

## Sexual harassment and violence in South African schools

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*After 1994 several pieces of legislation were passed in South Africa to ensure equity in education and equal opportunities for all learners. Some shocking reports have indicated that sexual harassment of girls is a serious problem in many of our schools. These girls are denied equal opportunities and effective education in schools as they are subject to pestering by educators and boys. In addition, they are harassed by the possibility of an unwanted pregnancy and emotional pressure, and they are denied their self-respect. The purpose in this article was to determine the nature and extent of sexual harassment and violence in South African schools and to establish how the rights of female learners to equal opportunities and equal treatment could be promoted and protected.*

### Introduction

In his opening speech in Parliament in 1994 former president Nelson Mandela said: "Freedom cannot be achieved unless women have been emancipated from all forms of oppression". Since then there has been a purposeful attempt from government to promote gender equity by enacting, amongst other things, the South African Constitution, the South African Schools Act, the Employment Equity Act and the Promotion of Equality and Prevention of Unfair Discrimination Act.

All the resourcist measures of equality of opportunity (UNESCO, 2003; Department of Education (DoE), 2003:12) indicate that whilst there may be some gender disparity with regard to the gross enrolment rate for girls at primary level, the general trend is one of either gender parity or of gender inequality with regard to boys. In other words, girls have equal if not slightly better opportunities than boys of being enrolled in education. Using test scores and illiteracy rates as a measure of gender equality in South Africa, it appears that gender inequality is not a glaring problem. Girls achieve at an equal level with boys in many subjects at primary and secondary level. Whilst girls do not do as well in mathematics and physical sciences, their achievements in biology and English are equivalent (Unterhalter, 2005:83-84).

### Rationale

Some shocking reports in the newspapers from 1999 to 2004 have indicated that sexual harassment of female learners is a serious problem in many of our schools. More than 30% of girls are raped at school. The situation in South Africa regarding HIV/AIDS is currently at epidemic proportions, with the incidence rate among South African youth at 22.9% and with the incidence rate amongst girls and young women more than three to four times higher than boys and men (Mitchell, 2005:95). It was found that many girls experienced violence in schools. They are raped, sexually abused, sexually harassed and assaulted at school by male learners and educators. In addition, they are harassed by the possibility of unwanted pregnancy and emotional pressure, and are denied their self-respect (Human Rights Watch, 2001).

The seriousness of the situation was further stressed by Kader Asmal, former Minister of National Education, in the following statement:

There must be an end to the practice of male educators demanding sex with schoolgirls

or female educators. It shows selfish disrespect for the rights and dignity of women and young girls. Having sex with learners betrays the trust of the community. It is also against the law. It is a disciplinary offence. Tragically, nowadays, it is spreading HIV/AIDS and bringing misery and grief to these precious young people and their families (Department of Education, 2000:3).

### Research question

Schools are supposed to be safe places where all learners have equal access to equal educational opportunities and are treated equally. According to the statistics given above it appears that girls have equal access to schools with regard to boys and they achieve at an equal level with boys in many subjects at primary and secondary level. However, if one considers the high incidence of sexual harassment and violence of female learners in South African schools reported by the media, the obvious question that comes to the mind is: Do female learners have really equal opportunities and are they treated equally in South African schools or are they exposed to an invisible form of exclusion?

### Aims

The purpose of this study was to

- understand the nature of sexual harassment as a form of unfair discrimination against female learners;
- determine the legal foundation for equal opportunities, equal treatment and a safe school environment in South African schools;
- examine the current situation regarding sexual harassment in South African schools;
- determine how the rights of female learners to a school environment, where they have equal educational opportunities and are treated equally, could be promoted and protected.

### Defining concepts

#### Sexual harassment

Du Plessis *et al.* (1998:418) define sexual harassment as unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutually acceptable. Sexual attention becomes sexual harassment if

- the behaviour is persisted in (although a single incident of harassment can constitute sexual harassment);
- the recipient has made it clear that the behaviour is considered offensive; and/or
- the perpetrator should have known that the behaviour is regarded as unacceptable.

#### Forms of sexual harassment

Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, and is not limited to the following examples:

- Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of a member of the opposite sex.
- Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or to them, unwell-

come and inappropriate enquiries about a person's sex life, and unwelcome whistling at a person or a group of people.

- Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexual explicit pictures and objects.
- *Quid pro quo* harassment occurs where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant in exchange for sexual favours.
- Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his or her sexual advances (Du Plessis *et al.*, 1998:418).

### Unfair discrimination

Unfair discrimination has been explained by the South African Constitutional Court as unequal treatment that impairs human dignity, or affects a person in a comparably serious manner (Prinsloo *vs* Van der Linde, 1997 (6) BCLR 759 (CC)).

One could deduce from the above Constitutional Court finding that sexual harassment and all other forms of sexual violence can also be seen as unfair discrimination due to the unequal treatment of female learners that impair their human dignity.

Unfair discrimination is normally associated with the power to act. In many cases people in positions of authority misuse these powers to unfairly discriminate against subordinates.

Power is the ability to execute authority. French and Raven (in Gerber *et al.*, 1998:301) distinguish between the following types of power:

- *Legitimate power (position power)*: This is the official authority delegated to a position. In terms of this power, the leader/educator has the right to expect subordinates to carry out their duties conscientiously, and to take disciplinary measures if they do not. According to newspaper reports female learners in many South African schools are exposed to educators who misuse their position of authority to intimidate and sexually abuse them.
- *Power by reward*: This is used to give or withhold rewards such as recognition and appreciation, merits and promotion. The positive side of the power of reward is that it could be used to motivate staff and learners. But if this power is misused to get sexual favours, it is known as sexual favouritism (see the different forms of sexual harassment). It happens where a person who is in a position of authority only rewards those who respond to his or her sexual advances. Girls in schools are subjected to this serious form of unfair discrimination. The rewards could be in the form of financial support to impoverished households (The Citizen, 20 February 2002).
- *Coercive power*: This is inspired by fear, either psychological or physical, in subordinates. The much higher incidence of sexual harassment and victimisation among female learners than among boys is a good example of coercive power, which may be attributed to the patriarchal attitudes of most societies (Humans Rights Watch, 2001:51).

It is furthermore important to focus on the net effect of the unfair discrimination against girl learners. In other words, what are the victims denied as a result of unfair discrimination like sexual harassment, sexual violence, and assault (Keet, 2001:5)?

- Are they denied an opportunity (education)?
- Are they denied a resource/s (access to school)?
- Are they denied a service/s (effective education)?

- Are they denied their self-respect and human dignity (in the case of sexual abuse, assault and rape)?

The above questions will be answered in the next sections of the study. The focus will be on the Constitutional rights of female learners to equal opportunities, equal treatment, human dignity and freedom and security of the person (freedom from violence) and to demonstrate how national legislation and common law principles are fulfilling their constitutional duty to ensure a school environment that is free from any form of sexual harassment or violence.

### **The legal foundation to ensure a school environment in which a culture of human rights is promoted and fulfilled and which is free from any form of sexual harassment and violence**

The South African Bill of Rights in Chapter 2 of the Constitution of the Republic of South Africa is undoubtedly one of the most comprehensive and far-reaching bills of rights in the world (De Groof & Malherbe, 1997:26). According to Dlamini (1997:24), "[a] nation's struggle to raise its living standards, strengthen its democracy and build a sustainable human rights culture is first and foremost in the classroom". He also envisages the enhancement of the practice of positive values, attitudes, behaviour and skills in the individual as well as in the community, working towards a transformation of society and the promotion of a human rights culture. Such a culture should be underpinned by the pursuit of a fully inclusive, egalitarian society, free of all unjust discrimination, as envisaged by the Constitution.

The only way in which the democratic values of human dignity, equality and freedom may be upheld and the vision of Dlamini realised is to respect, protect and fulfil the constitutional rights of every learner in the educational context. A human rights culture can only be created in a safe school environment that is conducive to effective teaching and learning. A safe school may be defined as one that is free of danger and where there is an absence of possible harm; a place in which non-educators, educators and all learners may work, teach and learn without fear of ridicule, intimidation, harassment, humiliation or violence. Safe schools are furthermore characterised by good discipline, a culture conducive to teaching and learning, professional educator conduct, good governance and management practices, and an absence (or low level) of crime and violence (Squelch, 2001:137-149).

All South Africans should be able to identify with the vision of a society that is free from gender discrimination and all other forms of oppression (Van Deventer, 2000:8). This shared vision is entrenched in the Constitution of the Republic of South Africa, and in related national legislation.

For the purposes of this study the legislation that will be discussed briefly consists of the human rights, national legislation, common law, school policy and code of conduct for learners that apply when the fundamental rights of the groups and individuals concerned are to be protected. The focus will be on the protection of equal opportunities and equal treatment of female learners in South African schools and the prevention of all forms of sexual harassment and violence.

#### **Constitution of the Republic of South Africa, Section 9: The equality principle**

The Constitution of the Republic of South Africa upholds the democratic values of human dignity, equality and freedom. Section 9 states the following:

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination, may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

According to Malherbe and Beckmann (2003:37), section 9 is also known as the equality principle, which is a key provision of the Bill of Rights and underlies many other rights. The right to equality protects the equal worth of people and any law or conduct that violates people's equal worth is prohibited by section 9. The provision recognises that people may be treated differently for very valid reasons and therefore does not prohibit all discrimination, just unfair discrimination. When it comes to gender equity in schools, however, it should be clear from the provisions made in section 9 of the Constitution that female learners are entitled to equal opportunities and equal treatment in South African schools.

The following provisions made in the South African Schools Act are good examples of how national legislation is fulfilling its constitutional duty to ensure equal opportunities for boys and girls:

- Section 3 makes provision for compulsory school attendance and places a legal obligation on parents to send their children to school. The purpose of section 3 is to protect children's right to education, whilst section 5 of the Schools Act guarantees equal access to public schools.
- Section 8 makes provision for a code of conduct for learners with the purpose of establishing a disciplined and purposeful school environment, placing an obligation on learners to comply with the code of conduct and making provision for due process to safeguard the interests of the learners involved in disciplinary proceedings. A disciplined and purposeful school environment may be defined as one that is free of danger and where there is an absence of any form of violence.

According to Squelch (2001:149), the code of conduct is furthermore essential for setting out the expectations and standards for learner behaviour, for putting the necessary procedures in place for dealing with threats to safety and security, and for protecting learners and staff against physical and psychological danger such as assault, bullying, sexual harassment and rape.

The purpose of the Child Care Act, 1983 (Act 74 of 1983) on the other hand, is to protect children's rights, and the provisions of this Act and those of the Domestic Violence Act, 1998 (Act 116 of 1998) place a legal obligation on educators to report any form of maltreatment, neglect, abuse or degradation of children to social welfare or the police.

The common law principle of *in loco parentis* forces educators to foresee the potential dangers to which learners may be exposed at schools and to act proactively by taking steps in the form of policy to protect learners from harm. This means that educators are legally obliged to ensure the physical and psychological safety of learners in their care.

How the unequal treatment of girls in many South African schools has a negative impact on their right to human dignity and education has been illustrated in a research study. This study conducted by the Medical Research Council (2001) on the sexual harassment of girls in South African schools showed that many young girls aged 15 and below have been coerced or persuaded to have sex against their will. Of the women who said that they had been raped as a child, 32.8% said that they were raped by their educators (Human Rights Watch, 2001).

Another research study 'Scared at school', which looked directly at the incidence of sexual violence against girls in South African schools, found that many girls experience violence in schools. They are raped, sexually abused, sexually harassed and assaulted at school by male learners and educators. The report noted that, although girls in South Africa have better access to school than their counterparts in other sub-Saharan African states, they are confronted with levels of sexual violence and sexual harassment in schools that impede their access to education on equal terms with male students. Many girls interrupt or leave school altogether because they feel unsafe in such violent environment. Other girls stay at school but suffer in silence, having learned that submission a survival skill and sexual violence at school is inescapable (Human Rights Watch, 2001:6-9).

The above research findings and the case of DA, the fifteen-year-old learner who describes sexual harassment at her school, are clear examples of girls who are denied the opportunity of equal education:

All the touching at school in class, in the corridors, all day every day, bothers me. Boys touch your bum and your breasts. You won't finish work because they are pestering you the whole time (Human Rights Watch, 2001:56).

To stop this practice of male educators demanding sex with schoolgirls, the National Department of Education introduced an amendment to the Employment of Educators Act, No. 76 of 1998 in the Education Amendment Act of 2000, (SA, 2000b). Section 17 (c) of the Employment of Educators Act requires provincial departments of education to dismiss any educator found guilty of having a sexual relationship with a learner of the school where he or she is employed.

In terms of section 23 (c) of the South African Council for Educators (SACE) Act, No. 31 of 2000, the council may direct the chief executive officer to remove the name of the educator from the register if the educator was found guilty of a breach of the code of professional ethics. According to Rey Brijraj, chief executive of SACE, the Council will ensure that an educator who has been dismissed on the basis of sexual relationship with a learner or sexually abusing a learner would be deregistered as an educator and may not be appointed as an educator by any provider, including private providers (Sunday Times, 23 November 2003).

## Section 10: Human dignity

According to Malherbe and Beckmann (2003:36) the right guaranteed by section 10, namely, to have one's inherent dignity as a human being respected and protected, is another fundamental right that underlies many (if not all) other rights. The exercising of other rights comprises various manifestations of human dignity and, as such, human dignity is the cornerstone for the protection of such other rights. Often, when another right is violated, the violation also constitutes an infringement of human dignity.

Human dignity is quite obviously a critical and extremely fragile component of the multifarious relationships that make up the educational environment, especially because so many

minors or otherwise vulnerable and defenceless people are involved. Violations of human dignity may occur during disciplinary action, in the daily interaction between educators and learners (which is an inherently unequal relationship), during initiation programmes or ceremonies for newcomers to an institution, during informal interactions on the playground where bullying is an ever-present threat nowadays, and in any other relationship in which the temptation to treat people with contempt is present (Malherbe & Beckmann, 2003:37).

One may conclude from the above arguments that sexual harassment, sexual abuse, intimidation and victimisation of female learners are serious infringements of their right to human dignity.

The net effect of the serious infringement of these girls right to human dignity as described above is incalculable. They are denied access to school and effective education due to the pestering of educators and boys. In addition, they are harassed by the possibility of unwanted pregnancy and emotional pressure, and are denied their self-respect. They could even be denied their health and their life.

### Section 12: Freedom and security of the person

Section 12 of the Constitution of the Republic of South Africa clearly states that:

- (1) Everyone has the right to freedom and security of the person, which includes the right —
  - (a) not to be deprived of freedom arbitrarily or without just cause;
  - (b) not to be detained without trial;
  - (c) to be free from all forms of violence from either public or private sources;
  - (d) not to be tortured in any way; and
  - (e) not to be treated or punished in a cruel, inhuman or degrading way.
- (2) Everyone has the right to bodily and psychological integrity.

Since this right is closely related to human dignity, any infringement of one's bodily or psychological integrity will invariably affect one's dignity (Beckmann & Malherbe, 2003:38). In the context of education, the prohibition of cruel, inhuman and degrading punishment has had a definite impact on corporal punishment and other forms of punishment in schools. Sexual harassment, intimidation and violence against girls constitute an infringement of their bodily and psychological integrity and therefore also a serious infringement of their right to freedom and security of the person.

### Section 24: The right to a safe environment

In terms of section 24 of the Constitution, everyone has the right to an environment that is not harmful to his/her health and well-being. This means that learners have a constitutional right to receive education in a safe school environment. Paragraph 4.6 of the Guidelines for the consideration of governing bodies in adopting a code of conduct for learners (Department of Education 1998:4) states that

... learners have a right to a clean and safe environment that is conducive to education. Security of property, well-cared-for facilities, school furniture and equipment, clean toilets, water and a green environment, absence of harassment when attending classes or writing tests and examinations, all create an atmosphere that is conducive to education and training.

*Educators' duty of care*

According to Maithufi (1997:260-261) there are two coextensive pillars to the *in loco parentis* role that educators play: the duty of care (which implies looking after the physical and mental well-being of learners) and the duty to maintain order at a school (which implies educators' duty to discipline learners).

It is important to remember that "duty of care" does not refer to a general obligation: it is an obligation towards specific people or groups of people in the care of a specific educator (Neethling, Potgieter & Visser, 1992:140). Such an educator has a duty to protect the learners from harm since the duty of care is a legal obligation. The law expects educators to act as *diligens paterfamiliae* at all times in education situations. The duty of care of an educator is therefore compared to the degree of care that a diligent father of a family would serve towards his family. In other words educators have in terms of their duty of care also the legal obligation to protect learners from any form of sexual harassment and violence at school.

*Duties of school governing bodies in creating safe schools*

In terms of section 24 of the Constitution learners have a constitutional right to receive education in a safe school environment and school governing bodies of public schools have a major responsibility to ensure that the learners' right to a safe school environment is realised (Boshoff, 2000). A primary role of school governing bodies is to develop a code of conduct for learners in terms of section 8 of the Schools Act, which includes policies dealing with safety and school discipline. A safe school may be seen as one that is free of danger and where there is an absence of possible harm; a place in which all learners may learn without fear of ridicule, intimidation, harassment, humiliation or violence.

**Section 16: Freedom of expression**

The right to freedom of expression, which is guaranteed by section 16, protects all forms of communication, including its contents and those to whom it is addressed. Expression is a wide concept that includes the following:

- Speech (the spoken word, displaying posters, painting, dancing).
  - The written word and publications (the press and the media).
  - Symbolic acts (burning flags, wearing certain items of clothing and physical gestures).
- Three exceptions that circumscribe (limit) freedom of expression are listed in subsection (2). One of these exceptions (subsection 2(3)) is usually referred to as "hate speech". An expression may be considered hate speech if two elements are present:
- Advocacy of hatred on one of the listed grounds in section 9 of the Constitution (against women and girls).
  - Incitement to cause harm (against women and girls).

From the foregoing discussion it is clear that female learners are entitled to the right of equal opportunities, equal treatment, to human dignity, to freedom and security of the person (to be free from all forms of violence), to a safe school environment which is free from sexual harassment, intimidation and violence.

**The current situation in South African schools**

According to the following newspaper reports from 2002 to 2004, in which statements of departmental officials, chief executive of the South African Council for Educators (SACE), gene-



ral secretary of the South African Democratic Teachers' Union (SADTU), and others, on child abuse and sexual harassment in schools were published, one could deduce that sexual harassment and child abuse is a serious problem in many of our schools.

According to a report in *The Citizen* (20 February 2002), Chief Director Palisa Tyobeka from the National Department of Education gave the following information in a briefing session on child abuse and sexual violence in schools to the National Assembly's education committee:

- Many educators believe it is acceptable to have sexual relationships with learners.
- This type of relationship is complicated by the power relationship.
- Some of these relationships are approved by parents because educators are able to provide money to impoverished households.

She said further that her department's campaign to restore public confidence in the department's ability to protect children included the following actions:

- A special task team to monitor the implementation of existing policies to address abuse in schools.
- Collaboration with the Office of the Director of Public Prosecutions to institute a prosecution system geared specifically towards schools.
- School support teams to provide face-to-face counselling for both learners and educators who have been abused.
- Self-defence projects in all areas to empower learners and educators emotionally and physically.

Ms Tyobeka also said programmes would ensure adequate preparation of educators on human rights education, gender sensitivity, ethics in the teaching profession and educators as care givers.

The *Sunday Times* (23 November 2003) reported that 32 educators had been booted out of the teaching profession in the preceding three years — mainly for having sex with learners. Rey Brijraj, chief executive of SACE, said in most cases educators had had relationships with learners from Grades 10 to 12. He said that although it very often turned out to be a consensual relationship, the South African Council for Educators does not condone that kind of behaviour even if there is consent. Educators have positions of power. Whilst the relationship between the educator and the learner may be voluntary, it boils down to the educator exploiting his or her position. Brijraj said that the Council's stringent measures prevented educators who had been struck from the roll from teaching in other countries. SACE set up a 24-hour hotline after complaints about the teaching profession had been brought to the attention of the former Education Minister, Kader Asmal.

Table 1 gives statistics of sexually related misconduct by educators reported at SACE between 1999 and 2002.

**Table 1** Types of misconduct dealt with by SACE (adapted from Rossouw, 2003:74)

	1999	2000	2001	2002
Verbal abuse, victimisation, harassment	19	19	25	27
Sexual misconduct	2	6	12	72
Total	21	25	37	99

From the above statistics it appears that educator misconduct increased dramatically from 1999 to 2002. Hopefully this is merely the result of increased reporting, following programmes to make educators as well as learners aware of their rights and the availability of the 24-hour hotline of SACE to report cases of educator misconduct.

In the same report in the Sunday Times (23 November 2003), it was reported that the country's largest teachers' union, the South African Democratic Teachers' Union (SADTU), had recently hailed SACE's action. The Union's general secretary, Thulas Nxesi, said SADTU supported efforts to expose criminal elements in the teaching fraternity because people involved in the sexual abuse of learners are criminals and they must be harshly dealt with by the law. He said further that the 32 educators struck from the roll were just the tip of the iceberg.

According to Peroshni Governer one in three children will be sexually abused before they turn 18. This stark statistic was provided in Pretoria on 28 May 2002 when the Department of Education announced a campaign aimed at eradicating gender-based violence (Star, 29 May 2002).

The Mail & Guardian (30 January; 5 February 2004) reported on the sexual abuse and sexual harassment of learners in and around schools. The 'Dossier of shame' report, carried out by five non-governmental organisations (NGOs) on sexual violence in and around schools, highlighted the rape of children by educators, as well as sexual abuse of female learners, some as young as six, by gangs of boys (some between the ages of eight and twelve). Indeed, the report indicates that almost 24% of the offenders that one clinic dealt with were between the ages of seven and fourteen. The dossier details 76 cases of sexual, physical and emotional abuse from June 1999 to June 2003, which it alleges were reported to education officials, but were ignored by provincial education departments. Another study carried out by the Women's Legal Centre indicated that more than 30% of girls who are raped, are raped at school (Mail & Guardian, 9-14 January 2004).

It is interesting to mention that during an oral examination in June 2005 of MEd students, a candidate was asked to explain the terms "unfair survivors" and "innocent victims" regarding the "war" against HIV/AIDS. Part of his answer was that many schoolgirls exploit their educator's sexual interest in them to their own benefit. If they need financial support the interested educator is called the minister of finance and if they need "support" with their schoolwork, the educator is called the minister of education. This is, however, no excuse for educators to misuse their authority in schools.

The national household HIV prevention and risk survey of South African children' (Brookes *et al.*, 2004), on the incidence of HIV amongst children under 14 — according to the recent report, 4.7% of children aged 10–14 are HIV positive and there is speculation that sexual violence is a critical issue.

In The Teacher of 29 February 2004 a spokesperson for the Gauteng Department of Education stated that the 12 cases of sexual abuse in the 2003 academic year all resulted in dismissals of the educators concerned.

The Teacher also reported that Luke Lamprecht, manager of the Teddy Bear Clinic in Johannesburg, had said that whilst schools were happy to report suspected cases of abuse that occurred outside of the school environment, "when it happens inside the schools it's a whole other story, there's a big cover-up".

The allegations made by the manager of the Teddy Bear Clinic are very serious, since educators are legally obliged in terms of the Child Care Act and the Domestic Violence Act to re-

port any form of child abuse to the Welfare or to the Child Protecting Unit of SAPS. This duty has been recognised by section 42(1) of the Child Care Act, which provides that various professional workers, including medical and social workers and educators, have a duty to report cases of child abuse that come to their attention in their official capacity.

Section 4 of the Prevention of Family Violence Act (No. 133 of 1993) adds educators to the list in the following words:

Any person who examines, treats, attends to, advises, instructs or cares for any child in circumstances which ought to give rise to reasonable suspicion that such child has been ill-treated, or suffers from any injury the probable cause of which was deliberate, shall immediately report such circumstances:

- (a) to a police official; or
- (b) to a commissioner of child welfare or a social worker referred to in section 1 of the Child Care Act, 1983 (Act 74 of 1983).

### **Recommendations**

Educators must be seen willingly accountable and responsible for, amongst other things, the protection, promotion and fulfilment of the rights of female learners to equal opportunities, equal treatment in a school environment which is free of any form of sexual harassment, violence and intimidation. Change is something that should come from within schools and school communities. Although it requires knowledge and skills, it especially requires a change in attitudes to address the current injustices regarding sexual harassment and violence in South African schools.

To improve the situation in our schools, it is necessary that school management teams co-operate with governing bodies and make a serious attempt to stop any form of sexual harassment and violence in schools (Niemann, 2001:14-15; Mitchell & Sackney, 2000:185-190; Squelch, 2001:142). Such an attempt should involve the following:

- Developing a school culture in which values and human rights are protected, promoted and fulfilled.
- Equipping the learners with the necessary skills to be able to assert themselves in cases of emotional and sexual harassment, victimisation, intimidation, hate speech and all forms of sexism.
- Creating an awareness of the definition and different forms of sexual harassment.
- Developing a standard of conduct among gender groups.
- Creating a climate of trust in which stereotyping is avoided.
- Encouraging female learners to talk to educators who are trusted about any incident of sexual harassment or sexual abuse.
- Creating a safe school environment conducive to effective teaching and learning.

Teacher unions should play a major role in improving the professionalism of educators and in preventing unethical conduct such as sexual harassment and abuse of learners. Union members should be encouraged to report any form of sexual harassment and child abuse by colleagues.

The Department of Education should make use of programmes to sensitise all partners in education about ways to protect, promote and fulfil human rights in education. Educators should be encouraged to register for university courses in Values and Human Rights. Educators must be made aware of the fact that their authority and power to act in a school is delegated by the Head of Department and that the misuse of power will not be tolerated.

Provincial departments of education should apply a zero-tolerance approach toward any person in education who misuses his/her position of authority to intimidate and/or sexually abuse girls.

The South African Council for Educators (SACE) should do everything in its power to promote educator professionalism in South Africa and to encourage educators to earn the status and respect associated with the term 'profession'.

Parents could expect from educators who are appointed at their children's schools to be proud bearers of the culture, religious norms and values that are peculiar to the local school community. Parents could therefore play a major role as important partners in education to support the school financially and support educators with school discipline. However, they should also play the role of a watchdog through their representatives on the governing body, to check the way in which human rights, culture, moral and normative attitudes and values are conveyed and implemented at a school.

### Conclusion

Although there seems to be no relation between school enrolment and achievement statistics of girls in regard to boys and sexual harassment and violence in South African schools, any form of sexual harassment, intimidation, assault and violence against any female learner is unacceptable because these learners are harassed by the possibility of unwanted pregnancy and emotional pressure, and are denied their self-respect and human dignity. They could even be denied their health and their life.

The human rights contained in the Bill of Rights in the Constitution have, to a large degree, put South Africa on the road to providing legal foundations to ensure that schools are free of sexual harassment, victimisation, intimidation, hate speech against girls and women, and all forms of sexism. However, the Constitution cannot ensure social responsibility, changed attitudes of individuals and groups, assumptions, stereotypes or prejudices. The values entrenched in the Bill of Rights must therefore be realised in the hearts of our people. Every individual must breathe it and live it, until it becomes the standard in society and especially in our schools. Only then the sexual harassment and violence against female learners will stop in our schools.

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