. The consequences for educators if they are found guilty of administering corporal punishment are that they can lose their jobs.<sup>5</sup> As this research concerns an illegal action, it posed challenges on many levels. Firstly, I had to research an illegal activity of educators and asked them why they are still spanking learners in spite of observing legislation and the consequences. Secondly, the participants, being educators, indirectly acknowledged that they are violating children's human rights. Lastly, the learners that received corporal punishment from the participants are victims of an illegal activity and my research might alert them to

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<sup>1</sup> See ch 1 par 1.5.3.

<sup>2</sup> See ch 1 par 1.5.1.

<sup>3</sup> See ch 1 par 1.5.2.

<sup>4</sup> See ch 1 par 1.1.

<sup>5</sup> Section 18(5)(f) of the Employment of Educators Act No 1998.

the possibility of legal action. Thus, I faced a few challenges that needed to be resolved.

In chapter 3 the research design, methodology, limitations and ethical considerations observed in addressing these challenges successfully were discussed. It was therefore very important to use the correct methods to be able to navigate through these delicate issues.

### 3.2 RESEARCH APPROACH

I chose the qualitative approach because I perceived it as the best approach to understand educators' perceptions about the continued use of corporal punishment to learners. Bogdan and Biklen<sup>6</sup> state there are mainly five characteristics of qualitative research. The first feature is that qualitative research uses the environment as a source to collect data. The interviews were conducted after official school hours in the participant's classroom or a place preferred by the participant. I did not observe and record the act of corporal punishment because of the sensitivity of the research that has been explained. However, I believe that the participants felt at ease in the location of their choice where the interviews were conducted. Furthermore, the data are descriptive in nature and therefore the data can be analysed "with all of their richness". The participants explained the issues concerning corporal punishment and their experience and views on it. The third characteristic is significant for the study in the sense that the design of this specific qualitative research is more concerned with the perceptions of the educators on corporal punishment rather than the consequences of corporal punishment for the educator and the learner. The next feature is important to determine educators' views on corporal punishment because the data are analysed deductively, meaning that the data determine the theory. Lastly, the "meaning" is a vital characteristic of the study because the researcher is interested in the perspectives of educators regarding spanking in schools.

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<sup>6</sup> Bogdan RC & Biklen SK *Qualitative research for education. An introduction to theory and methods* (1992) 29-33.

### 3.3 EPISTEMOLOGY

The short definition of epistemology is the “theory of knowledge” which is a branch of philosophy.<sup>7</sup> Cruz<sup>8</sup> defines epistemology as “the study of what is required in order to have rational beliefs and knowledge”. Klein<sup>9</sup> states that epistemology is concerned with knowledge that is true or with propositional knowledge. Klein<sup>10</sup> and De Rose<sup>11</sup> agree that epistemology is concerned with the nature, scope and sources of knowledge.

The paradigm in my qualitative approach is interpretivism.<sup>12</sup> Neill<sup>13</sup> defines interpretivism as “a way to gain insights through discovering meanings by improving our comprehension of the whole.” It was therefore important for me to adapt interpretivism to enable me to gain insight into the phenomenon of consistent corporal punishment in schools. Moreover, interpretivism enabled the researcher to explore and understand educators’ opinions of corporal punishment. Using interpretivism is valuable to the study to investigate “the richness, depth and complexity”<sup>14</sup> of corporal punishment in schools. Bryman<sup>15</sup> and Myers<sup>16</sup> agree that it is impossible to remain objective and that the social actions of the researcher will have a subjective influence on a research project. I believe that my background and experience in educational management contributed subjectively to my search for a truth, unlike a natural science researcher that could claim “the truth”.

I am an educator with 5 years experience as a deputy principal and 2 years experience as a principal, a total of 7 years experience in school management.

<sup>7</sup> De Rose K *What is Epistemology? A Brief Introduction to the Topic* (2005) <http://pantheon.yale.edu/~kd47/What-Is-Epistemology.htm> [accessed 10 September 2010] 1.

<sup>8</sup> Cruz J *Epistemology* (sino anne) [http://www.williams.edu/philosophy/fourth\\_layer/faculty\\_pages/jcruz/epistemology.pdf](http://www.williams.edu/philosophy/fourth_layer/faculty_pages/jcruz/epistemology.pdf) [accessed 10 September May 2010] 23.

<sup>9</sup> Klein P “Epistemology” in E Craig (ed) *Routledge encyclopedia of philosophy* (2005) London: Routledge <http://www.rep.routledge.com/article/P059> [accessed 10 September 2010] 1.

<sup>10</sup> Note 9 at 1.

<sup>11</sup> Note 7 at 1.

<sup>12</sup> Neill J *Analysis of professional literature class 6: Qualitative research I* (2006) <http://wilderdom.com/OEcourses/PROFLIT/Class6Qualitative1.htm> [accessed 10 September 2010] 1.

<sup>13</sup> Note 12 at 1.

<sup>14</sup> Neill note 12 at 1.

<sup>15</sup> Bryman A *Social research methods* (2001) 13.

<sup>16</sup> *Legal issues in child abuse and neglect practice* (1998) (2<sup>nd</sup> ed) 1.

One of my responsibilities as principal and a representative of the DoE is to enforce legislation and ensure that nobody's rights are infringed. I remind educators in meetings not to administer corporal punishment and I make sure that it is minuted so that no one can claim that they did not know about the prohibition of corporal punishment. However, when I am doing my rounds in the school on a regular basis, I confront educators tactfully about instruments in their hands when they are standing outside the class while learners are changing classes. The educators and I joke about the instrument as a teaching aid but we all knew that the instrument is used for corporal punishment. I believe that an important characteristic of an effective principal is to be aware of what is happening in the school. I am aware that some educators use corporal punishment, but I turn a blind eye in the hope that the parents of the learner will not complain. I am also aware that the majority of parents approve of corporal punishment and the educators know this. I can do a number of things when learners or parents complain about an educator administering corporal punishment. I always try to get the educator out of the hot water and orally reprimand him or her to refrain from using corporal punishment, but will give a written warning if I am unable to help the educator out of the difficult situation. Sometimes the corporal punishment is so severe that I have to give the educator a written warning for misconduct.

I disapprove of corporal punishment but I understand the frustrations educators experience such as classes with high educator-learner ratios, curriculum deadlines to be met and disruptive learners. It is my experience that these specific frustrations must be seen as a combination of reasons educators use corporal punishment. I feel that I am caught in the middle between legislation and frustrated educators regarding corporal punishment. Therefore, I cannot guarantee to be objective regarding educators' perceptions of corporal punishment. Participants experience their world from their own unique background and interpret these impulses of the world. Their knowledge or truth is thus created from the phenomenon that surrounds them.<sup>17</sup> Hence, participants have their own views and opinions on the truth of the phenomenon. It is the

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<sup>17</sup> Weber R "The rhetoric of positivism versus interpretivism: A personal view" (2004) 28/1 *MIS Quarterly* iv.

purpose of the study to explain and understand the participants' perceptions of corporal punishment. My background has had a further influence on my scientific position in that the truth is a subjective interpretation of the participants' truth. Stated in another way, my "knowledge is built through social construction of the world".<sup>18</sup>

The debate of arguments for and against corporal punishment<sup>19</sup> and comment on the victims of corporal punishment, namely the learners, were discussed in the literature study. These issues could contribute towards the purpose of the study, which is an academic well-informed attempt to understand and explain the continued use of corporal punishment from an educator's point of view.<sup>20</sup> I would not have been able to conduct the study correctly if I did not understand the world as seen through the eyes of the educators, or to be more specific, could not examine the interpretations of the participants in the study in my search for explaining continued corporal punishment. Bryman<sup>21</sup> agrees that such an approach is called an epistemological position:

... the stress is on the understanding of the social world through an examination of the interpretations of that world by its participants.

I needed to interpret the advantages, motivations and reasons for the use of corporal punishment from the participants' perspective and therefore I formulated "my truth" based on my understanding of "their truth".<sup>22</sup> Hence the research paradigm is interpretive in nature.<sup>23</sup> I tried to remain objective and unbiased during the interviews, but this was not possible. There was an underlying tension between me and the participants because I was investigating their involvement in an illegal activity, namely violating the prohibition of corporal punishment<sup>24</sup>. Therefore I cannot claim that I was objective and unbiased. The truth is that I was drawn into the world of the participants while they were sharing their world of frustrations and motivations in order to explain their persistent use of corporal

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<sup>18</sup> Note 17 at vi.

<sup>19</sup> See ch 2 par 2.5.

<sup>20</sup> See ch 1 par 1.5.3.

<sup>21</sup> Note 15 at 264.

<sup>22</sup> See ch 1 par 1.6.2.

<sup>23</sup> Bryman n 15 at 264.

<sup>24</sup> Section 10 of Schools Act.

punishment in their workplace, namely the classroom. I was more supportive towards the participants for putting them under pressure because of the legality of corporal punishment although the participants had volunteered to partake in the study. I have indicated in paragraph 1.6.2 that I wanted to put myself in the educators' shoes in an effort to understand their reasons for persisting with the administering of corporal punishment. I was able to do this but unable to be objective and as a result I found that I had more sympathy with educators who persist in the use of corporal punishment. Cohen *et al*<sup>25</sup> argue that an interview is inter-subjective because it cannot be either objective or subjective. Therefore, the researcher created "his truth" in understanding the participants "truth".<sup>26</sup>

I believe that other researchers with the same set of data will not necessarily have identical interpretations and conclusions to determine educators' perceptions of corporal punishment. Hence, I cannot generalise the issues regarding corporal punishment, as my study focused on two school districts only.

### 3.4 TYPE OF RESEARCH

A case study that is qualitative in nature was used<sup>27</sup> and selected because the strengths outweigh the weaknesses. Strengths of a case study are that it is "very strong on reality",<sup>28</sup> as analysed in Chapter 4:

- Distinctive characteristics are captured; this is vital in understanding the perceptions of the participant educators' on corporal punishment.
- A case study is manageable by one individual and does not need a research team.

Nisbet and Watt argue that one weakness of a case study is that the researcher can be biased.<sup>29</sup> Other weaknesses of case studies are that the results cannot be applied elsewhere, and it is difficult to confirm the results because subjectivity. A case study was selected for the research because it was found to be the best

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<sup>25</sup> Cohen L, Manion L & Morrison K *Research methods in education* (2000) (5<sup>th</sup> ed.) 267.

<sup>26</sup> See ch 1 par 1.6.2.

<sup>27</sup> See ch 1 pars 1.6 & 3.3.

<sup>28</sup> Nisbet & Watt cited by Cohen *et al* n 25 at 184.

<sup>29</sup> See ch 1 par 1.6.2.

research design under circumstances compared to other research designs as discussed in the next paragraph.

Other research designs that could have been used for the study were surveys, correlation research, evaluative and action research designs. These alternative research designs will be explained by using examples of the practical implications of corporal punishment issues. A survey-based research design could have been used in the study because it is designed to collect perceptions, opinions and desires.<sup>30</sup> Surveys are an excellent choice for market research and political views but lack detailed data that is required for this study as the intention is to determine participants' perceptions. Correlation research<sup>31</sup> is used for comparison studies, for example a comparison between different countries, provinces or schools' perceptions of corporal punishment to establish a relationship between them. Although it is a good approach for a research project, it would change the whole purpose and structure of the study. Furthermore, a case study is useful on a smaller scale to collect accurate data, whereas a correlation study can be used on a bigger scale with less accuracy. Evaluative research's purpose<sup>32</sup> is to evaluate the success of projects such as specific intervention programmes. Action research<sup>33</sup> will also not be suitable for the study because the researcher will have an active role to solve the problem of the persistent use of corporal punishment. A case study is the best design under the circumstances and is able to determine the reality that confronts educators' when applying corporal punishment. It is important to find out from the participants' point of view why they continue to administer corporal punishment, knowing that it is an illegal action.

The working assumptions determined by the study are that classes with high educator-learner ratios are one of the reasons why educators use corporal punishment.<sup>34</sup> Another reason is that corporal punishment is rife in schools today

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<sup>30</sup> Hofstee E *Constructing a good dissertation: A practical guide to finishing a Master's MBA or PhD on schedule* (2006) 122.

<sup>31</sup> Hofstee n 30 at 123.

<sup>32</sup> Hofstee n 30 at 126.

<sup>33</sup> Hofstee n 30 at 127.

<sup>34</sup> See ch 2 par 2.7.4.1.

because of the ineffective alternatives to corporal punishment.<sup>35</sup> Lastly, educators use corporal punishment out of frustration because of low job satisfaction<sup>36</sup> caused by classes with high educator-learner ratios and minimum support by the authorities. I can only assume these reasons to explain educators' perceptions of corporal punishment if I am not prepared to investigate the phenomena scientifically. The next sections deal with the method that was used to test the assumptions' validity from my participants' perceptions.

### 3.5 METHODOLOGY

This section is the practical details of the study where the research design was applied by using data collecting instruments, data and analysis.

#### 3.5.1 Data collecting instruments

Individual semi-structured, face-to-face interviews<sup>37</sup> were conducted to collect data from the participants to determine educators' perceptions of corporal punishment. The researcher developed a set of semi-structured questions with the approval of the supervisor.<sup>38</sup> The questions were submitted for critical review to four national academics and one international academic<sup>39</sup> who are experienced researchers in the field of education law. This was necessary to ensure accuracy in collecting the data.

The first two questions<sup>40</sup> were asked to establish the participants' point of view regarding discipline and corporal punishment. More questions were asked to determine the participants' knowledge of the continued level of corporal punishment in schools and among educators, the role of parents and the principals regarding corporal punishment issues, knowledge about legislation, alternatives to corporal punishment and the effect of corporal punishment on instruction and learning. Lastly, questions were asked to determine why educators persist in administering corporal punishment and there was an opportunity for the participant to make comments and remarks.

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<sup>35</sup> See ch 2 par 2.7.4.2.

<sup>36</sup> See ch 2 par 2.7.4.3.

<sup>37</sup> See ch 1 par 1.6.4.2.

<sup>38</sup> See Addendum C.

<sup>39</sup> See Addendum C.

<sup>40</sup> See Addendum C.

Questions not indicated in Addendum C were asked to clarify and explore certain issues because Bryman<sup>41</sup> refers to a semi-structured questionnaire as an “interview guide”. An interview guide assists the researcher and participants in remaining focused on the purpose of the research. An advantage of a semi-structured interview is the flexibility of the interview process, which allows the researcher to ask questions not indicated in the set of questions to ensure that arising issues can be clarified and to get rich data not anticipated.

The three characteristics<sup>42</sup> of an interview were used in the interpretation of the participants’ perception of corporal punishment. Firstly, the researcher was able to establish a trust relationship in which the participants felt comfortable sharing their points of view on corporal punishment. The second characteristic is curiosity, an effort to understand and explain why educators persist in corporal punishment. The participants were able to express their frustrations, feelings and perceptions of corporal punishment. Lastly is naturalness that ensures that the researcher does not influence the interview. The researcher was able to establish an atmosphere of trust, curiosity and naturalness without bias.

The interviews were recorded on two digital voice recorders.<sup>43</sup> One recorder provided a backup in case the other recorder was not able to record for whatever reason. A digital voice recorder ensures accuracy and reliability of the data and it can be paused if there is an interruption. The recording can be replayed indefinitely to listen to the interview. A disadvantage is that background noises, such as an air conditioning unit, could affect the quality of the interview being recorded. This happened with one of the interviews, but the recording of the backup recorder was used because it was more audible. The recordings were transcribed exactly, word for word,<sup>44</sup> to facilitate the data analysis. Three interviews were conducted in Afrikaans and were afterwards professionally translated by a third party.

The set of semi-structured questions designed for the study ensured reliability and flexibility by using the correct instruments and approaches that encouraged

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<sup>41</sup> Note 15 at 314.

<sup>42</sup> Cohen *et al* n 25 at 268.

<sup>43</sup> See ch 1 par 1.6.4.2.

<sup>44</sup> See Addendum D-I.

the participants to express their perceptions of corporal punishment. Instruments used were able to ensure that reliable and valid data were analysed to determine the purpose of the study.<sup>45</sup>

### 3.5.2 Sampling

I am convinced that the quantity and quality of the collected data ensured accuracy and reliability (see table 3.1). Three schools were selected by applying purposive sampling.<sup>46</sup> Purposive sampling was used because the study depended on educator volunteers who administer corporal punishment. Cohen *et al*<sup>47</sup> state that purposive sampling is “perfectly adequate” and easier for small-scale research.

Criteria used to determine the differences between the schools were annual school fees (see table 3.1) and the average educator-learner ratio for a class. An important source of income for schools is school fees paid by the parents. A school with high school fees is able to afford more resources to improve the quality of education. Stated differentially, a higher income could improve the quality of instruction and learning because the educators have more resources available. School A’s school fees is R6 000.00 per annum with an average educator-learner ratio of 1:27; school B parents can afford R2 800.00 per annum for an average educator-learner ratio of 1:38 and the parents of school C can afford R400.00 per annum with an average educator-learner ratio of 1:60 learners.

The total recorded time was a little more than an hour and a half, an average of 16 minutes per interview. The recordings were transcribed on 33 pages, an average of 6 pages per participant. The recordings were listened to several times to ensure that the interviews were correctly transcribed.

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<sup>45</sup> Chapter 1 par 1.5.1.

<sup>46</sup> Cohen *et al* n 25 at 102-104.

<sup>47</sup> Note 25 at 102.

Table 3.1 Statistics of the recorded data

School	Participant	Interview duration	Transcript pages	Data Analysis
School A R6 600.00 pa	Participant 1	15 min 43 sec	6	166
	Participant 2	21 min 37 sec	6	249
School B R2 800.00 pa	Participant 3	9 min 46 sec	5	151
	Participant 4	16 min 34 sec	4	114
School C R400.00 pa	Participant 5	21 min 49 sec	7	169
	Participant 6	13 min 28 sec	5	115
<b>Total</b>		<b>98 min 57 sec</b>	<b>33</b>	<b>964</b>
<b>Average</b>		<b>16 min 28 sec</b>	<b>5.5</b>	<b>161</b>

### 3.5.3 Approval for the research

Three ethical aspects were applied in the study,<sup>48</sup> namely informed consent, confidentiality and the consequences of the interviews. Permission was obtained<sup>49</sup> and granted<sup>50</sup> from the GDE. Permission was also obtained from the principals of the three schools<sup>51</sup> and from the participants.<sup>52</sup> The researcher and the University guaranteed the participants and their principals that the schools and educators will be kept anonymous. The names of the three schools were replaced by the letters A, B and C and the participants' names were replaced by numbers 1 to 6 (see table 3.1). Furthermore, the GDE was considerate in granting permission without revealing the identity of the schools on the research request form.<sup>53</sup> The consequences of the interviews are the last aspect of ethical considerations and highlighted the importance of keeping the names of the schools and the participants kept anonymous. The nature of the research is sensitive because of the legal implications of administering corporal punishment.<sup>54</sup>

<sup>48</sup> See ch 1 par 1.6.4.5.

<sup>49</sup> See Addendum A.

<sup>50</sup> See Addendum B.

<sup>51</sup> See Addendum J.

<sup>52</sup> See Addendum K.

<sup>53</sup> See Addendum A at 6.

<sup>54</sup> See ch 1 par 1.1.

### 3.5.4 Analysis

The transcribed interviews were read several times before reducing/chunking the data into smaller units called codes.<sup>55</sup> Codes are used on sentences or part of a sentence in a process called bracketing<sup>56</sup> and phenomenological reduction.<sup>57</sup> An example from the transcribed data is used to explain the idea of bracketing:

Participant 5: [On many occasions our principal did not approve of corporal punishment,] [he has on many occasions told the teachers the consequences of corporal punishment] . . .<sup>58</sup>

The brackets in the first part of the sentence were interpreted by the researcher as the [principal's disapproval of corporal punishment]. The researcher determined that the second part of the sentence has two interpretations, namely [the legal consequences of corporal punishment] and [principal informed educators of the prohibition of corporal punishment]. The example was quoted from participant 5's transcribed interview and bracketing was used 169 times as indicated in table 3.1. The researcher interpreted 249 brackets of data in the transcribed interview of participant 2 (see table 3.1). The total number of codes identified in all six interviews was 964 brackets of data. The three examples of bracketing are called codes and 92 different bracketing/codes were identified in the six transcribed interviews. In other words, the 964 brackets of data were sorted into 92 different codes. The researcher's interpretations were made in this manner in an attempt to understand the participants' experiences, opinions and perceptions of corporal punishment.<sup>59</sup>

The 92 codes were clustered into 11 categories, the categories were sorted into four families and a pattern was determined from the families of data that originated from using brackets.<sup>60</sup> The analysis of the data is presented in more detail in Chapter 4.

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<sup>55</sup> See ch 1 par 1.6.4.3.

<sup>56</sup> Square brackets [ ] are used to explain the concept of bracketing.

<sup>57</sup> Cohen *et al* n 25 at 285.

<sup>58</sup> See Addendum H at 2.

<sup>59</sup> Cohen *et al* n 25 at 285.

<sup>60</sup> See ch 1 par 1.6.4.3 and figure 1.1.

### 3.6 ETHICAL CONSIDERATIONS

The University's Committee for Research Ethics and Integrity (the Committee) is responsible for ensuring that students fulfil "the statutory requirements and best practices for research ethics and integrity".<sup>61</sup> Students are therefore required to apply for a clearance certificate before research can commence. An application for approval was submitted to the Committee according to the regulations of the University. A clearance certificate was initially withheld because the Committee was concerned about the legal implications and the researcher's responsibility towards parents whose children are punished by using corporal punishment.<sup>62</sup> Dr Ann Skelton, an expert on children's legislation, was contacted and Skelton replied:

Researchers are not in the list of professionals legally obliged to report child abuse. This is so under the current Child Care Act, and it is true under the Children's Act. So legally, you do not have any obligations.<sup>63</sup>

The Committee was satisfied because the focus of the study was to understand and explain the phenomenon of the persistence of corporal punishment in schools from the perspective of educators. A clearance certificate was obtained afterwards for the purpose of the study.<sup>64</sup>

### 3.7 LIMITATIONS

The purpose of the study<sup>65</sup> is to determine educators' perceptions on the continued use of corporal punishment. The study would be worthless if no educator administered corporal punishment in schools, but evidence has indicated that the administering of corporal punishment to learners is still rife in schools.<sup>66</sup> The administering of corporal punishment is prohibited by legislation<sup>67</sup> and the consequence for using it is that an educator could be charged with misconduct and even be dismissed.<sup>68</sup> The research focused on educators who

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<sup>61</sup> University of Pretoria *Code of ethics for research*  
[http://web.up.ac.za/sitefiles/File/3653/Code%20of%20ethics%20for%20research\(1\).doc](http://web.up.ac.za/sitefiles/File/3653/Code%20of%20ethics%20for%20research(1).doc)  
[accessed 6 September 2010].

<sup>62</sup> See par 3.1 & Addendum L.

<sup>63</sup> See Addendum L.

<sup>64</sup> See Addendum M.

<sup>65</sup> See ch 1 par 1.5.3.

<sup>66</sup> See ch 1 par 1.5 & ch 2 par 2.7.3.

<sup>67</sup> Schools Act n 24.

<sup>68</sup> See ch 1 par 1.1.

administer corporal punishment; this poses a serious limitation in the sense that the participants indirectly acknowledged that they were busy with an illegal activity that could result in losing their jobs. It is important to underscore the fact that the participants' names and their schools are kept anonymous at all times.

Another limitation<sup>69</sup> was that it was difficult to find volunteers to participate in the study because the essence of the study depended on educators who administer corporal punishment. There was also a possibility that educators who participated in the research could decide to refuse to answer certain questions or cancel the interview as indicated on the request for an interview:

May I please record this interview? Interviewees will remain anonymous. Participation in the research is voluntarily and you may stop or interrupt participation at any time. You have the right to refuse to answer any of the questions.<sup>70</sup>

The research should present a comprehensive study of the perceptions of educators on corporal punishment of all sectors of basic education of South African schools, adult learners excluded. Empirical data<sup>71</sup> indicated that an average of 50% to 80% of learners receives corporal punishment in schools, primary and secondary schools included. Although academics seem to currently avoid research on corporal punishment and recent statistics on the use of corporal punishment in schools could not be traced, newspaper articles state clearly that this phenomenon is still currently rife in some schools. Eastern Cape educators argue that corporal punishment "is an effective way to discipline unruly pupils".<sup>72</sup> Maponya<sup>73</sup> reported that a high school in Limpopo is still practicing corporal punishment. A principal of a primary school in Mpumalanga was fined R1 000 because he has beaten a boy with a cricket bat.<sup>74</sup> It seems that the practice of corporal punishment is still a widespread phenomenon in South African schools. However, I focused only on three primary schools, which is a limitation, because a comprehensive study would have been expensive and time-

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<sup>69</sup> See ch 1 par 1.6.4.7.

<sup>70</sup> See Addendum C.

<sup>71</sup> See ch 1 par 1.5 & ch 2 par 2.7.3.

<sup>72</sup> Matomela D "Teacher faces assault charge after water pipe attack" *The Herald (EP Herald)* (15 April 2010) 8.

<sup>73</sup> Maponya F "Teachers rely on the rod" *Sowetan* (5 May 2010) 9.

<sup>74</sup> Rademeyer A "Principal fined after spanking with bat" (translated) *Beeld* (21 October 2010) 3.

consuming. Hence, secondary and private schools were excluded. I expect that the data might not differ substantially had I interviewed educators from secondary government schools or private schools, although it might be interesting to peruse this issue in further studies.

The fact that the researcher is an educator is a limitation in the sense that the researcher could identify and sympathise with the participants regarding their everyday job-related frustration, for example, their perceptions of corporal punishment. Consequently, the participants could use the interview as an opportunity to vent their frustration. Such was the case with participant 5, who kept reiterated issues such as the poor quality of education, the negative influence of technology on children's development and the function of an educator as a facilitator. The lack of interest of the parents regarding their children's academic development, the high workload of educators because of the current education system and the influence of politics on education were other issues that frustrated participant 5. These data had no relevance to the purpose of the study, and therefore the researcher was unable to analyse a small section of the transcribed interview of participant 5.<sup>75</sup> The function of the set of questions as an "interview guide",<sup>76</sup> namely to remain focused on the purpose of the study - to determine educators' perceptions of corporal punishment - is once again emphasised.

### **3.8 REFERENCING**

Due to the legal relevance of my topic, I referenced sources by using the customary style of legal referencing.

### **3.9 CONCLUSION**

The next Chapter is the practical implementation of Chapter 3, namely the analysis of the data. The data obtained from the interviews will be analysed In Chapter 4. The final Chapter, Chapter 5, will attempt to answer the research questions, namely to explain and understand the perceptions of educators

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<sup>75</sup> See Addendum at H: 5, 6.

<sup>76</sup> See par 3.5.1.



regarding the use of corporal punishment and the reasons why the practice is still rife in our schools.

## CHAPTER 4

### CORPORAL PUNISHMENT IN REALITY

#### 4.1 INTRODUCTION

The purpose of the research is to understand and explain the use of corporal punishment in South African schools from the educators' perceptions. Chapter 2 refers to numerous authors and sources regarding issues of corporal punishment. Reference was made to several researches on the topic of corporal punishment in schools.<sup>1</sup> All related and relevant issues of corporal punishment were discussed in context in chapter 2.<sup>2</sup> Chapter 3 outlines the research methodology to determine educators' perceptions of corporal punishment. To rephrase, the purpose and intention of chapters 2 and 3, is to explore respectively the "What?" and "How?" of the phenomenon of the practice of corporal punishment still rife in South African schools. I focus in the study on the reality of corporal punishment in schools and the experiences of six participants in an endeavor to determine the reasons according to their perceptions for the continued use of corporal punishment. I try to find evidence to verify the three assumptions that have been made in the first two chapters.

The first assumption is that a class with a high educator-learner ratio negatively affects the culture of instruction and learning in South African schools and is one of the major reasons for the persistence of corporal punishment.<sup>3</sup> Porteus *et al*<sup>4</sup> and Masitsa<sup>5</sup> agree that educators use corporal punishment to manage learner discipline in classes with high educator-learner ratios. The literature study indicates that classes with a high educator-learner ratio negatively affect the quality of instruction and learning; consequently, educators are unable to perform optimally because of related work stress.<sup>6</sup>

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<sup>1</sup> Narain AP *Discipline and disciplinary measures used at selected secondary schools* (2006); Wylie J "Discipline in South African schools" (2006) 2/2 *Article 19* 2006; Vally S "Disturbing statistics on corporal punishment" (2007) 3/1 *Article 19*; Burton A *Merchants skollies and stones: Experiences of school violence in South Africa* (2008) and Wa Kivilu M & Wandai M "Spare the rod and save the child most Africans believe" (2009) 7/1 *HSRC Review*.

<sup>2</sup> See ch 2 pars 2.4, 2.5 & 2.7.

<sup>3</sup> See ch 1 par 1.4 & ch 2 par 2.7.4.1.

<sup>4</sup> Porteus K, Vally S & Ruth T *Alternatives to corporal punishment: Growing discipline and respect in our classrooms* (2001) 1.

<sup>5</sup> Masitsa MG "Discipline and disciplinary measures in the Free State township schools: Unresolved problems" (2008) 40/3 *Acta Academica* 264.

<sup>6</sup> See ch 2 par 2.7.4.1.

The next assumption is that educators' perceptions of corporal punishment are influenced by the minimal support and training offered by the DoE when corporal punishment was prohibited in 1996.<sup>7</sup> Two aspects are highlighted in the literature study, namely that legislation prohibiting corporal punishment in schools was implemented without consulting educators, and the DoE's support on alternatives of corporal punishment was ineffective. The literature study confirmed the latter aspect by reporting that the DoE's *Alternatives to Corporal Punishment* publication<sup>8</sup> is not supported or implemented by educators. Hence, educators use corporal punishment in the absence of effective alternatives to corporal punishment.

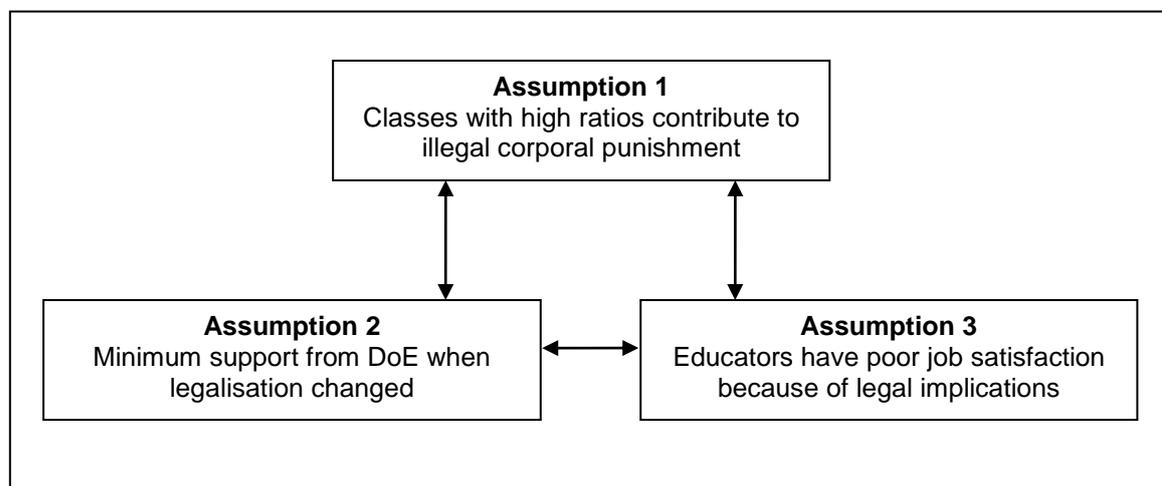


Figure 4.1 Assumptions of educators' perceptions of corporal punishment

The last assumption<sup>9</sup> is a result of the first two assumptions, namely that the participant educators have low job satisfaction because of classes with high educator-learner ratios where it is difficult to maintain discipline, combined with minimal support from authorities that advocate alternatives that participant educators believe to be ineffective.<sup>10</sup> Sometimes educators use corporal punishment to relieve work tension and do not necessarily address the misbehaviour of learners.<sup>11</sup> Educators are dissatisfied with the profession and

<sup>7</sup> See ch 2 par 2.7.4.2.

<sup>8</sup> 2000.

<sup>9</sup> See ch 2 par 2.7.4.3.

<sup>10</sup> See ch 1 par 1.4.

<sup>11</sup> Waterhouse S & Frank C *Submission to the South African Human Rights Commission on violence in schools* (2006) 6, 7.

therefore leave the occupation, which in turn could have a detrimental effect on classes' educator-learner ratios.

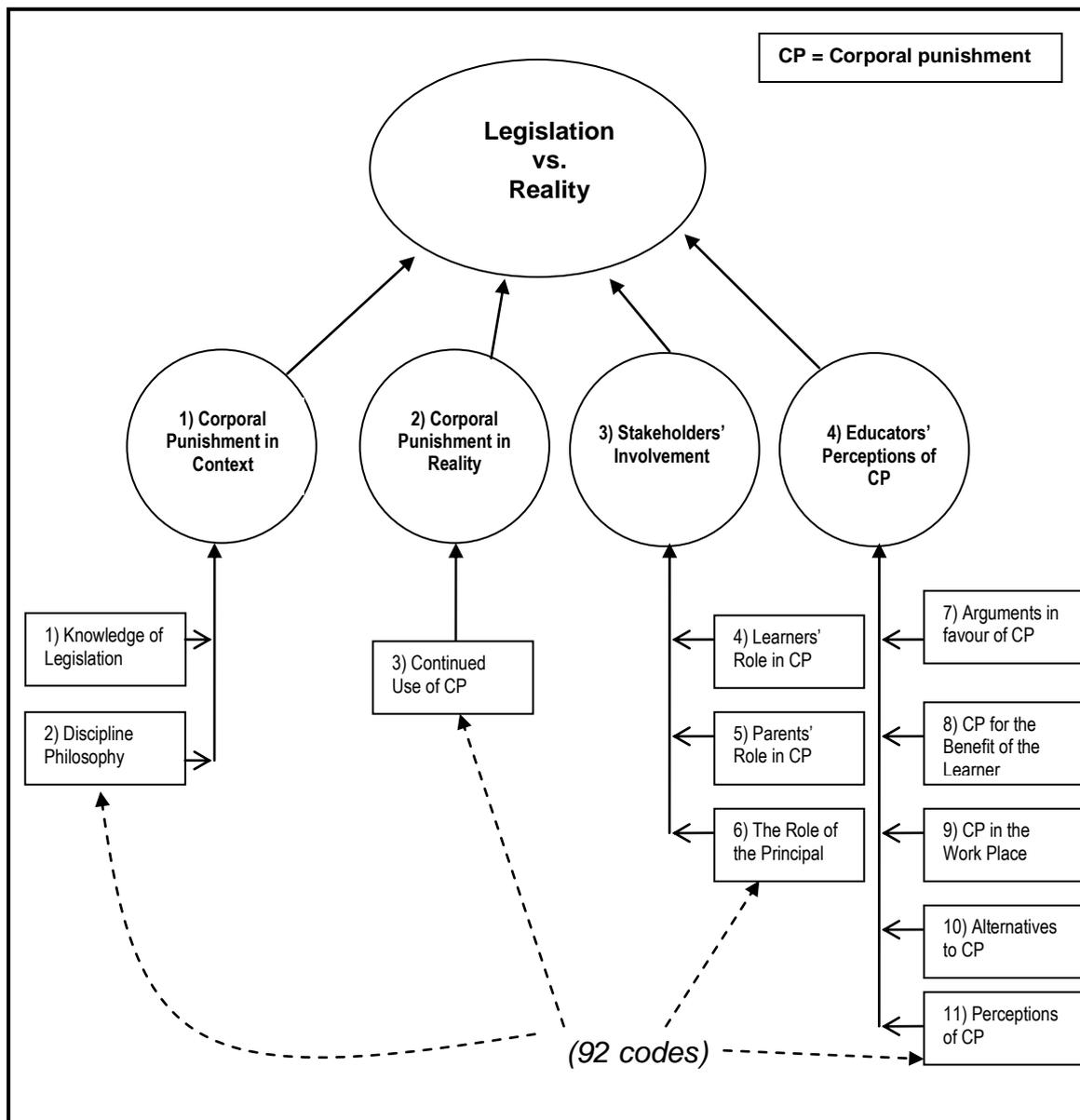


Figure 4.2 Diagram of the process of clustering codes until a pattern is identified

It seems that the three assumptions explaining educators' perceptions of corporal punishment are linked together (see figure 4.1). High educator-learner ratio is a reason given for using corporal punishment. Educators in these classes might experience ineffective alternatives to corporal punishment and lack of support in disciplinary matters. The working conditions of educators cause low job satisfaction, which could lead to a greater demand for educators because of

those leaving the profession, resulting in classes to have a higher educator-learner ratio.

The next step was to collect data to verify or disapprove the three assumptions of the study. Individual semi-structured interviews<sup>12</sup> were conducted with the permission of the participants. Six educators voluntarily participated in the study, two from each of the three schools that are culturally different from one another.<sup>13</sup> The interviews were recorded and transcribed afterwards.<sup>14</sup> The transcripts were analysed and 92 codes were identified (see figure 4.2). The codes were grouped together to form 11 categories. Rectangles in figure 4.2 depict the categories. The 11 categories were sorted into four families, indicated by circles in figure 4.2. A pattern presented by an oval shape was deduced from the families.

## 4.2 CORPORAL PUNISHMENT IN CONTEXT

Ten of the 92 codes were grouped in the category knowledge of legislation and eleven were grouped in the discipline philosophy category (see figure 4.3). The two categories were grouped in the family of corporal punishment in context.

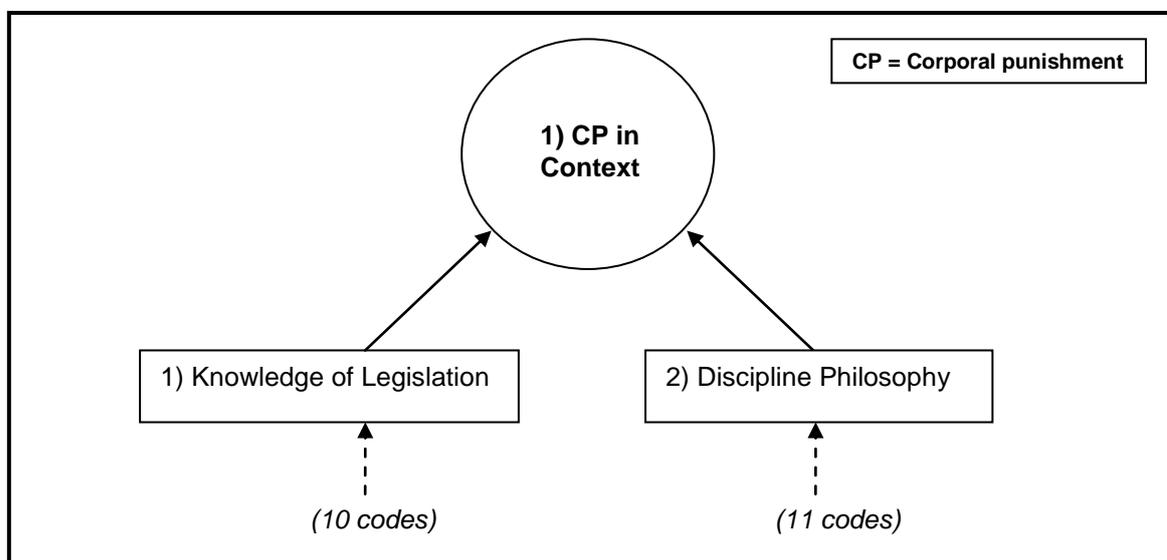


Figure 4.3 Diagram depicting the family 'Corporal Punishment in Context'

<sup>12</sup> See ch 1 par 1.6.4.2.

<sup>13</sup> See ch 1 par 1.6.4.1.

<sup>14</sup> See Addenda D-I.

#### 4.2.1 Knowledge of legislation

Participants were aware of the legal consequences that “one may lose one’s job”<sup>15</sup> when practising corporal punishment. Five participants acknowledged that legislation decreed that “corporal punishment is out”,<sup>16</sup> but three participants mentioned Schools Act as a source for the prohibition of corporal punishment. Participants indicated that learners are well informed regarding their rights and learners “are doing things as they want”.<sup>17</sup> Participant 5 said: “It seems that the teachers have absolutely no right in the classrooms”.<sup>18</sup> Participant 2 emphasised that he is well aware that he is wrong when he administers corporal punishment. Participant 3 highlighted the fact that she strongly disapproves of corporal punishment. It seems from the data that educators are aware that corporal punishment is against the law, although they are not able to cite specific legislation.

#### 4.2.2 Knowledge of discipline philosophy

Four participants agreed that discipline in schools is important to ensure effective teaching. A participant indicated, “Without discipline no teaching can take place”.<sup>19</sup> Two participants stated that poor discipline in schools influence their ability to teach negatively. Parents’ responsibility regarding discipline and imbalance between school and home discipline were other codes that were identified. The dominant code was the traditional use of corporal punishment. Five participants indicated that “most teachers grew up with corporal punishment as part of their childhood years”<sup>20</sup> and that corporal punishment is “a punishment that really works”.<sup>21</sup> The data imply that the majority of educators believe in the traditional use of corporal punishment to maintain discipline in order ensure quality education.

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<sup>15</sup> Addendum E at 2:3 (Interview 2, quotation is found on page 3).

<sup>16</sup> Addendum E at 2:1.

<sup>17</sup> Addendum I at 6:3.

<sup>18</sup> Addendum H at 5:1.

<sup>19</sup> Addendum G at 4:1.

<sup>20</sup> Addendum G at 4:3.

<sup>21</sup> Addendum H at 5:4.

### 4.2.3 Sub-conclusion

Knowledge of legislation and discipline philosophy categories were combined in the family of corporal punishment in context. It was important to determine the participants' knowledge of legislation and related issues for the purpose of the study. I believe that knowledge of legislation has an effect on educators' attitude in matters related to discipline in schools. The manner in which one applies school discipline could be determined by one's discipline philosophy, specifically the application of traditional corporal punishment. However, one's knowledge and application of legislation in the workplace could have an effect on how one manages discipline in one's classroom. The latter is applicable in the case of participant 3, who has a very good knowledge of legislation, e.g. the Constitution and Schools Act, which in turn determines her attitude towards her discipline philosophy. Her attitude is that maintaining positive discipline will enable one to teach effectively and efficiently. Participant 3 was the only participant that referred to SACE by stating: "we are governed by this".<sup>22</sup> It seems that the other five participants' disciplinary practices determine how they perceive and implement legislation.

The data in these sections have answered partially the research question<sup>23</sup> of the perception of educators regarding the continued use of corporal punishment. Evidence indicates that the focus of corporal punishment is more on educators' discipline philosophy regarding the traditional use of corporal punishment than on legislation pertaining to it. Evidence also indicates that educators are well informed about the legal consequences of using corporal punishment.

## 4.3 CORPORAL PUNISHMENT IN REALITY

The category for the family of corporal punishment in reality (see figure 4.4) is the continued use of corporal punishment.

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<sup>22</sup> Addendum F at 3:2.

<sup>23</sup> See ch 1 par 1.5.1.

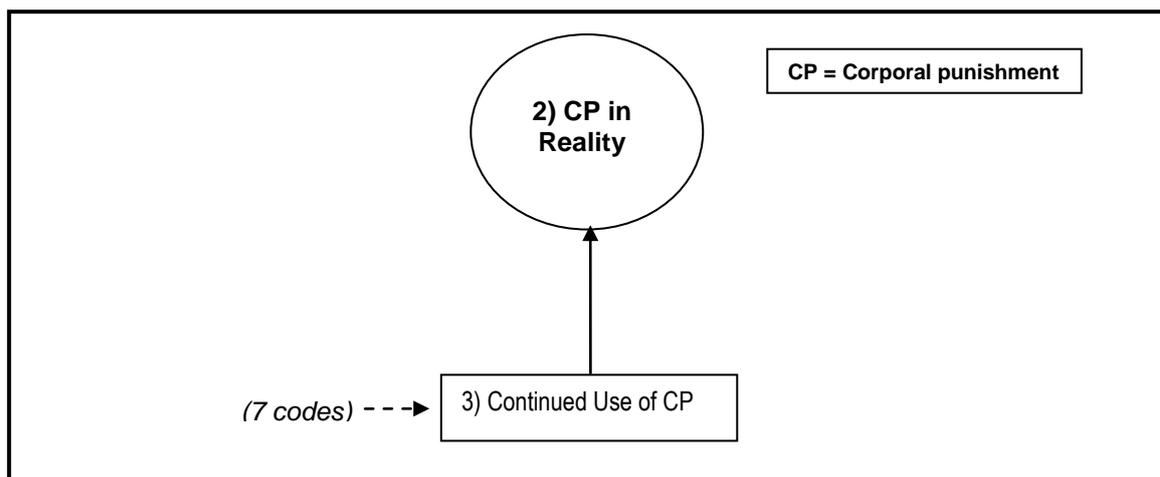


Figure 4.4 Diagram depicting the family 'Corporal Punishment in Reality'

### 4.3.1 Continued use of corporal punishment

Four participants indicated that they are aware of other schools and educators who administer corporal punishment in the category continued use of corporal punishment. Participant 4 indicated that there is a primary school and three secondary schools that have parent meetings to discuss the use of corporal punishment. At these schools parents are asked to consent to corporal punishment by signing a letter and parents are informed when corporal punishment is administered. Participants acknowledged that the use of corporal punishment has negative effects on learners, e.g. lack of concentration, bearing a grudge, human dignity violated and physical and emotional damage. Participants 3 and 6 disapprove of the severe use of corporal punishment that would leave evidence. Participant 1 elaborated by saying:

I think there were people who, when the whole corporal punishment thing was still on, administered it in the wrong manner – who became power crazy and tried to enforce their authority by means of corporal punishment, which is not the correct way of doing it.<sup>24</sup>

The participants' confirmations of the continued use of corporal punishment in schools confirm that the use of corporal punishment is still rife in South African schools.<sup>25</sup>

<sup>24</sup> Addendum D at 1:4.

<sup>25</sup> See ch 1 par 1.5 & ch 2 par 2.7.3.

### 4.3.2 Sub-conclusion

Participants acknowledged that corporal punishment is still rife in schools and that they are aware of colleagues administering corporal punishment. Evidence indicates that corporal punishment is a widespread practice among educators. Burton<sup>26</sup> states that seven out of ten primary school learners and one out of two secondary school learners receive corporal punishment. In other words, 70% of primary school learners and 50% of secondary school learners who receive corporal punishment are supposedly accomplishing academic outcomes. My intention is to determine from my participants' perceptions why they continue administering this illegal act.

## 4.4 STAKEHOLDERS' INVOLVEMENT

Participants acknowledged their own participation and that of other educators in corporal punishment. It is therefore necessary to determine the role of learners, parents and principals in the analysis of corporal punishment administered by educators (see figure 4.5).

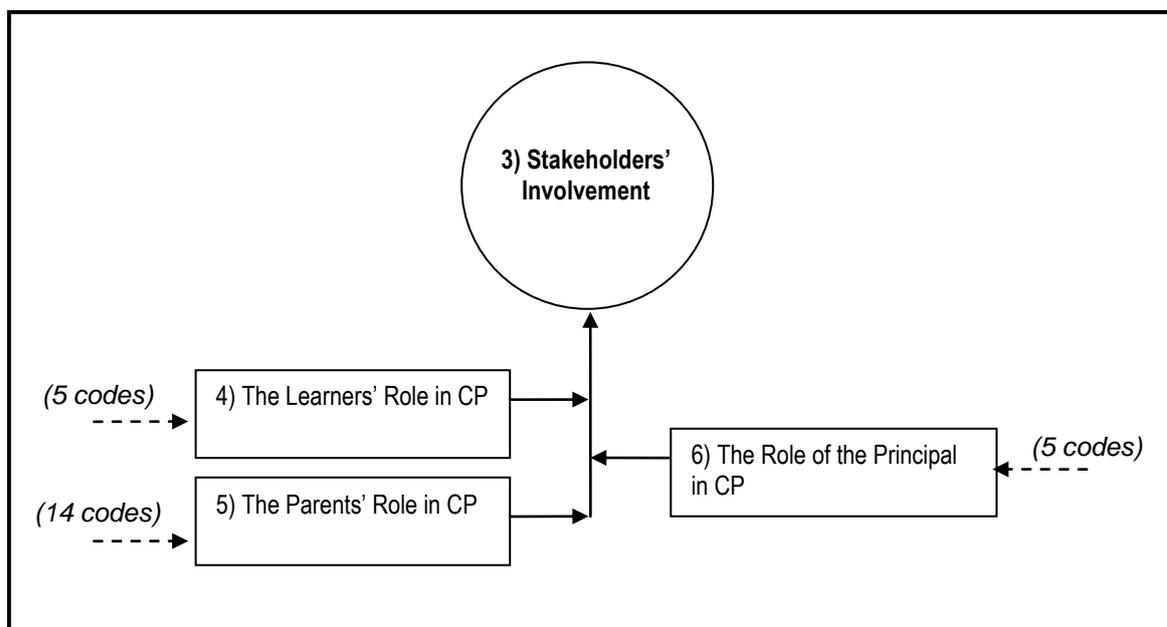


Figure 4.5 Diagram depicting the family 'Stakeholders' Involvement'

<sup>26</sup> Note 1 at 29.

#### 4.4.1 The learners' role in corporal punishment

It was mainly participant 1 that used codes for the category the learners' role in corporal punishment. The participant indicated after the interview that he wished to make an additional comment regarding an incident on the sports field. The participant was coaching rugby but the boys were not paying attention. Corporal punishment was administered after the boys had been given a choice. One boy indicated to the participant that he was afraid of a "whack".<sup>27</sup> The specific boy informed his mother afterwards. The mother informed the participant: "It's a shame that you didn't whack him too".<sup>28</sup> The boy felt bad because he did not get his whack and he felt guilty about it because according to him he deserved it. This participant mostly uses corporal punishment on the sport field for team building and solidarity amongst the male learners who train for rugby. Participant 2 also referred to the role of the learner by saying that "the majority of them do not have a problem with it".<sup>29</sup>

#### 4.4.2 The parents' role in corporal punishment

The category parents' role in corporal punishment indicates that most parents are aware and informed of corporal punishment. The data indicate that parents approve and give permission for the administering of corporal punishment. Participant 4 stated that she applies corporal punishment with the approval of the parents.<sup>30</sup> The data imply that the majority of parents support the educators in the use of corporal punishment, which makes the administering of corporal acceptable to educators. This also underscores the statement<sup>31</sup> that learners accept corporal punishment because the parents approve of it.

Only a few parents disapprove of corporal punishment. Participant 5 experienced poor relationships with parents and stated, "They will just barge in and fight with the educator because of a lack of understanding".<sup>32</sup> The participant also experienced poor co-operation and support from the parents. The data indicate

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<sup>27</sup> Addendum D at 1:5.

<sup>28</sup> Addendum D at 1:5.

<sup>29</sup> Addendum D at 1:5.

<sup>30</sup> Addendum G at 4:2.

<sup>31</sup> See pars 4.4.1.

<sup>32</sup> Addendum H at 5:3.

that the minority of parents disapprove of corporal punishment. Although this perception may encourage educators to use corporal punishment, the issue was not included in the research as the focus is on educators' perceptions' of corporal punishment.

#### **4.4.3 The role of the principal in corporal punishment**

Participants confirmed that the role of the principal in corporal punishment is to disapprove of it. Principals apply the necessary legislation and inform educators of the consequences of corporal punishment. Two participants said that some parents had informed the principal when their children received corporal punishment. The parents that informed the principal could have been the same parents<sup>33</sup> that disapproved of corporal punishment. However, the issue was not pursued to determine the actions that the principal took when the parents complained about corporal punishment.

#### **4.4.4 Sub-conclusion**

The principal's role is that of reminding educators of legislation and the consequences of not adhering to it. Nonetheless, some parents approve of corporal punishment, which might encourage the administering of corporal punishment. It seems that the principal's role is passive in comparison to the parents' active support of corporal punishment at school.

### **4.5 EDUCATORS' PERCEPTIONS OF CORPORAL PUNISHMENT**

In the fourth and last family, educators' perceptions of corporal punishment, five categories were identified, namely arguments in favour of corporal punishment, reasons for corporal punishment because of the learner, reasons of corporal punishment because of the work environment, alternatives to corporal punishment and participants opinion regarding corporal punishment (see figure 4.6).

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<sup>33</sup> See par 4.4.2.

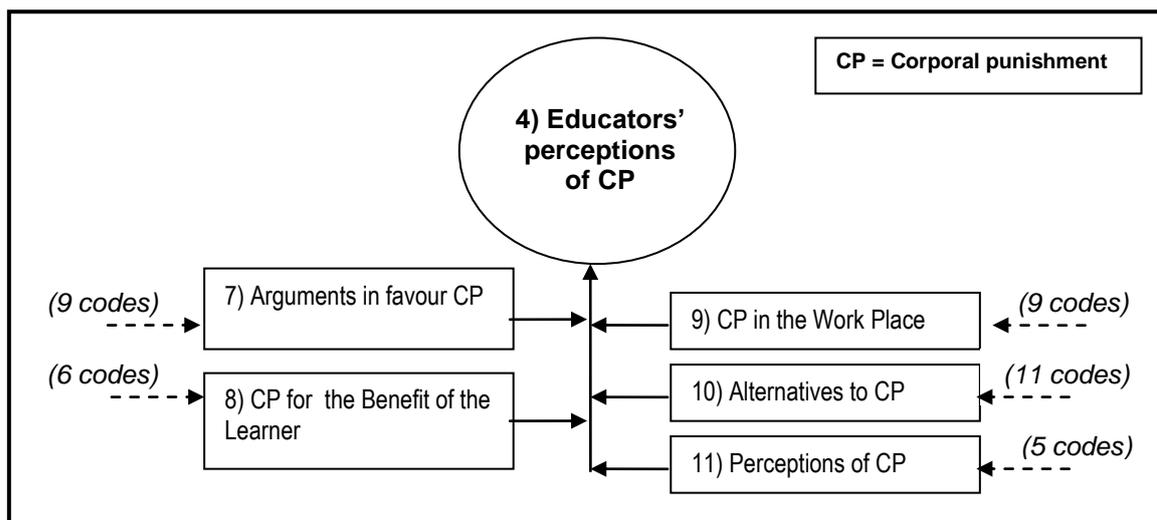


Figure 4.6 Diagram depicting the family 'Educators' Perceptions of Reasons for Administering Corporal Punishment'

#### 4.5.1 Arguments in favour of corporal punishment

Three main arguments emerged from the interviews and were categorised as arguments in favour of corporal punishment. Firstly, participants indicated that they use corporal punishment to maintain discipline in the classroom; secondly, that they regard corporal punishment as necessary to educate learners, and thirdly, that they consider corporal punishment as an effective measure to improve the attitude of learners. Participant 2 captured the essence of this category by saying:

If the child is not disciplined, where is he going to end up?  
 This has a snowball effect; if you do not discipline him now, the next day it will be worse.<sup>34</sup>

The data confirm<sup>35</sup> that the traditional use of corporal punishment relates to the first argument. The next argument used by four participants is corporal punishment is necessary to educate learners, to "shape"<sup>36</sup> their future and ensures that learners "go onto the straight".<sup>37</sup> In other words, participants use corporal punishment to ensure that they have the attention of the learners. Thirdly, five participants claimed that corporal punishment works effectively in the improvement of the attitude of learners:

<sup>34</sup> Addendum E at 2:3.

<sup>35</sup> See pars 4.2.2 & 4.2.3.

<sup>36</sup> Addendum I at 6:4.

<sup>37</sup> Addendum I at 6:5.

At the end of the day the children who passed through your hands are not bad youths, they are not the guys who lie around in prison.<sup>38</sup>

The argument for the reasonable application and/or corporal punishment applied correctly is the strongest one in favour of the use of corporal punishment. Participants emphasised that assault and physical abuse, e.g. physical marks on body is not allowed. Participant 6 made the following remark to qualify reasonable application:

That is why we are here today; because we have been through corporal punishment; not that our teachers want to inflict bodily harm on us, no, it was keeping us on the right track.<sup>39</sup>

The participants are careful not to abuse or assault the learner and that corporal punishment is administered in moderation to ensure educational goals.

Other lesser arguments in favour of corporal punishment were those of a using it to instill a passion for sport, building relationships, religion and moral values. The dominant reason for administering corporal punishment is to educate a disciplined learner by administering corporal punishment in moderation.

#### **4.5.2 Corporal punishment for the benefit of the learner**

The second category was identified as administering corporal punishment for the benefit of the learner. Disruptive learners are the main motivation for administering corporal punishment. Participants argued that a learner is disruptive when the attention of the class is distracted. Other reasons for the category are breaking rules and misbehaviour such as coming late. The incidence of coming late decreased when corporal punishment was administered to latecomers. Three participants stated that parents have trouble in disciplining their children at home and expect educators to discipline their children at school. Participant 6 the following:

Because the parents cannot discipline their children at home, they ask the teachers for help. If you can discipline the child at school, at least they listen to you as teachers but with us (the parents) at home, they won't listen to us.<sup>40</sup>

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<sup>38</sup> Addendum E at 2:5.

<sup>39</sup> Addendum I at 6:5.

The data reconfirm previous arguments<sup>41</sup> that the application of corporal punishment is important to maintain discipline in order to educate the learner and for the promotion of effective instruction and learning. The purpose of the study, namely understanding and explaining the use of corporal punishment from an educators' perception<sup>42</sup> is clearly addressed.

### 4.5.3 Corporal punishment in the work place

General frustration and certain situations are reasons for using corporal punishment in the work environment of the educator. Participant 5 stated that corporal punishment is unavoidable when "we have 60 to 62 children in the class".<sup>43</sup> Participant 3 claimed that educators are very frustrated because they do not have control in the classroom. Another explanation for the high level frustration was that learners would test educators' to the limit to determine how far their patience could be "stretched". Participant 3 indicated that it differs from situation to situation whether corporal punishment will be used. A language problem is also a reason that was mentioned by participant 5:

Yes, the frustration and why we administer corporal punishment is that we have a language problem in schools. Children sometimes have a different mother tongue to the LOLT (Language of Learning and Teaching) of the school.<sup>44</sup>

Evidence validates the assumption that classes with high educator-learner ratios<sup>45</sup> are a contributing factor to the persistence of corporal punishment.

### 4.5.4 Alternatives to corporal punishment

The next category is alternatives to corporal punishment. Participants referred to disciplinary measures such as detention, taking privileges away and using a disciplinary system. Participant 3 emphasised the importance of the code of conduct for learners by saying it is "a nice tool to maintain discipline"<sup>46</sup> but it is not perfect. Codes were allocated to determine the effectiveness of alternatives to

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<sup>40</sup> Addendum I at 6:2.

<sup>41</sup> See pars 4.2.2, 4.2.3 & 4.5.1.

<sup>42</sup> See ch 1 par 1.5.3.

<sup>43</sup> Addendum H at 5:3.

<sup>44</sup> Addendum H at 5:5.

<sup>45</sup> See ch 2 par 2.7.4.1.

<sup>46</sup> Addendum F at 3:3.

corporal punishment. All six participants emphasised that alternatives to corporal punishment are ineffective, and reiterated that alternatives have limited success. Participant 3 argued that sometimes you have to put the code of conduct for learners aside, while participant 6 stated that learners cannot attend detention classes in the afternoon because of transport problems. The assumption that there is little support from the DoE to implement law and policy<sup>47</sup> was confirmed because the data of the participant educators indicated that alternatives to corporal punishment are ineffective and therefore does not support related legislation. However, none of the participants specifically referred to the policy document of the DoE's *Alternatives to Corporal Punishment*. This does not prove that the DoE's publication is ineffective; it highlights the fact that educators are not convinced that alternatives to corporal punishment are effective. Narain and Wylie<sup>48</sup> are correct in their assumption that the policy document of the DoE on *Alternatives to Corporal Punishment* is not implemented or supported by educators because of the lack of support from the DoE in this matter and therefore educators perceive it to be ineffective.

#### 4.5.5 Perceptions of corporal punishment

Perceptions of corporal punishment are the last category in the family of educators' perceptions of corporal punishment. Three participants indicated that the legal implementation of corporal punishment happened too fast and was applied incorrectly. Participant 5 highlighted this by saying:

I don't agree with the Department of Education in saying it should be taken away totally, immediately like the way they did. It should have been a slow process, because due to the corporal punishment being taken away completely, it seems like the teachers have absolutely no rights in the classrooms.<sup>49</sup>

Two participants stated that the administrating of corporal punishment in school must be legalised. Participants also indicated that the input of educators had not considered and that there is a lack of communication between the Government and the educators. The data correlate with Porteus *et al*<sup>50</sup> who claim that some educators believe that the change in legislation was implemented too fast without

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<sup>47</sup> See ch 2 par 2.7.4.2.

<sup>48</sup> Note 1; see ch 2 par 2.7.4.2.

<sup>49</sup> Addendum H at 5:1.

<sup>50</sup> Note 4 at 1

considering the problems that educators have to face every day.<sup>51</sup> The assumption that educators have poor job satisfaction because of legal implementation is confirmed by what participant 5 said at the end of the interview by stating: “I actually feel lighter now that I have got it off my system”.<sup>52</sup>

#### 4.5.6 Sub-conclusion

The five above-mentioned categories were shaped by the educators’ perceptions of corporal punishment. Educators believe in the effective use of corporal punishment and therefore have a whole arsenal of arguments for administering corporal punishment. Furthermore, two important factors contributed to the argument in favour of corporal punishment that influenced educators’ perceptions, namely disruptive learners and a frustrated work environment. Alternatives to corporal punishment were said to have limited success. The participants agree that alternatives to corporal punishment are mainly ineffective and contribute to more frustration.

#### 4.6 CONCLUSION

The assumption that classes with high educator-learner ratios contribute to the use of corporal punishment has been confirmed by the data.<sup>53</sup> Evidence implies that the second assumption<sup>54</sup> is true because there is minimum support from the DoE in the implementation of the prohibition of corporal punishment (section 10 of Schools Act). Two aspects were identified in the second assumption, namely the implementation and support of legislation and the implementation and support of the publication *Alternatives to Corporal Punishment*. The evidence proves the literature correct that states that implementation of the prohibition of corporal punishment (section 10 of Schools Act) happened too fast without considering the challenges that educators are faced with, and it was implemented without consulting the educators in this matter.<sup>55</sup> This implies that the assumption about poor job satisfaction is correct because of the unsatisfactory implementation of

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<sup>51</sup> See ch 2 par 2.7.4.2.

<sup>52</sup> Addendum H at 5:7.

<sup>53</sup> See ch 1 par 1.4, ch 2 par 2.7.4.1 & par 4.5.3.

<sup>54</sup> See ch 1 par 1.4, ch 2 par 2.7.4.2 & par 4.5.5.

<sup>55</sup> See ch 2 par 2.7.4.2 & par 4.5.5.

the legislation.<sup>56</sup> In other words educators are more stressed and less motivated because of the unsatisfactory implementation of section 10 of Schools Act (prohibition of corporal punishment).<sup>57</sup>

The pattern that developed from the four families in the above-mentioned sections is the reality of corporal punishment versus the legal aspects of corporal punishment. Table 4.1 is a summary of the families indicating the pattern that was established. All alternatives have thus far failed to address the persistence of corporal punishment. It seems that the administering of corporal punishment remains a respected and successful practice that is supported by parents. Educators are dependent on the use of corporal punishment and have several valid, non-legal and persuasive arguments to qualify the practice.

Table 4.1 Summary of families determining the pattern of the research

<b>Families</b>	<b>Summary of families</b>	<b>Pattern</b>
<b>Family 1</b> Corporal punishment in context	Strong traditional use of corporal punishment	<b>Legislation vs Reality</b>  Community supports stressed-out educators to administer corporal punishment to address disciplinary problems of learners in the absence of effective alternatives.
<b>Family 2</b> Corporal punishment in reality	Continued use of corporal punishment	
<b>Family 3</b> Stakeholders' involvement	Parents actively support corporal punishment	
<b>Family 4</b> Educators' perceptions of corporal punishment	Use of corporal punishment because of frustrated work situation and to address discipline problems of learners in the absence of effective alternatives	

Chapter 5 concludes the study by answering the research question: "What are educators' perceptions regarding the continued use of corporal punishment?",<sup>58</sup> and the sub-questions:<sup>59</sup>

- What are educators' perceptions regarding support from DoE with regard to the implementation of changed legislation on corporal punishment?
- What are educators' perceptions on the relevancy of the abolishment of corporal punishment to job satisfaction?

<sup>56</sup> See par 4.5.5.

<sup>57</sup> See ch 2 par 2.7.4.3.

<sup>58</sup> See ch 1 par 1.5.1.

<sup>59</sup> See ch 1 par 1.5.2.

- What are educators' perceptions regarding the correlation between educator-learner ratio and the continued use of corporal punishment?

## CHAPTER 5

### FINDINGS, RECOMMENDATIONS AND CONCLUSION

#### 5.1 INTRODUCTION

I have always been interested and intrigued by “new” South African legislation after the apartheid era ended in 1994 because it is my personal belief, based on my Christian religion, that everyone is equal. Therefore, everyone must be respected and individual differences tolerated, and the Constitution addresses these issues very explicitly. Hence, I see myself as a contributing citizen of the country who can play a small part in promoting and maintaining the human rights of the people with whom I interact. I believe sincerely that everyone has a place in the sun, and being an educator I developed a personal philosophy from the Constitution, which is:

Every child has the right to a basic education and every person has a right to be a contributing member of this country. Every child has the right to be heard, to voice his/her opinions and beliefs and to be respected as a human being and as an individual.

A human right, which has a professional and personal impact on me, is that “[a] child’s best interests are of paramount importance in every matter concerning the child”.<sup>1</sup> For the past ten years, I have tried to apply this specific human right in my career as an educator. As the rights of the child as well as the values of democracy steered my actions I tried to use alternatives to corporal punishment. I practised corporal punishment for a few years after it had been abolished in schools in 1996.<sup>2</sup> At first, I did not understand the purpose of the prohibition of corporal punishment but it became clear to me when I applied the human right that every learner’s interests are of paramount importance.<sup>3</sup> Children’s rights are violated when they are exposed to violence and their psychological development is hampered.

I have had limited success with different strategies to alternatives to corporal punishment while I upheld the prohibition on corporal punishment<sup>4</sup> during the last

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<sup>1</sup> Section 28(2) of the Constitution Act No 108 of 1996.

<sup>2</sup> Section 10 of Schools Act No 84 1996.

<sup>3</sup> Note 1.

<sup>4</sup> Note 2.

ten years of my career. I always tried new alternatives to corporal punishment when a previous alternative did not work. I tried to influence and convince my colleagues to refrain from using corporal punishment during my seven years of school management experience. I trained and empowered educators to use alternatives to corporal punishment. I arranged workshops and facilitated meetings in which my colleagues and I discussed different strategies that were implemented to discipline learners without violating their human rights. My colleagues and I revised and improved the schools disciplinary systems and the code of conduct for learners was adapted accordingly.

However, in spite of legislation and a partially successful disciplinary system, a few of my colleagues continued using corporal punishment. Lately I have been all the more aware of the fact that the media and published articles in journals reported the continued use of corporal punishment in schools. I was intrigued by the phenomenon of corporal punishment, considering my personal philosophy combined with my effort to implement alternatives to corporal punishment. The crucial question was why educators continue to administer corporal punishment knowing that it is illegal. I embarked on this quest to find answers to the question and this motivated me to research the topic of Educators' perceptions of corporal punishment.

Chapter 1 is an orientation and introduction to lay the foundation for the study. The legal source for the prohibition of corporal punishment<sup>5</sup> and the consequences for educators using corporal punishment were discussed.<sup>6</sup> The widespread use of corporal punishment in schools was discussed in paragraph 1.5<sup>7</sup> therefore; I estimated from on the hand of empirical evidence that between 50% and 80% of learners receive corporal punishment in schools. The Chapter briefly refers to the human rights of learners that are violated when they are the victims of corporal punishment.<sup>8</sup> Chapter 1 is summarised in table 1.2. I have introduced the research problem<sup>9</sup> and design<sup>10</sup> in chapter 1.

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<sup>5</sup> Note 2.

<sup>6</sup> See ch 1 par 1.1.

<sup>7</sup> See ch 1.

<sup>8</sup> See ch 1 par 1.4.

<sup>9</sup> See ch 1 par 1.5.

In chapter 2 I discussed corporal punishment in context. Issues such as the prohibition of corporal punishment in homes, definitions of corporal punishment and arguments in favour of and against corporal punishment are discussed.<sup>11</sup> The study is based on a very strong foundation of legislation and the human rights of learners. Therefore, I discussed national and International and Regional Human Rights Instruments of children<sup>12</sup> pertaining to the practice of corporal punishment. I was very upset when I reached this stage of my study and realised that the world is trying very hard to protect children against all forms of violence, which the world is responsible for and that in South African schools corporal punishment is a widespread phenomenon. In the last part of Chapter 2, I discuss the educator as facilitator to prevent corporal punishment.<sup>13</sup> The three assumptions<sup>14</sup> for the study are discussed in detail, namely educator-learner ratio, DoE support for the implementation of legislation and the job satisfaction of educators as possible reasons to explain the continued use of corporal punishment.

After I had completed the reading and research on the topic of “Educators’ perceptions of corporal punishment” and had determined the purpose of the study,<sup>15</sup> it was necessary for me to establish the rules that are acceptable to the research community to test my working assumptions and research questions. I have determined the boundaries and rules to conduct the study in chapter 3. In other words, I have explained the research design that I had used to conduct the study in an attempt to understand and explain educators’ perceptions of corporal punishment. I have come to refer to Chapter 3 the “How?” and Chapter 4 the “What?”. The collected data and the interviews with the participants are discussed in Chapter 4. The Chapter also presents a discussion of the findings of the analysed.

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<sup>10</sup> See ch 1 par 1.6.

<sup>11</sup> See ch 2 pars 2.1-2.5.

<sup>12</sup> See ch 2 par 2.6.

<sup>13</sup> See ch 2 par 2.7.

<sup>14</sup> See ch 2 par 2.7.4.

<sup>15</sup> See ch 1 par 1.5.3.

## 5.2 RELIABILITY AND VALIDITY

Reliability was ensured by the fact that I used the same semi-structured interviews<sup>16</sup> with all the participants. The questions were submitted to experts in the field of education law for their comments.<sup>17</sup> I referred to the questions as an “interview guide” and I was able to focus and return to the questions that still needed to be answered. The interviews were transcribed and I was able to analyse and compare the six sets of data, which enhanced the reliability of the study. Three of the interviews were conducted in Afrikaans and I could have translated these interviews into English. However, as there was the risk that the reliability of the interviews could be affected, a third professional party translated the transcribed data.

## 5.3 MAIN FINDINGS

I now present the findings and recommendations of my study in line with the research methods outline in Chapter 3 and 4. I concluded this section by referring to the three assumptions that were made in Chapter 1 and 2.

Corporal punishment is still prevalent in the three schools that participated in the study and it is administered in classrooms and on school premises in the forms discussed in Chapter 4 paragraph 4.3.3. Unexpected evidence was the following:

- The participants highlighted the fact that corporal punishment must be administered correctly<sup>18</sup> and
- Language problems in schools are reasons for the use of corporal punishment.<sup>19</sup>

Educators are convinced that corporal punishment is effective for the following reasons:

- to educate learners;<sup>20</sup>
- to improve and maintain the quality of instruction and learning;<sup>21</sup>

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<sup>16</sup> See Addendum C.

<sup>17</sup> See ch 3 par 3.5.1.

<sup>18</sup> See ch 4 par 4.5.1.

<sup>19</sup> See ch 4 par 4.5.3.

<sup>20</sup> See ch 4 par 4.5.1.

- to ensure academic achievement of learners;<sup>22</sup> and
- to maintain discipline in the classroom.<sup>23</sup>

Alternatives to corporal punishment are perceived to be ineffective and caused frustration among the educators. It seems that administering corporal punishment is regarded as an effective to disciplinary measure in a frustrating work environment.<sup>24</sup> Strong points of view on everyday problems in schools and steps that should be taken to address these problem areas emerged.<sup>25</sup> The focus of the study was to understand educators' perceptions of corporal punishment and not to investigate the flaws of the educational system.

My participants believe that the traditional use<sup>26</sup> of corporal punishment carry more weight than legislation prohibiting corporal punishment.<sup>27</sup> The traditional use of corporal punishment is strengthened by the support and approval of most parents. Participants indicated that their principals<sup>28</sup> remind them of legislation pertaining corporal punishment and educators are aware of the legal consequences for using corporal punishment; that they can lose their jobs.<sup>29</sup>

The first assumption<sup>30</sup> that classes with a high educator-learner ratio contribute to the use of corporal punishment was confirmed by the data.<sup>31</sup> Educators need to ensure a disciplined milieu for effective instruction and learning can take place.<sup>32</sup> The data collected strengthen the first assumption that corporal punishment is regarded as the most effective measure to maintain discipline.<sup>33</sup> This implies that educators do not use alternatives to corporal punishment in classes with a high educator-learner ration because it is perceived as ineffective in such classes.

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<sup>21</sup> See ch 4 par 4.5.1.

<sup>22</sup> See ch 4 par 4.5.2.

<sup>23</sup> See ch 4 par 4.5.1.

<sup>24</sup> See ch 4 par 4.5.4.

<sup>25</sup> See ch 4 par 4.5.6.

<sup>26</sup> See ch 4 par 4.2.3.

<sup>27</sup> Note 2.

<sup>28</sup> See ch 4 par 4.4.3.

<sup>29</sup> See ch 4 par 4.2.3.

<sup>30</sup> See ch 2 par 2.7.4.1.

<sup>31</sup> See ch 4 pr 4.5.3.

<sup>32</sup> See ch 4 pars 4.5.1 & 4.5.2.

<sup>33</sup> See ch 4 par 4.5.1.

The second assumption,<sup>34</sup> that educators experience poor support from the DoE regarding the legal implementation of the prohibition of corporal punishment,<sup>35</sup> was confirmed. I believe that this specific assumption was emphasised by the fact that corporal punishment was abolished in schools more than fourteen years ago. Participants did not refer to *Alternatives to Corporal Punishment*.<sup>36</sup> This could imply a number of things, but the fact that educators believe that alternatives to corporal punishment are ineffective indicates that the publication is not well known or used. The data highlighted the latter statement that educators' legal education of the prohibition of corporal punishment<sup>37</sup> was for the most insufficient, mainly because of the absence of proper communication thereof to educators.<sup>38</sup>

The data<sup>39</sup> confirmed the third assumption that educators have poor job satisfaction<sup>40</sup> because the legal abolishment of corporal punishment caught educators off guard.<sup>41</sup> Data indicate that a reason for the persistent use of corporal punishment is frustration in the workplace experienced by participant educators for the following reasons:<sup>42</sup>

- The educator-learner ratio is too high.
- Educators do not have control in the classroom.
- Learners challenge educators' patience to the limit.
- Poor communication because of language problems.

However, the data indicate that the participants of school A<sup>43</sup> have fewer frustrations than the rest of the participants due to a smaller educator-learner ratio. Therefore, low job satisfaction is not necessarily the reason why the participants of school A apply corporal punishment. These participants have

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<sup>34</sup> See ch 2 par 2.7.4.2.

<sup>35</sup> Note 2.

<sup>36</sup> *Alternatives to Corporal Punishment: The Learning Experience. A practical guide for educators. To develop and maintain a culture of discipline, dignity and respect in the classroom* (2000).

<sup>37</sup> Note 2.

<sup>38</sup> See ch 2 pars 2.7.4.2 & 4.5.5.

<sup>39</sup> See ch 4 pars 4.5.5 & 4.6.

<sup>40</sup> See ch 2 par 2.7.4.3.

<sup>41</sup> See ch 2 par 2.7.4.2.

<sup>42</sup> See ch 4 par 4.5.3.

<sup>43</sup> See ch 3 par 3.5.2.

fewer than 30 learners in a class, which implies that corporal punishment is administered for other reasons (see previous paragraphs of this section). Nevertheless, educators are legally forbidden to use corporal punishment, whether the educator-learner ratio is high or low, even if alternatives to corporal punishment seem to be ineffective in the eyes of the participants.

The participant educators are convinced that corporal punishment is the most effective way to maintain order and harmony in the classroom and to ensure the delivery of quality education. All three assumptions have been confirmed by the data. Stated differently, most of the participant educators use corporal punishment as a disciplinary measure, because for them alternatives to corporal punishment do not work. Hence, participant educators have low job satisfaction because of classes with a high educator-learner ratio and ineffective alternatives to corporal punishment, which strengthen these educators' arguments in favour of and motivation to administer corporal punishment. The participant educators are frustrated because they are, despite ineffective alternatives to corporal punishment, unable to teach effectively in classes where the educator-learner ratio is high.

## **5.4 IMPLICATIONS OF FINDINGS**

In the next few sections, I will discuss firstly the implications that a high educator-learner ratio in classes contributes to illegal corporal punishment. Secondly, the implications of the minimum support from the DoE when legislation has changed will be discussed. Lastly, I will discuss the implications of educators that have poor job satisfaction.

### **5.4.1 Educator-learner ratio**

Corporal punishment will remain widespread in classes with a high educator-learner ratio, as it is in the eyes of the participants the only effective measure to maintain discipline.<sup>44</sup> These educators do not only believe that corporal punishment is effective in classes with high educator-learner ratios; they are also

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<sup>44</sup> See ch 4 pars 4.5 & 5.3.

convinced that it is the only way to maintain discipline.<sup>45</sup> They believe an educator standing with a rod in the hand in front of a class with a high educator-learner ratio will have better control<sup>46</sup> than an educator without a rod will. It is important to acknowledge the truth that participant educators with classes with a high educator-learner ratio reduce to use alternatives to corporal punishment because these alternatives are not regarded as effective.<sup>47</sup> It seems that it will take a lot more than ineffective alternatives to corporal punishment to convince the participant educators not to use corporal punishment in classes with a high educator-learner ratio.

The study has indicated that a high educator-learner ratio is an explanation for the persistence of corporal punishment.<sup>48</sup> However, I discussed and found that the optimal educator-learner ratio for a class is 1:20-30.<sup>49</sup> A question that comes to mind is whether the practice of corporal punishment is rife in classes where the educator-learner ration is acceptable.

There is a very good possibility that a high educator-learner ratio in South African schools may encourage the extensive and frequent use of corporal punishment.

#### **5.4.2 DoE support for the implementation of legislation**

The participant educators objected against them not being consulted when corporal punishment was prohibited in schools.<sup>50</sup> Furthermore, educators believe that there is a lack of communication between them and their employer. Educators<sup>51</sup> and principals<sup>52</sup> have an expectation that the Government of South Africa should reinstate the use of corporal punishment in schools. There seems to be tension between the employer and the employee regarding the prohibition of corporal punishment. Participant educators believe that they must be allowed to use corporal

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<sup>45</sup> See ch 4 par 4.5.3.

<sup>46</sup> See ch 4 par 4.5.3.

<sup>47</sup> See ch 4 par 4.5.1.

<sup>48</sup> See ch 2 par 2.7.4.1.

<sup>49</sup> See ch 2 par 2.7.4.1.

<sup>50</sup> Note 2.

<sup>51</sup> See ch 4 par 4.5.5.

<sup>52</sup> See ch 1 par 1.1.

punishment. Nevertheless, the DoBE (Department of Basic Education) <sup>53</sup> could prosecute those practice corporal punishment. Participant educators are aware that they take a risk when applying corporal punishment because they can be found guilty of assault and could lose their jobs.

Ten years after the publication of the DoE's *Alternatives to Corporal Punishment*,<sup>54</sup> alternatives to corporal punishment remain ineffective.<sup>55</sup> The DoE acknowledge that:

- many educators have to deal with disruptive learners;
- corporal punishment has been part of the history of many learners and educators;
- change in itself is often a difficult progress, and
- discipline is a recognised area of struggle for many educators.<sup>56</sup>

It seems that the DoE is aware of the challenges on the prohibition of corporal punishment. The study showed that the policy is not implemented in the selected schools mainly because educators believe that alternatives to corporal punishment are ineffective.<sup>57</sup> Stated differently, the participant educators are not convinced that alternatives to corporal punishment can contribute positively towards discipline and the quality of education.

### 5.4.3 Job satisfaction

Low job satisfaction is a result of the unsatisfactory work environment that the participant educators are exposed to, for instance the management of classes with a high educator-learner ratio and poor implementation of alternatives to corporal punishment.

The participant educators are aware of the legal consequences of administering corporal punishment.<sup>58</sup> This knowledge places more strain on these educators because they perceive corporal punishment as the only way to discipline

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<sup>53</sup> DoE now called DoBE (Department of Basic Education).

<sup>54</sup> Note 36.

<sup>55</sup> See ch 4 par 4.5.4.

<sup>56</sup> Note 36 at 9.

<sup>57</sup> See ch 4 par 4.5.4.

<sup>58</sup> See ch 1 par 1.1.

disruptive learners is to use corporal punishment.<sup>59</sup> The implication is that these educators have more stress because they believe that alternatives to corporal punishment are ineffective and they know that they are violating legislation<sup>60</sup> when using corporal punishment. There are a few strategies for educators available when they are faced with low job satisfaction. The participant educators continue to use corporal punishment because it is an outlet for frustration and the only means, in their opinion, to restore order in the class. Low job satisfaction has a serious implication for the recruitment of young people for the education profession as learners are aware of the low job satisfaction and stress levels of educators and it will discourage them to choose education as a career.

## 5.5 SIGNIFICANCE OF THE STUDY

Educators' perceptions of corporal punishment is a significant study. In line with the Constitution, schools tend to instill a human rights' culture. Literature, however, indicates that the use of corporal punishment is still rife in some schools. I indicated with this study my participants' perceptions on their continued use of corporal punishment even though they are aware that it is illegal and not in line with the culture of human rights as entrenched in the Constitution. My participants exposed possible reasons why educators might continue applying corporal punishment. This might possibly alert officials and policy makers on the *status quo* in some schools and remind them to the fact that intervention needs to be applied as a mere promulgation of some Acts would not stop this practice. By this means interventions might not to only "cure" the symptoms of this issue but also address the causes in line with the culture of human rights.

The perceptions of participating educators on corporal punishment spell out a huge imperative for Government to intervene, as educators are at their wit's ends with discipline in schools and as discipline in schools presents a bigger challenge than Government can envisage. The position of the authorities is that corporal punishment is legally not supposed to be administered. This, however remains only an illusion. This study serves as a wake up call to Government that the mere promulgation of Acts would not stop a practice as old as the mountains without

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<sup>59</sup> See ch 4 par 4.5.1.

<sup>60</sup> Note 2.

changing of attitudes and the development of practical skills in line with the culture of human rights. Corporal punishment is a widespread, accepted practice among educators<sup>61</sup> and its prevalence should serve as a red light to the DoBE. Hence, it is essential for Government to intervene immediately by developing skills to discipline and manage people in the framework of human rights, as educators do not have the skills to do so. Charging and prosecuting educators with misconduct and dismissal could result in a serious shortage and greater demand for educators, while other avenues need to be explored to solve the issue at stake. It is important to understand educators' perceptions of corporal punishment before other options could be considered.

The study urgently requests the DoBE in formulating effective alternatives to corporal punishment that are realistic within the working conditions of educators. The outcome could contribute towards a classroom atmosphere of mutual respect and tolerance where the learner's human rights are protected and promoted. By doing so the educator would be motivated to deliver quality education.

## **5.6 LIMITATIONS OF THE STUDY**

The study was limited because it was conducted in two school districts in school from one district and the other two schools from another district. A sampling of three schools from two school districts is a limitation of the study. The culture of teaching and discipline might differ from one district to the next, even more so from one province to the other.

Public secondary and private school educators were not interviewed and their insight and perceptions of corporal punishment could have ensured a more accurate presentation of the persistent use of corporal punishment in the school system.

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<sup>61</sup> See ch 1 par 1.5 & ch 2 par 2.7.3.

Data<sup>62</sup> have shown that participants believe learners accept and support the application of corporal punishment from their educators but interviews were not conducted with learners to confirm the validity of this. According to the participants', parents approve of corporal punishment<sup>63</sup> and will even grant permission to educators to apply corporal punishment to their children. Parents' perceptions of corporal punishment in schools are, however, not the focus of this study.

My findings are my interpretation of the participants' perceptions of corporal punishment to understand and explain the continued use of corporal punishment in South African schools. However, the study cannot be generalised because the sample was too small. The hypothesis that is corporal punishment is still rife in the majority of schools and that educators believe that corporal punishment is the most effective measure to apply discipline to ensure quality of teaching and learning.

Further research to include more school districts might explore an interesting phenomenon in terms of similarities or differences and the reasons for differences.

## **5.7 RECOMMENDATIONS**

The recommendations are based on contextualising educators' perceptions of corporal punishment, rather than generalising the issue.

### **5.7.1 Theoretical recommendations**

In my journey as a Master's degree student, I have encountered many questions from people who have been interested in the study. One of the misconceptions that I have encountered is the remarks and comments that corporal punishment should be "brought" back into schools. Educators should accept that corporal punishment in schools will not be legalised again as it is outlawed not only by education legislation, but also by the Constitution and the International and Regional Human Rights Instruments. Therefore, educators must be made aware

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<sup>62</sup> See ch 4 par 4.4.1.

<sup>63</sup> See ch 4 par 4.4.2.

that a child's human rights are being violated when corporal punishment is administered. Educators should also be convinced of the negative effect of corporal punishment on the psychological development of learners. These issues were addressed in the DoE's *Alternatives to Corporal Punishment*<sup>64</sup> but the mind shift seems not to have been made by some educators. Theoretically, therefore, the whole notion of human rights application underpinned by the values of democracy need to be urgently addressed and implemented on ground level. Human rights and value education need to get a place in schools with a strategy to change people's minds and attitudes accordingly. Educators' conviction and motivation to apply corporal punishment must be replaced by a passion to protect and promote everyone's human rights, those of educators and learners alike.

### 5.7.2 Recommendations for practice

Effective and acceptable alternatives to corporal punishment that are realistic in terms of the working conditions of educators are recommended. This is easier said than done. Three issues need to be addressed, namely educators must be convinced that corporal punishment violates learners' human rights, viable alternatives to corporal punishment must be introduced and the high educator-learner ratio should be reduced. Masitsa<sup>65</sup> argues that the DoE must avoid classes with high educator-learner ratios. It is expected from educators to deliver quality education in intimidating classes with high educator-learner ratios that are difficult to control because of increasing disciplinary problems, which lead to more frustration(s) for educators. A disruptive learner could easily violate other learners' right to basic education<sup>66</sup> in a class with high educator-learner ratio, because an educator will have less control in the classroom.

The DoE's *Alternatives to Corporal Punishment*<sup>67</sup> must be revised in partnership with prominent experts, organisations, resources and educators that are knowledgeable regarding issues of corporal punishment, such as:

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<sup>64</sup> Note 36.

<sup>65</sup> Masitsa MG "Discipline and disciplinary measures in the Free State township schools: Unresolved problems" (2008) 40:3 *Acta Academica* 264.

<sup>66</sup> Section 29 of the Constitution Act No 108 of 1996.

<sup>67</sup> Note 36.

- Education Rights Project of the University of Witwatersrand
- Children’s Rights Project, Community Law Centre, University of the Western Cape
- Childline South Africa
- RAPCAN
- Centre for Justice and Crime Prevention
- The Global Initiative to End All Corporal Punishment of Children
- The Center for Effective Discipline
- Project No Spank
- Plan’s Global Campaign to End Violence in Schools.

Corporal punishment was prohibited since 1996. For this reason, other avenues need to be investigated to assist the educator in maintaining discipline in the classroom. For example, educator assistants may be employed to help the educators with the management and workload of classes with high educator-learner ratios. Technology could also assist educators in classes with high educator-learner ratios to ensure quality of instruction and learning. These suggestions could also improve educators’ perceptions of their work environment.

### **5.7.3 Recommendations for future research**

Research to determine the extent and effect of classes with high educator-learner ratios in South African rural schools is recommended. Other research topics that could be researched are learners’ perceptions of corporal punishment, parents’ perceptions of corporal punishment and school principals’ perceptions of corporal punishment. A comparative study to determine the relationship between the use of corporal punishment and academic achievement is recommended, because educators claim that they administer corporal punishment to ensure that learners can progress academically.<sup>68</sup> The communication problem between educators and learners regarding the LOLT<sup>69</sup> also merits research. A more detailed study into class size is needed to determine the current supply and demand of South African educators.

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<sup>68</sup> See ch 4 par 4.5.

<sup>69</sup> See ch 4 par 4.5.3.

My small-scale qualitative research sampled three schools in two districts with six participants. The hypothesis developed by the study, that frustrated educators use corporal punishment because it is the most effective method in the absence of effective alternatives to corporal punishment to ensure quality education should be tested by means of a large-scale quantitative study.

## 5.8 CONCLUSION

Educators' perception of corporal punishment is that it is a valuable and necessary tool to motivate learners to do their homework and to pass their examinations. Educators are convinced that using corporal punishment is in the best interest of the learner, especially when parents support the educators in this matter. Educators are well informed about the legal consequences of using corporal punishment but a skewed perception in the minds of the participants is that reasonable application of corporal punishment is acceptable. The legal consequences of corporal punishment are overshadowed by educators' discipline philosophy in which the traditional use of corporal punishment has surfaced.<sup>70</sup> Educators' discipline philosophy is entrenched in their arguments to validate the use of corporal punishment.

Another perception of educators is that corporal punishment is beneficial to ensure academic progress.<sup>71</sup> Perceptions of educators when administering corporal punishment include the belief of disruptive learners in a frustrated work environment that does not support effective alternatives to corporal punishment.<sup>72</sup> The practice of corporal punishment is still rife in schools<sup>73</sup> because it is matter of Legislation vs. Reality. Legislation states that corporal punishment is illegal but reality has shown that the community supports stressed-out educators in applying corporal punishment to address disciplinary problems of learners in the absence of more effective measures. The three working assumptions that frustrated educators' perceptions of using reasonable corporal punishment are linked (see figure 4.1) to make up for the poor support of the DoE in the implementation of legislation.

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<sup>70</sup> See ch 4 par 4.2.3.

<sup>71</sup> See ch 4 par 4.5.2.

<sup>72</sup> See ch 4 par 4.5.6.

<sup>73</sup> See ch 1 par 1.5.

“A child’s best interests are of paramount importance in every matter concerning the child”<sup>74</sup> must be the focus of the DoBE and educators regarding corporal punishment. The DoBE and educators should meet one another half way, meaning that the DoBE should be supportive of educators by developing the skills to maintain discipline without reverting to corporal punishment. Educators should be appreciated that corporal punishment is not in the best interest of the child.

It will take more than written legislation<sup>75</sup> to discourage some dedicated educators from using corporal punishment in their attempt to deliver quality education under difficult working conditions. Educators must be persuaded to believe that administering corporal punishment is not in the best interest of learners.

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<sup>74</sup> Note 1.

<sup>75</sup> Note 2 and section 18(5) of The Employment of Educators Act No 76 of 1998.

## CHAPTER 5

### FINDINGS, RECOMMENDATIONS AND CONCLUSION

#### 5.1 INTRODUCTION

I have always been interested and intrigued by “new” South African legislation after the apartheid era ended in 1994 because it is my personal belief, based on my Christian religion, that everyone is equal. Therefore, everyone must be respected and individual differences tolerated, and the Constitution addresses these issues very explicitly. Hence, I see myself as a contributing citizen of the country who can play a small part in promoting and maintaining the human rights of the people with whom I interact. I believe sincerely that everyone has a place in the sun, and being an educator I developed a personal philosophy from the Constitution, which is:

Every child has the right to a basic education and every person has a right to be a contributing member of this country. Every child has the right to be heard, to voice his/her opinions and beliefs and to be respected as a human being and as an individual.

A human right, which has a professional and personal impact on me, is that “[a] child’s best interests are of paramount importance in every matter concerning the child”.<sup>1</sup> For the past ten years, I have tried to apply this specific human right in my career as an educator. As the rights of the child as well as the values of democracy steered my actions I tried to use alternatives to corporal punishment. I practised corporal punishment for a few years after it had been abolished in schools in 1996.<sup>2</sup> At first, I did not understand the purpose of the prohibition of corporal punishment but it became clear to me when I applied the human right that every learner’s interests are of paramount importance.<sup>3</sup> Children’s rights are violated when they are exposed to violence and their psychological development is hampered.

I have had limited success with different strategies to alternatives to corporal punishment while I upheld the prohibition on corporal punishment<sup>4</sup> during the last

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<sup>1</sup> Section 28(2) of the Constitution Act No 108 of 1996.

<sup>2</sup> Section 10 of Schools Act No 84 1996.

<sup>3</sup> Note 1.

<sup>4</sup> Note 2.

ten years of my career. I always tried new alternatives to corporal punishment when a previous alternative did not work. I tried to influence and convince my colleagues to refrain from using corporal punishment during my seven years of school management experience. I trained and empowered educators to use alternatives to corporal punishment. I arranged workshops and facilitated meetings in which my colleagues and I discussed different strategies that were implemented to discipline learners without violating their human rights. My colleagues and I revised and improved the schools disciplinary systems and the code of conduct for learners was adapted accordingly.

However, in spite of legislation and a partially successful disciplinary system, a few of my colleagues continued using corporal punishment. Lately I have been all the more aware of the fact that the media and published articles in journals reported the continued use of corporal punishment in schools. I was intrigued by the phenomenon of corporal punishment, considering my personal philosophy combined with my effort to implement alternatives to corporal punishment. The crucial question was why educators continue to administer corporal punishment knowing that it is illegal. I embarked on this quest to find answers to the question and this motivated me to research the topic of Educators' perceptions of corporal punishment.

Chapter 1 is an orientation and introduction to lay the foundation for the study. The legal source for the prohibition of corporal punishment<sup>5</sup> and the consequences for educators using corporal punishment were discussed.<sup>6</sup> The widespread use of corporal punishment in schools was discussed in paragraph 1.5<sup>7</sup> therefore; I estimated from on the hand of empirical evidence that between 50% and 80% of learners receive corporal punishment in schools. The Chapter briefly refers to the human rights of learners that are violated when they are the victims of corporal punishment.<sup>8</sup> Chapter 1 is summarised in table 1.2. I have introduced the research problem<sup>9</sup> and design<sup>10</sup> in chapter 1.

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<sup>5</sup> Note 2.

<sup>6</sup> See ch 1 par 1.1.

<sup>7</sup> See ch 1.

<sup>8</sup> See ch 1 par 1.4.

<sup>9</sup> See ch 1 par 1.5.

In chapter 2 I discussed corporal punishment in context. Issues such as the prohibition of corporal punishment in homes, definitions of corporal punishment and arguments in favour of and against corporal punishment are discussed.<sup>11</sup> The study is based on a very strong foundation of legislation and the human rights of learners. Therefore, I discussed national and International and Regional Human Rights Instruments of children<sup>12</sup> pertaining to the practice of corporal punishment. I was very upset when I reached this stage of my study and realised that the world is trying very hard to protect children against all forms of violence, which the world is responsible for and that in South African schools corporal punishment is a widespread phenomenon. In the last part of Chapter 2, I discuss the educator as facilitator to prevent corporal punishment.<sup>13</sup> The three assumptions<sup>14</sup> for the study are discussed in detail, namely educator-learner ratio, DoE support for the implementation of legislation and the job satisfaction of educators as possible reasons to explain the continued use of corporal punishment.

After I had completed the reading and research on the topic of “Educators’ perceptions of corporal punishment” and had determined the purpose of the study,<sup>15</sup> it was necessary for me to establish the rules that are acceptable to the research community to test my working assumptions and research questions. I have determined the boundaries and rules to conduct the study in chapter 3. In other words, I have explained the research design that I had used to conduct the study in an attempt to understand and explain educators’ perceptions of corporal punishment. I have come to refer to Chapter 3 the “How?” and Chapter 4 the “What?”. The collected data and the interviews with the participants are discussed in Chapter 4. The Chapter also presents a discussion of the findings of the analysed.

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<sup>10</sup> See ch 1 par 1.6.

<sup>11</sup> See ch 2 pars 2.1-2.5.

<sup>12</sup> See ch 2 par 2.6.

<sup>13</sup> See ch 2 par 2.7.

<sup>14</sup> See ch 2 par 2.7.4.

<sup>15</sup> See ch 1 par 1.5.3.

## 5.2 RELIABILITY AND VALIDITY

Reliability was ensured by the fact that I used the same semi-structured interviews<sup>16</sup> with all the participants. The questions were submitted to experts in the field of education law for their comments.<sup>17</sup> I referred to the questions as an “interview guide” and I was able to focus and return to the questions that still needed to be answered. The interviews were transcribed and I was able to analyse and compare the six sets of data, which enhanced the reliability of the study. Three of the interviews were conducted in Afrikaans and I could have translated these interviews into English. However, as there was the risk that the reliability of the interviews could be affected, a third professional party translated the transcribed data.

## 5.3 MAIN FINDINGS

I now present the findings and recommendations of my study in line with the research methods outline in Chapter 3 and 4. I concluded this section by referring to the three assumptions that were made in Chapter 1 and 2.

Corporal punishment is still prevalent in the three schools that participated in the study and it is administered in classrooms and on school premises in the forms discussed in Chapter 4 paragraph 4.3.3. Unexpected evidence was the following:

- The participants highlighted the fact that corporal punishment must be administered correctly<sup>18</sup> and
- Language problems in schools are reasons for the use of corporal punishment.<sup>19</sup>

Educators are convinced that corporal punishment is effective for the following reasons:

- to educate learners;<sup>20</sup>
- to improve and maintain the quality of instruction and learning;<sup>21</sup>

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<sup>16</sup> See Addendum C.

<sup>17</sup> See ch 3 par 3.5.1.

<sup>18</sup> See ch 4 par 4.5.1.

<sup>19</sup> See ch 4 par 4.5.3.

<sup>20</sup> See ch 4 par 4.5.1.

- to ensure academic achievement of learners;<sup>22</sup> and
- to maintain discipline in the classroom.<sup>23</sup>

Alternatives to corporal punishment are perceived to be ineffective and caused frustration among the educators. It seems that administering corporal punishment is regarded as an effective to disciplinary measure in a frustrating work environment.<sup>24</sup> Strong points of view on everyday problems in schools and steps that should be taken to address these problem areas emerged.<sup>25</sup> The focus of the study was to understand educators' perceptions of corporal punishment and not to investigate the flaws of the educational system.

My participants believe that the traditional use<sup>26</sup> of corporal punishment carry more weight than legislation prohibiting corporal punishment.<sup>27</sup> The traditional use of corporal punishment is strengthened by the support and approval of most parents. Participants indicated that their principals<sup>28</sup> remind them of legislation pertaining corporal punishment and educators are aware of the legal consequences for using corporal punishment; that they can lose their jobs.<sup>29</sup>

The first assumption<sup>30</sup> that classes with a high educator-learner ratio contribute to the use of corporal punishment was confirmed by the data.<sup>31</sup> Educators need to ensure a disciplined milieu for effective instruction and learning can take place.<sup>32</sup> The data collected strengthen the first assumption that corporal punishment is regarded as the most effective measure to maintain discipline.<sup>33</sup> This implies that educators do not use alternatives to corporal punishment in classes with a high educator-learner ration because it is perceived as ineffective in such classes.

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<sup>21</sup> See ch 4 par 4.5.1.

<sup>22</sup> See ch 4 par 4.5.2.

<sup>23</sup> See ch 4 par 4.5.1.

<sup>24</sup> See ch 4 par 4.5.4.

<sup>25</sup> See ch 4 par 4.5.6.

<sup>26</sup> See ch 4 par 4.2.3.

<sup>27</sup> Note 2.

<sup>28</sup> See ch 4 par 4.4.3.

<sup>29</sup> See ch 4 par 4.2.3.

<sup>30</sup> See ch 2 par 2.7.4.1.

<sup>31</sup> See ch 4 pr 4.5.3.

<sup>32</sup> See ch 4 pars 4.5.1 & 4.5.2.

<sup>33</sup> See ch 4 par 4.5.1.

The second assumption,<sup>34</sup> that educators experience poor support from the DoE regarding the legal implementation of the prohibition of corporal punishment,<sup>35</sup> was confirmed. I believe that this specific assumption was emphasised by the fact that corporal punishment was abolished in schools more than fourteen years ago. Participants did not refer to *Alternatives to Corporal Punishment*.<sup>36</sup> This could imply a number of things, but the fact that educators believe that alternatives to corporal punishment are ineffective indicates that the publication is not well known or used. The data highlighted the latter statement that educators' legal education of the prohibition of corporal punishment<sup>37</sup> was for the most insufficient, mainly because of the absence of proper communication thereof to educators.<sup>38</sup>

The data<sup>39</sup> confirmed the third assumption that educators have poor job satisfaction<sup>40</sup> because the legal abolishment of corporal punishment caught educators off guard.<sup>41</sup> Data indicate that a reason for the persistent use of corporal punishment is frustration in the workplace experienced by participant educators for the following reasons:<sup>42</sup>

- The educator-learner ratio is too high.
- Educators do not have control in the classroom.
- Learners challenge educators' patience to the limit.
- Poor communication because of language problems.

However, the data indicate that the participants of school A<sup>43</sup> have fewer frustrations than the rest of the participants due to a smaller educator-learner ratio. Therefore, low job satisfaction is not necessarily the reason why the participants of school A apply corporal punishment. These participants have

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<sup>34</sup> See ch 2 par 2.7.4.2.

<sup>35</sup> Note 2.

<sup>36</sup> *Alternatives to Corporal Punishment: The Learning Experience. A practical guide for educators. To develop and maintain a culture of discipline, dignity and respect in the classroom* (2000).

<sup>37</sup> Note 2.

<sup>38</sup> See ch 2 pars 2.7.4.2 & 4.5.5.

<sup>39</sup> See ch 4 pars 4.5.5 & 4.6.

<sup>40</sup> See ch 2 par 2.7.4.3.

<sup>41</sup> See ch 2 par 2.7.4.2.

<sup>42</sup> See ch 4 par 4.5.3.

<sup>43</sup> See ch 3 par 3.5.2.

fewer than 30 learners in a class, which implies that corporal punishment is administered for other reasons (see previous paragraphs of this section). Nevertheless, educators are legally forbidden to use corporal punishment, whether the educator-learner ratio is high or low, even if alternatives to corporal punishment seem to be ineffective in the eyes of the participants.

The participant educators are convinced that corporal punishment is the most effective way to maintain order and harmony in the classroom and to ensure the delivery of quality education. All three assumptions have been confirmed by the data. Stated differently, most of the participant educators use corporal punishment as a disciplinary measure, because for them alternatives to corporal punishment do not work. Hence, participant educators have low job satisfaction because of classes with a high educator-learner ratio and ineffective alternatives to corporal punishment, which strengthen these educators' arguments in favour of and motivation to administer corporal punishment. The participant educators are frustrated because they are, despite ineffective alternatives to corporal punishment, unable to teach effectively in classes where the educator-learner ratio is high.

## **5.4 IMPLICATIONS OF FINDINGS**

In the next few sections, I will discuss firstly the implications that a high educator-learner ratio in classes contributes to illegal corporal punishment. Secondly, the implications of the minimum support from the DoE when legislation has changed will be discussed. Lastly, I will discuss the implications of educators that have poor job satisfaction.

### **5.4.1 Educator-learner ratio**

Corporal punishment will remain widespread in classes with a high educator-learner ratio, as it is in the eyes of the participants the only effective measure to maintain discipline.<sup>44</sup> These educators do not only believe that corporal punishment is effective in classes with high educator-learner ratios; they are also

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<sup>44</sup> See ch 4 pars 4.5 & 5.3.

convinced that it is the only way to maintain discipline.<sup>45</sup> They believe an educator standing with a rod in the hand in front of a class with a high educator-learner ratio will have better control<sup>46</sup> than an educator without a rod will. It is important to acknowledge the truth that participant educators with classes with a high educator-learner ratio reduce to use alternatives to corporal punishment because these alternatives are not regarded as effective.<sup>47</sup> It seems that it will take a lot more than ineffective alternatives to corporal punishment to convince the participant educators not to use corporal punishment in classes with a high educator-learner ratio.

The study has indicated that a high educator-learner ratio is an explanation for the persistence of corporal punishment.<sup>48</sup> However, I discussed and found that the optimal educator-learner ratio for a class is 1:20-30.<sup>49</sup> A question that comes to mind is whether the practice of corporal punishment is rife in classes where the educator-learner ration is acceptable.

There is a very good possibility that a high educator-learner ratio in South African schools may encourage the extensive and frequent use of corporal punishment.

#### **5.4.2 DoE support for the implementation of legislation**

The participant educators objected against them not being consulted when corporal punishment was prohibited in schools.<sup>50</sup> Furthermore, educators believe that there is a lack of communication between them and their employer. Educators<sup>51</sup> and principals<sup>52</sup> have an expectation that the Government of South Africa should reinstate the use of corporal punishment in schools. There seems to be tension between the employer and the employee regarding the prohibition of corporal punishment. Participant educators believe that they must be allowed to use corporal

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<sup>45</sup> See ch 4 par 4.5.3.

<sup>46</sup> See ch 4 par 4.5.3.

<sup>47</sup> See ch 4 par 4.5.1.

<sup>48</sup> See ch 2 par 2.7.4.1.

<sup>49</sup> See ch 2 par 2.7.4.1.

<sup>50</sup> Note 2.

<sup>51</sup> See ch 4 par 4.5.5.

<sup>52</sup> See ch 1 par 1.1.

punishment. Nevertheless, the DoBE (Department of Basic Education) <sup>53</sup> could prosecute those practice corporal punishment. Participant educators are aware that they take a risk when applying corporal punishment because they can be found guilty of assault and could lose their jobs.

Ten years after the publication of the DoE's *Alternatives to Corporal Punishment*,<sup>54</sup> alternatives to corporal punishment remain ineffective.<sup>55</sup> The DoE acknowledge that:

- many educators have to deal with disruptive learners;
- corporal punishment has been part of the history of many learners and educators;
- change in itself is often a difficult progress, and
- discipline is a recognised area of struggle for many educators.<sup>56</sup>

It seems that the DoE is aware of the challenges on the prohibition of corporal punishment. The study showed that the policy is not implemented in the selected schools mainly because educators believe that alternatives to corporal punishment are ineffective.<sup>57</sup> Stated differently, the participant educators are not convinced that alternatives to corporal punishment can contribute positively towards discipline and the quality of education.

### 5.4.3 Job satisfaction

Low job satisfaction is a result of the unsatisfactory work environment that the participant educators are exposed to, for instance the management of classes with a high educator-learner ratio and poor implementation of alternatives to corporal punishment.

The participant educators are aware of the legal consequences of administering corporal punishment.<sup>58</sup> This knowledge places more strain on these educators because they perceive corporal punishment as the only way to discipline

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<sup>53</sup> DoE now called DoBE (Department of Basic Education).

<sup>54</sup> Note 36.

<sup>55</sup> See ch 4 par 4.5.4.

<sup>56</sup> Note 36 at 9.

<sup>57</sup> See ch 4 par 4.5.4.

<sup>58</sup> See ch 1 par 1.1.

disruptive learners is to use corporal punishment.<sup>59</sup> The implication is that these educators have more stress because they believe that alternatives to corporal punishment are ineffective and they know that they are violating legislation<sup>60</sup> when using corporal punishment. There are a few strategies for educators available when they are faced with low job satisfaction. The participant educators continue to use corporal punishment because it is an outlet for frustration and the only means, in their opinion, to restore order in the class. Low job satisfaction has a serious implication for the recruitment of young people for the education profession as learners are aware of the low job satisfaction and stress levels of educators and it will discourage them to choose education as a career.

## 5.5 SIGNIFICANCE OF THE STUDY

Educators' perceptions of corporal punishment is a significant study. In line with the Constitution, schools tend to instill a human rights' culture. Literature, however, indicates that the use of corporal punishment is still rife in some schools. I indicated with this study my participants' perceptions on their continued use of corporal punishment even though they are aware that it is illegal and not in line with the culture of human rights as entrenched in the Constitution. My participants exposed possible reasons why educators might continue applying corporal punishment. This might possibly alert officials and policy makers on the *status quo* in some schools and remind them to the fact that intervention needs to be applied as a mere promulgation of some Acts would not stop this practice. By this means interventions might not to only "cure" the symptoms of this issue but also address the causes in line with the culture of human rights.

The perceptions of participating educators on corporal punishment spell out a huge imperative for Government to intervene, as educators are at their wit's ends with discipline in schools and as discipline in schools presents a bigger challenge than Government can envisage. The position of the authorities is that corporal punishment is legally not supposed to be administered. This, however remains only an illusion. This study serves as a wake up call to Government that the mere promulgation of Acts would not stop a practice as old as the mountains without

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<sup>59</sup> See ch 4 par 4.5.1.

<sup>60</sup> Note 2.

changing of attitudes and the development of practical skills in line with the culture of human rights. Corporal punishment is a widespread, accepted practice among educators<sup>61</sup> and its prevalence should serve as a red light to the DoBE. Hence, it is essential for Government to intervene immediately by developing skills to discipline and manage people in the framework of human rights, as educators do not have the skills to do so. Charging and prosecuting educators with misconduct and dismissal could result in a serious shortage and greater demand for educators, while other avenues need to be explored to solve the issue at stake. It is important to understand educators' perceptions of corporal punishment before other options could be considered.

The study urgently requests the DoBE in formulating effective alternatives to corporal punishment that are realistic within the working conditions of educators. The outcome could contribute towards a classroom atmosphere of mutual respect and tolerance where the learner's human rights are protected and promoted. By doing so the educator would be motivated to deliver quality education.

## **5.6 LIMITATIONS OF THE STUDY**

The study was limited because it was conducted in two school districts in school from one district and the other two schools from another district. A sampling of three schools from two school districts is a limitation of the study. The culture of teaching and discipline might differ from one district to the next, even more so from one province to the other.

Public secondary and private school educators were not interviewed and their insight and perceptions of corporal punishment could have ensured a more accurate presentation of the persistent use of corporal punishment in the school system.

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<sup>61</sup> See ch 1 par 1.5 & ch 2 par 2.7.3.

Data<sup>62</sup> have shown that participants believe learners accept and support the application of corporal punishment from their educators but interviews were not conducted with learners to confirm the validity of this. According to the participants', parents approve of corporal punishment<sup>63</sup> and will even grant permission to educators to apply corporal punishment to their children. Parents' perceptions of corporal punishment in schools are, however, not the focus of this study.

My findings are my interpretation of the participants' perceptions of corporal punishment to understand and explain the continued use of corporal punishment in South African schools. However, the study cannot be generalised because the sample was too small. The hypothesis that is corporal punishment is still rife in the majority of schools and that educators believe that corporal punishment is the most effective measure to apply discipline to ensure quality of teaching and learning.

Further research to include more school districts might explore an interesting phenomenon in terms of similarities or differences and the reasons for differences.

## **5.7 RECOMMENDATIONS**

The recommendations are based on contextualising educators' perceptions of corporal punishment, rather than generalising the issue.

### **5.7.1 Theoretical recommendations**

In my journey as a Master's degree student, I have encountered many questions from people who have been interested in the study. One of the misconceptions that I have encountered is the remarks and comments that corporal punishment should be "brought" back into schools. Educators should accept that corporal punishment in schools will not be legalised again as it is outlawed not only by education legislation, but also by the Constitution and the International and Regional Human Rights Instruments. Therefore, educators must be made aware

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<sup>62</sup> See ch 4 par 4.4.1.

<sup>63</sup> See ch 4 par 4.4.2.

that a child's human rights are being violated when corporal punishment is administered. Educators should also be convinced of the negative effect of corporal punishment on the psychological development of learners. These issues were addressed in the DoE's *Alternatives to Corporal Punishment*<sup>64</sup> but the mind shift seems not to have been made by some educators. Theoretically, therefore, the whole notion of human rights application underpinned by the values of democracy need to be urgently addressed and implemented on ground level. Human rights and value education need to get a place in schools with a strategy to change people's minds and attitudes accordingly. Educators' conviction and motivation to apply corporal punishment must be replaced by a passion to protect and promote everyone's human rights, those of educators and learners alike.

### 5.7.2 Recommendations for practice

Effective and acceptable alternatives to corporal punishment that are realistic in terms of the working conditions of educators are recommended. This is easier said than done. Three issues need to be addressed, namely educators must be convinced that corporal punishment violates learners' human rights, viable alternatives to corporal punishment must be introduced and the high educator-learner ratio should be reduced. Masitsa<sup>65</sup> argues that the DoE must avoid classes with high educator-learner ratios. It is expected from educators to deliver quality education in intimidating classes with high educator-learner ratios that are difficult to control because of increasing disciplinary problems, which lead to more frustration(s) for educators. A disruptive learner could easily violate other learners' right to basic education<sup>66</sup> in a class with high educator-learner ratio, because an educator will have less control in the classroom.

The DoE's *Alternatives to Corporal Punishment*<sup>67</sup> must be revised in partnership with prominent experts, organisations, resources and educators that are knowledgeable regarding issues of corporal punishment, such as:

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<sup>64</sup> Note 36.

<sup>65</sup> Masitsa MG "Discipline and disciplinary measures in the Free State township schools: Unresolved problems" (2008) 40:3 *Acta Academica* 264.

<sup>66</sup> Section 29 of the Constitution Act No 108 of 1996.

<sup>67</sup> Note 36.

- Education Rights Project of the University of Witwatersrand
- Children’s Rights Project, Community Law Centre, University of the Western Cape
- Childline South Africa
- RAPCAN
- Centre for Justice and Crime Prevention
- The Global Initiative to End All Corporal Punishment of Children
- The Center for Effective Discipline
- Project No Spank
- Plan’s Global Campaign to End Violence in Schools.

Corporal punishment was prohibited since 1996. For this reason, other avenues need to be investigated to assist the educator in maintaining discipline in the classroom. For example, educator assistants may be employed to help the educators with the management and workload of classes with high educator-learner ratios. Technology could also assist educators in classes with high educator-learner ratios to ensure quality of instruction and learning. These suggestions could also improve educators’ perceptions of their work environment.

### **5.7.3 Recommendations for future research**

Research to determine the extent and effect of classes with high educator-learner ratios in South African rural schools is recommended. Other research topics that could be researched are learners’ perceptions of corporal punishment, parents’ perceptions of corporal punishment and school principals’ perceptions of corporal punishment. A comparative study to determine the relationship between the use of corporal punishment and academic achievement is recommended, because educators claim that they administer corporal punishment to ensure that learners can progress academically.<sup>68</sup> The communication problem between educators and learners regarding the LOLT<sup>69</sup> also merits research. A more detailed study into class size is needed to determine the current supply and demand of South African educators.

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<sup>68</sup> See ch 4 par 4.5.

<sup>69</sup> See ch 4 par 4.5.3.

My small-scale qualitative research sampled three schools in two districts with six participants. The hypothesis developed by the study, that frustrated educators use corporal punishment because it is the most effective method in the absence of effective alternatives to corporal punishment to ensure quality education should be tested by means of a large-scale quantitative study.

## 5.8 CONCLUSION

Educators' perception of corporal punishment is that it is a valuable and necessary tool to motivate learners to do their homework and to pass their examinations. Educators are convinced that using corporal punishment is in the best interest of the learner, especially when parents support the educators in this matter. Educators are well informed about the legal consequences of using corporal punishment but a skewed perception in the minds of the participants is that reasonable application of corporal punishment is acceptable. The legal consequences of corporal punishment are overshadowed by educators' discipline philosophy in which the traditional use of corporal punishment has surfaced.<sup>70</sup> Educators' discipline philosophy is entrenched in their arguments to validate the use of corporal punishment.

Another perception of educators is that corporal punishment is beneficial to ensure academic progress.<sup>71</sup> Perceptions of educators when administering corporal punishment include the belief of disruptive learners in a frustrated work environment that does not support effective alternatives to corporal punishment.<sup>72</sup> The practice of corporal punishment is still rife in schools<sup>73</sup> because it is matter of Legislation vs. Reality. Legislation states that corporal punishment is illegal but reality has shown that the community supports stressed-out educators in applying corporal punishment to address disciplinary problems of learners in the absence of more effective measures. The three working assumptions that frustrated educators' perceptions of using reasonable corporal punishment are linked (see figure 4.1) to make up for the poor support of the DoE in the implementation of legislation.

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<sup>70</sup> See ch 4 par 4.2.3.

<sup>71</sup> See ch 4 par 4.5.2.

<sup>72</sup> See ch 4 par 4.5.6.

<sup>73</sup> See ch 1 par 1.5.

“A child’s best interests are of paramount importance in every matter concerning the child”<sup>74</sup> must be the focus of the DoBE and educators regarding corporal punishment. The DoBE and educators should meet one another half way, meaning that the DoBE should be supportive of educators by developing the skills to maintain discipline without reverting to corporal punishment. Educators should be appreciated that corporal punishment is not in the best interest of the child.

It will take more than written legislation<sup>75</sup> to discourage some dedicated educators from using corporal punishment in their attempt to deliver quality education under difficult working conditions. Educators must be persuaded to believe that administering corporal punishment is not in the best interest of learners.

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<sup>74</sup> Note 1.

<sup>75</sup> Note 2 and section 18(5) of The Employment of Educators Act No 76 of 1998.

## REFERENCES

### BOOKS

- Ball SJ (ed) *Foucault and education: Disciplines and knowledge* (1990) 57-77 London: Routledge
- Bogdan RC & Biklen SK *Qualitative research for education. An introduction to theory and methods* (1992) Needham Heights: Allyn and Bacon
- Bower C *Banning corporal punishment: The South African experience* (2008) Cape Town: RAPCAN
- Bray W *Human rights in education* (2005) Pretoria: Centre for Education Law and Policy (CELP)
- Bryman A *Social Research Methods* (2001) New York: Oxford University Press Inc
- Burton A *Merchants skollies and stones: Experiences of school violence in South Africa* (2008) Cape Town: Centre for Justice And Crime Prevention Monograph series 4
- Chisholm L, Hoadley U, Wa Kivulu M, Brookes H, Prinsloo C, Kgobe A, Mosia D, Narsee H & Rule S *Educator workload in South Africa* (2005) Cape Town: HSRC Press
- Cohen L, Manion L & Morrison K *Research methods in Education* (2000) (5<sup>th</sup> ed) London: Routledge Falmer
- Coleman M, Graham-Jolly M & Middlewood D (eds) *Managing the curriculum in South African Schools* (2003) Commonwealth Secretariat
- Craig E (ed) *Routledge encyclopedia of philosophy* (2005) London: Routledge <http://www.reproutledge.com/article/P059> [accessed 10 September 2010]
- De Villiers E, Wethmar M & Van Der Bank A (eds) *Ethics for partners in education* (2000) Pretoria: Centre for Education Law and Policy (CELP)
- Frank C *Missed opportunities: The role of education health and social development in preventing crime* (2006) Pretoria: Institute for Security Studies (ISS monograph series no 126)

- Hofstee E *Constructing a good dissertation: A practical guide to finishing a Master's MBA or PhD on schedule* (2006) Johannesburg: EPE
- Human Sciences Research Council *Human Resources Development Review 2003: Education employment and skills in South Africa* (2003) Cape Town: HSRC Press
- Human Sciences Research Council *Educator supply and demand in the South African Public Education System* (2005) Cape Town: HSRC Press
- Joubert HJ & Prinsloo IJ *Education law: A practical guide for educators* (2001) Pretoria: Van Schaik Publishers
- Joubert R & Squelch J *Learner discipline in schools* (2005) Pretoria: Centre for Education Law and Policy (CELP)
- McMillian JH & Schumacher S *Research in education: A conceptual introduction* (2001) (5<sup>th</sup> ed) New York: Longman
- Mouton J *How to succeed in your Master's & Doctoral studies* (2005) Pretoria: Van Schaik Publishers
- Oosthuizen IJ (ed) *Aspects of educational law* (1998) Pretoria: Van Schaik Publishers
- Oosthuizen IJ (ed) *Safe Schools* (2005) Pretoria: Centre for Education Law and Policy (CELP)
- Parker-Jenkins M *Sparing the rod: Schools, discipline and children rights* (1999) London: Trentham Books Limited
- Patton MQ *Qualitative Research and Evaluation Methods* (2002) (3<sup>rd</sup> ed.) Thousands Oaks: SAGE Publications
- Porteus K, Vally S & Ruth T *Alternatives to corporal punishment: Growing discipline and respect in our classrooms* (2001) Sandown: Heinemann Publishers
- Pryor BW & Pryor CR *The school leader's guide to understanding attitude and influencing behavior* (2005) Thousands Oaks: Corwin Press
- Van Deventer I & Kruger AG (eds) *An educator's guide to school management skills* (2002) Pretoria: Van Schaik Publishers
- Waterhouse S & Frank C *Submission to the South African Human Rights Commission on violence in schools* (2006) RAPCAN

### CHAPTERS IN BOOKS

- Botha P “The educator as caring supervisor” in Oosthuizen IJ (ed) *Aspects of educational law* (1998) Pretoria: Van Schaik Publishers
- De Wet A & Van Huyssteen A “Elements of an unsafe school environment” in Oosthuizen IJ (ed) *Safe Schools* (2005) Pretoria: Centre for Education Law and Policy (CELP)
- Jones D “The genealogy of the urban schoolteacher” in Ball SJ (ed) *Foucault and education: Disciplines and knowledge* (1990) 57-77 London: Routledge
- Klein P D “Epistemology” in Craig E (ed) *Routledge encyclopedia of philosophy* (2005) London: Routledge  
<http://www.rep.routledge.com/article/P059> [accessed 10 September 2010]
- Oosthuizen IJ “Education as a profession” in Oosthuizen IJ (ed) *Aspects of educational law* (1998) Pretoria: Van Schaik Publishers
- Oosthuizen IJ “The educator’s duty of care” in Oosthuizen IJ (ed) *Safe Schools* (2005) Pretoria: Centre for Education Law and Policy (CELP)

### JOURNALS

- Krefting L “Rigour in qualitative research: The assessment of trustworthiness” (1991) 45/3 *The American Journal of Occupational Therapy* 214-222
- Le Roux L “An educator’s view ...” (2005) 1/3 *Article 19* at 7
- Maree K “What cannot be endured must be cured: Untying the Gordian knot of violence in South African schools” (2000) 13/3 *Acta Criminologica* 1-13
- Masitsa MG “Discipline and disciplinary measures in the Free State township schools: Unresolved problems” (2008) 40/3 *Acta Academica* 234-270
- Maxwell AM, Enslin P & Maxwell T “Educating for peace in the midst of violence: A South African experience” (2006) 1/1 *Journal of Peace Education* 103-121
- Meier C “The origins and development of child-centered education: Implications for classroom management” (2003) 32/1&2 *Educare* 222-239

- Morrell R "Corporal punishment in South African schools: A neglected explanation for its persistence" (2001) 21/4 *South African Journal of Education* 292-299
- Myers M "Qualitative research and generalizability question: Standing firm with Proteus" (2000) 4/3-4 *The Qualitative Report* <http://www.nova.edu/ssss/QR/QR4-3/myers.html> [Accessed 10 September 2010]
- Netshitahame NE & Van Vollenhoven WJ "School safety in rural schools: Are schools as safe as we think they are?" (2002) 22/4 *South African Journal of Education* 313-318
- O'Neal N "Corporal punishment in public schools: A call for legal reform" (2008) 8/1 *African Human Rights Law Journal* 60-78
- Pedder D "Are small classes better? Understanding relationships between class size classroom processes and pupils' learning" (2006) 32/2 *Oxford Review of Education* 213-212
- Prinsloo IJ "How safe are South African schools?" (2005) 25/1 *South African Journal of Education* 5-10
- Vail K "Create great school climate" (2005) 71/4 *Education Digest: Essential Readings Condensed for Quick Review* 4-11
- Van der Puye I  
Deku P &  
Kwarteng SA "The state of support services and effect of class size in mainstreamed schools: Implication for inclusive education in Ghana" 2006 14/1 *IFE Psychologia Journal* 145-157
- Vally S "Disturbing statistics on corporal punishment" (2007) 3/1 *Article* 19 5-6
- Wa Kivilu M &  
Wandai M "Spare the rod and save the child most Africans believe" (2009) 7/1 *HSRC Review*
- Weakliem DL &  
Frenkel SJ "Morale and workplace performance" (2006) 33/3 *Work and Occupations* 335-361
- Weber R "The rhetoric of positivism versus interpretivism: A personal view" (2004) 28/1 *MIS Quarterly* iii-xii
- Wylie J "Discipline in South African schools" (2006) 2/2 *Article* 19 10-11

## NEWSPAPERS

- Anon "Teacher gets jail for fan belt incident" *Diamond Fields Advertiser* (9 April 2009) 2
- Anon "Teachers told: You CAN use force to keep order" *International Express* (13 April 2010) 15
- Anon "Bring back hidings in schools – principals" *Saturday Argus* (8 August 2009) 6
- Bisetty M "Call to cut back on large classes" *The Mercury* (4 April 2007) 4
- Jansen J "Violence already the norm in SA" (translated) *Burger* (8 February 2007) 14
- Jones M "Boy assaulted by teacher over missing phone" *Cape Times* (4 March 2010) 3
- Joubert JJ "Bring back the cane" *Burger* (14 November 2006) 7
- Kassiem A "Unruly pupils 'driving teachers out of profession'" *Cape Times* 2 April 2007) 3
- Maponya F "Teachers rely on the rod" *Sowetan* (5 May 2010) 9
- Matomela D "Corporal punishment 'widespread'" *The Herald (EP Herald)* (21 March 2008) 3
- Matomela D "Teacher faces assault charge after water pipe attack" *The Herald (EP Herald)* (15 April 2010) 8
- Mecoamere V "Banning corporal punishment has created tough challenges" *Sowetan* (12 February 2008) 12
- Rademeyer A "Principal fined after spanking with bat" (translated) *Beeld* (21 October 2010) 3
- Shlensky A "Corporal punishment still rife in classrooms despite being banned" *Cape Times* (11 May 2006) 4
- Smit M "Good spanking no poor results" (translated) *Beeld* (27 February 2007) 15
- Van Wyk M "Teacher vows to stop hitting kids" *Diamond Fields Advertiser* (September 2009) 4

## DISSERTATION

- Narain AP *Discipline and disciplinary measures used at selected secondary schools* (2006) M Ed dissertation University of Kwazulu-Natal

## PAPERS DELIVERED AT CONFERENCES

- Machaisa R *Educators rights and responsibilities regarding safety and security in schools* Paper delivered at the SAELA Conference in Pretoria 24-26 August 2008
- Rossouw JP *We can't take Peter's classroom harassment any more – let's go on strike* Paper delivered at the SAELA Conference in Pretoria 24-26 August 2008
- Van Rooyen JW *Accountability and Liability – a look at South African Education* Paper delivered at the SAELA Conference in Rustenburg 26-28 August 2008

## INTERNET SOURCES

African Union Commission *African Charter on Human and Peoples' Rights* (1981) [http://www.achpr.org/english/\\_info/charter\\_en.html](http://www.achpr.org/english/_info/charter_en.html) [accessed 17 May 2010]

African Union Commission *African Charter on Rights and Welfare of the Child* (1999) [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf) [accessed 17 May 2010]

Baadjies M *"Violent" teacher back at school* (2010) <http://www.iol.co.za/news/south-africa/violent-teacher-back-at-school-1.672071> [accessed 8 August 2010]

Bower C *Banning corporal punishment: The South African experience* (2008) Cape Town: RAPCAN [http://www.rapcan.org.za/wgpd/documents/Lessons\\_learnt\\_in\\_advocacy\\_booklet.pdf](http://www.rapcan.org.za/wgpd/documents/Lessons_learnt_in_advocacy_booklet.pdf) [accessed 12 April 2010]

Canada *The Criminal code of Canada* (1985) (RS 1985 c C-46) [http://laws.justice.gc.ca/eng/C-46/page-2.html#anchorbo-ga:s\\_3\\_1-gb:s\\_25](http://laws.justice.gc.ca/eng/C-46/page-2.html#anchorbo-ga:s_3_1-gb:s_25) [accessed 18 August 2010]

Childline *Children's Rights & Responsibilities* (2010) [www.childline.org.za/Buddies/buddies\\_rightsandresponsibilities.htm](http://www.childline.org.za/Buddies/buddies_rightsandresponsibilities.htm) [accessed 8 May 2010]

Class Room Management Online *Preventing Discipline Problems* (2010)  
<http://www.classroommanagementonline.com> [accessed 24 April 2010]

Cruz J *Epistemology* (sino anne)  
[http://www.williams.edu/philosophy/fourth\\_layer/faculty\\_pages/jcruz/epistemology.pdf](http://www.williams.edu/philosophy/fourth_layer/faculty_pages/jcruz/epistemology.pdf) [accessed 10 September May 2010]

De Lannoy A & Hall K “Education – Learner-to-educator ratio” *Statistics on children in South Africa* (July 2010)  
<http://www.childrencount.ci.org.za/indicator.php?id=6&indicator=44> [accessed 12 January 2011]

De Rose K *What is Epistemology? A Brief Introduction to the Topic* (2005)  
<http://pantheon.yale.edu/~kd47/What-Is-Epistemology.htm> [accessed 10 September 2010]

Global Initiative to End All Corporal Punishment of Children *Progress towards prohibiting all corporal punishment in East and Southern Africa* (2009a)  
<http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-East-SouthernAfrica.pdf> [accessed 24 May 2010]

Global Initiative to End All Corporal Punishment of Children *Progress towards prohibiting all corporal punishment in West and Central Africa* (2009b)  
<http://www.endcorporalpunishment.org/pages/pdfs/charts/Chart-West-CentralAfrica.pdf> [accessed 24 May 2010]

Global Initiative to End All Corporal Punishment of Children *Countdown to universal prohibition* (2010)  
<http://www.endcorporalpunishment.org/pages/frame.html?http%3A//www.endcorporalpunishment.org/pages/progress/countdown.html> [accessed 24 April 2010]

Global Initiative to End All Corporal Punishment of Children *Prohibiting corporal punishment in schools: Positive responses to common arguments* (sine anno)  
<http://www.endcorporalpunishment.org/pages/pdfs/SchoolsBriefing.pdf> [accessed 24 April 2010]

Klein P D “Epistemology” in E Craig (ed) *Routledge encyclopedia of philosophy* (2005) London: Routledge <http://www.rep.routledge.com/article/P059> [accessed 10 September 2010]

Myers M “Qualitative research and generalizability question: Standing firm with Proteus” (2000) 4/3-4 *The Qualitative Report* <http://www.nova.edu/ssss/QR/QR4-3/myers.html> [accessed 10 September 2010]

Neill J *Analysis of professional literature class 6: Qualitative research I* (2006)  
<http://wilderdom.com/OEcourses/PROFLIT/Class6Qualitative1.htm> [accessed 10 September 2010]

United Kingdom *Education Act 1996* (1996)

<http://www.legislation.gov.uk/ukpga/1996/56/section/548> [accessed & updated 12 January 2011]

United Nations *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (1987)

<http://www2.ohchr.org/english/law/cat.htm> [accessed 17 May 2010]

United Nations *Convention on the Rights of the Child* (1990)

<http://www2.ohchr.org/english/law/crc.htm> [accessed 17 May 2010]

United Nations "General Comment no 8 (2006)" *Convention on the Rights of the Child* (2007)

[http://www.unhchr.ch/tbs/doc.nsf/0ac7e03e4fe8f2bdc125698a0053bf66/6545c032cb57bff5c12571fc002e834d/\\$FILE/G0740771.pdf](http://www.unhchr.ch/tbs/doc.nsf/0ac7e03e4fe8f2bdc125698a0053bf66/6545c032cb57bff5c12571fc002e834d/$FILE/G0740771.pdf) [accessed 17 May 2010]

United Nations *International Covenant on Civil and Political Rights* (1976)

<http://www.hrweb.org/legal/cpr.html> [accessed 17 May 2010]

United Nations *The Universal Declaration of Human Rights* (1948)

<http://www.un.org/en/documents/udhr/index.shtml> [accessed 17 May 2010]

University of Pretoria *Code of ethics for research*

[http://web.up.ac.za/sitefiles/File/3653/Code%20of%20ethics%20for%20research\(1\).doc](http://web.up.ac.za/sitefiles/File/3653/Code%20of%20ethics%20for%20research(1).doc) [accessed 6 September 2010]

Voce A *Introduction to research paradigms* Handout for the Qualitative Research Module (2004) <http://www.docstoc.com/docs/18652270/What-is-a-research-paradigm> [accessed 2 June 2010]

YouTube *The Universal Declaration of Human Rights* (2010)

<http://www.youtube.com/watch?v=hTlrSYbCbHE> [accessed 11 August 2010]

Zuma J *National interaction with school principals* (2009)

<http://www.info.gov.za/speeches/2009/09080712351001.htm> [accessed 12 April 2010]

## REPORTS

*Alternatives to Corporal Punishment: The Learning Experience* (2000) Pretoria: Government Printer

The Human Rights Commission of South Africa *Report on School-based Violence* (2008) Pretoria: Government Printer

"Children's Amendment Bill" *Government Gazette* No 29150 (23 August 2006) Pretoria: Government Printer

“Guidelines for the consideration of governing bodies in adopting a code of conduct for learners” *Government Gazette* No 18900 (15 May 1998) Pretoria: Government Printer

“Personnel Administrative Measures” *Government Gazette* No 19767 (18 February 1999) Pretoria: Government Printer

*School Realities* (2009) Pretoria: Government Printer

### TABLE OF CASES

*Canadian Foundation for Children Youth and the Law v Canada (Attorney General)* [2004] 1 SCR 76; 2004 SCC 4  
<http://scc.lexum.umontreal.ca/en/2004/2004scc4/2004scc4.html> [Accessed 18 August 2010]

*Christian Education SA v Minister of Education of the Government of the RSA* 2000 (10) BCLR 1051(CC)

*S v De Blom* 1977 (3) SA 513 (A)

### TABLE OF STATUTES REPUBLIC OF SOUTH AFRICA

Children’s Act No 38 of 2005 Pretoria: Government Printer

Children’s Amendment Act No 41 of 2007 Pretoria: Government Printer

Constitution of the Republic of South Africa Act No 108 of 1996 Pretoria: Government Printer

Education Laws Amendment Act No 53 of 2000 Pretoria: Government Printer

Education Laws Amendment Act No 50 of 2002 Pretoria: Government Printer

Education Laws Amendment Act No 31 of 2007 Pretoria: Government Printer

Employment of Educators Act No 76 of 1998 Pretoria: Government Printer

National Education Policy Act No 27 of 1996 Pretoria: Government Printer

Occupational Health and Safety Act No 85 of 1993 as amended by Occupational Health and Safety Amendment Act No 181 of 1993 Pretoria: Government Printer

South African Council for Educators Act No 31 of 2000 Pretoria: Government Printer

South African School Act No 84 of 1996 Pretoria: Government Printer