



## CHAPTER 6

### PRESENTATION AND INTERPRETATION OF THE DATA

#### Research premise three

##### 6.1 INTRODUCTION

I presented and interpreted the results obtained from the focus group discussions and in-depth face-to-face interviews in Chapter 5. The results from these instruments were reported as an integrated unit. The research question that underpins this investigation is: “How do learners understand human rights, in particular their right to education?” I explored this question by considering two areas.

Firstly, my emphasis was on learners’ understanding of the **content** of their right to education and the **value** and meanings they attach to this right. I found that learners knew that their right to education implied responsibilities and to them the realisation of their right to education opened an array of future opportunities. In some cases, learners were unsure whether the right to education belonged to them. Secondly, I found that some learners tended to view their right to education as **absolute** and nothing and no one should stand in its way. However, some learners knew that their right to education could be **limited**, but they did not understand how such limitations may be implemented. The results substantiate the fact that learners have an imprecise knowledge of human rights and consequently they confuse their right to education with other human rights. Some learners do not understand the specific provisions of their right to education. These lines of judgement confirm my first two premises:

- **Some learners have limited understanding of their right to education**
- **Some learners do not know how to exercise their right to education**

In this chapter, I shift the emphasis from knowing the content of, absolutising and limiting the right to education, to a more in-depth understanding of the right to education. The emphasis is placed on learners’ levels of human rights reasoning and understanding as illustrated by their responses. I used the data gathered during phase two (focus group discussions) and phase three (in-depth face-to-face interviews) and these results are presented together as an integrated whole. Learners’ levels of understanding were determined by evaluating the reasons they gave for their assertion or non-assertion of their right to education.



**6.2 PREMISE 3: LEARNERS EMPLOY VARIOUS LEVELS OF HUMAN RIGHTS UNDERSTANDING WHEN DEALING WITH DILEMMAS WHERE THE EXERCISE OF THEIR RIGHT TO EDUCATION IS IN CONFLICT WITH THE RIGHTS AND DUTIES OF THE SCHOOL AUTHORITIES**

Learners' levels of rights reasoning were addressed by considering the responses learners provided when answering questions under sections A and B of the in-depth face-to-face interview and focus group discussion schedule. Five conflict-laden vignettes were designed. They involve the interplay between a learner's right to education in relation to other rights which are directly relevant to their education, within the context of the school (see Table 6.1).

Each vignette is followed by questions designed to test the levels at which learners understand their right to education (see addendum R). I probed their rationale for asserting or not asserting their rights in which their relationships with the school authorities were involved. I also asked them how they would have acted had they been in the same position as a learner depicted in the vignette, and why.

I recorded learners' judgements and opinions about the situation depicted in each vignette and the reasons behind their judgements and decisions. The interpretation was done by comparing learners' reasoning against the levels of legal, moral-ethical development provided in Kohlberg's (1969:736-384) and Tapp and Levin's (1974:21-32) theories of legal and moral development and rights understanding (see § 3.5.2). Table 6.1 depicts the issues contained in each vignette:

**Table 6.1: Description of the right to education issues and other relevant rights contained in each vignette**

Vignette no	Description of the right to education issues and other relevant rights
01	Freedom to choose subjects and participate in religious education classes
02	Learners' right to education, corporal punishment and access to resources
03	The right to education and access to personal school file (information)
04	The right to education, freedom of expression and school rules
05	The right to education, confidentiality and the right to privacy

The discussion that follows presents firstly, the results about whether or not learners affirm the rights depicted in Table 6.1. These results are presented in Table 6.2. Secondly, their reasons for affirmation and non-affirmation of their rights were evaluated to determine their levels of understanding (see Addendum V). Although the interest of this study is not in counting the number of learners who said what, I counted recurrences of certain responses in order to ascertain in which vignettes learners sided with the authority and thereby non-



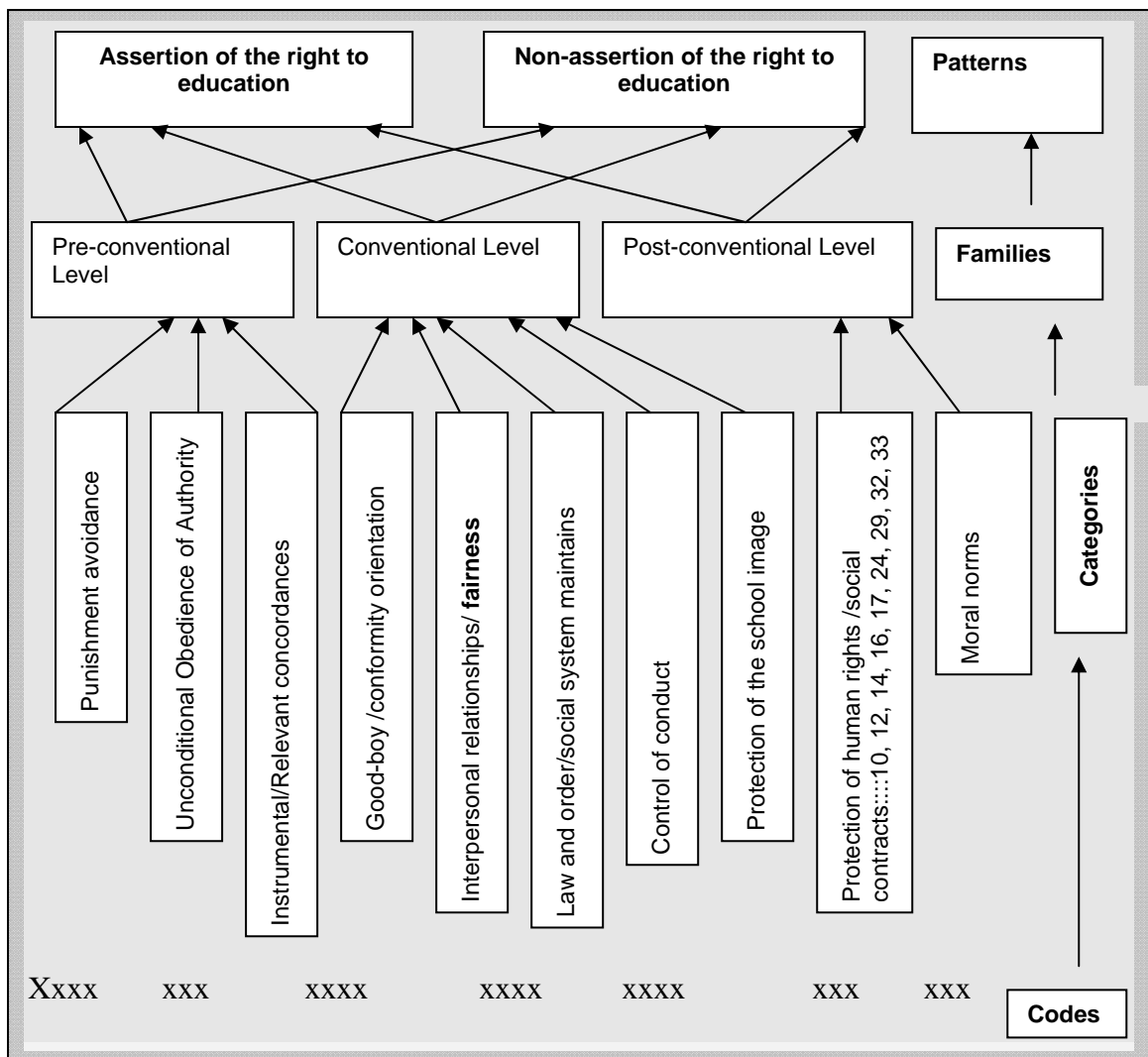
assertion of the right to education and where learners sided with a learner depicted in the vignettes, thereby affirming their right to education.

**Table 6.2: Assertion and non-assertion of rights issues contained in each vignette (Number of respondents = 24)**

vignette Number	Content of each vignette	Non-assertion of rights (percentages)	Assertion of rights (percentages)
01	(a) Freedom to choose subjects	11 (45.8%)	13 (54.2%)
	(b) Freedom to participate in religious education	11 (45.8%)	13 (54.2%)
02	(a) Learners' right to education and corporal punishment.	10 (41.7%)	14 (58.3%)
	(b) Learners' right to education and access to resources.	10 (41.7)	14 (58.3%)
03	Access to own personal file	05 (20.8%)	19 (79%)
04	(a) Learners' right to education and freedom of expression.	18 (75%)	06 (25%)
	(b) Learners' right to education and school rules	18 (75%)	06 (25%)
05	Learners right to education and privacy	15(62.5%)	09 (37.5%)

It appears that learners would assert the rights in vignettes 01 to 03 and choose not to assert those in vignettes 04 and 05.

Investigating premise three, I sifted the data into important patterns and framed the information in manageable data groups, as I did under premises 1 and 2. I worked with **182 codes**. I classified the codes into **16** categories, which were further sub-classified into **three families**. Two patterns evolved from the data. Learners would either assert or not assert their rights (see Figure 6.1 which represents the learners' responses to the different vignettes).



**Figure 6.1: Depiction of the categories, families and patterns which evolved from the interpreted data**

The following discussion deals with each family depicted in Figure 6.1. The discussion refers constantly back to a specific vignette, so as not to lose the question to which the responses were directed. The levels provided in Table 6.3 were used as a guide when evaluating the reasoning behind each response.

If learners' responses demonstrated reasoning based on unconditional obedience to authority, the avoidance of punishment and motivations that are oriented towards self benefit, it was regarded as a Level I response. If learners' responses demonstrated the reasons for assertion or non-assertion of their right to education that were based mainly on the protection of the school's image, interpersonal relationships, control of conduct, conformity or loyalty to the school to which one belongs, maintenance of the social system (the school) it was regarded as a Level II response.



**Table 6.3: Depiction of levels and stages of human rights understanding and reasoning**

Levels	Stages Characteristics	Strongest at ages
<b>First level: Pre-conventional (rule obeying)</b>	Stage 1: The punishment and obedience orientation	7-11
	Stage 2: The instrumental purpose/ relativist orientation (egocentric)	10-13
<b>Second level: Conventional (rule maintaining)</b>	Stage 3: Conformity. Interpersonal accord/ good boy orientation	11-25
	Stage 4: Law and order or social system maintenance	15-25
<b>Third level: Post-conventional, autonomous or principled level ( rule making</b>	Stage 5: The social contract, legalistic orientation, individual rights	20-25
	Stage 6: The universal ethical principles or conscience orientation	21-25

(Adapted from Fernhout (1990:105-107); Kohlberg & Greif (1969:376); Kohlberg & Kramer (1969:100); Kurtines & Greif (1974:454); Melton (1980:187); Pagliuso (1976:34); Rowe (1992:79); Snarey (1985:203); Salkind (1994:635); Tapp & Levin (1974:21))

Lastly, if learners' reasons for assertion or non-assertion of their rights demonstrated personal commitment to universal principles, such as human dignity and self worth, equality, defending individual human rights and other moral norms, it was regarded as a Level III response (see Table 6.3 & Figure: 7.2).

### 6.2.1 Human rights understanding and reasoning at the pre-conventional level

The literature indicates that learners operating at the pre-conventional level (Level I) exhibit an egocentric orientation in which rights are perceived in terms of privileges that are bestowed or withdrawn at the whim of authority figures (Ruck *et al.* 1998a:405; Salkind 1994:540). The reasons for obeying rules are to avoid punishment or any other physical harm, or are as a result of fear of a person in authority. All rules handed down by those in authority such as parents, educators or God must be unquestioningly obeyed. Punishment is seen as a consequence of bad action. Acts that show disobedience must be followed with punishment immediately (Fernhout 1990:104; Kohlberg & Kramer 1969:100). The pre-conventional (rule-obeying) level was discussed under § 3.5.2.1.

In this section I present learners' responses that demonstrate Level I reasoning. I clustered these responses under the family 'Pre-conventional level' of rights reasoning and the categories in this level are:

- Punishment avoidance;
- Unconditional obedience to authority;



- Instrumental/relevance concordances.

I present the findings in each of these categories in the three sub-sections that follow.

### 6.2.1.1 Punishment avoidance

When learners were confronted with dilemmas where they had to supply their reasons for assertion or non-assertion of their right to education, some of them justified their decisions based on punishment avoidance and/or fear of any other physical harm. An example given below concerns subject choices that were addressed in vignette one (see Addendum R). When asked what their judgements would be if they were in the same position as the learner depicted in the story, learners' responses showed different understandings. They seemed to assign different values and significance to different subjects and have different perceptions about school authorities.

There were those who affirmed their right to choose the subject they want; those who felt the school had to exercise its authority; those who were not sure whether they should or should not affirm the authority; and those who did not know what to do. The results, which are worth noting, are that few learners were against the decision of the learner who refused to attend Mathematics classes. They however affirmed the authority of the school to make Mathematics a compulsory subject. Learners gave the following reasons for affirmation of the school's decisions:

- *If I were in the same position, I would do the subject... If educators say the subject is compulsory, then it is compulsory. Those who are saying the subject is compulsory know more about the subjects. They know the importance of the subject. If he is a real school child, he would do as his educators say. If he refuses, the educator must tell his parents that their child is refusing to do the subject (I10/2).*

This response indicates that learners, reasoning at the pre-conventional level (Level I), renounce their right to choose subjects only to avoid punishment (being reported to their parents) and out of fear of the authority figure (I10/2). Another reason furnished by learners, affirming the school authority's decision, was their understanding that different schools emphasise different subjects, for example:

- *As a school child, he must follow the school's decision. He must do all the subjects that are compulsory. The school is not denying him his right to education, the thing is, each school has its own set of rules, regulation, which must be followed (F3/5).*

This level of thinking is consistent with Dunkle's (1993:291-292) finding that learners relied on their personal feelings and opinions about the value of equal access policies and their believed that the school has greater authority over what should or should not be done at school. Learners who felt that they should be afforded the opportunity to choose their subjects, reasoned that the school was committing an injustice and were therefore against



the idea that Mathematics was compulsory. They expressed the following reasons for non-affirmation of the school's decisions:

- *A person should be allowed to choose the subject he or she wants to do... I prefer to have a choice or a say in choosing my subjects (F1/6).*

This response is in line with what Fernhout (1990:104) calls the “\concrete individualistic perspective’ in which a learner recognises that everybody has interests to pursue and the interests may conflict. Doing the right thing at this level is motivated by serving one's own needs.

I probed the reasons why they think learners should be given a chance to choose their subjects. These were their responses:

- *... he has the right to choose the subject he wants, depending on what he wants to become but the school authorities, too, have the right to choose the streams they want to follow (F3/5).*
- *I would like to choose the subjects which I like, which are relevant for my future career (F4/8).*
- *She must see her file, because it contains her information. It is possible that educators might record something bad about learners, especially learners who are naughty. Learners must know what the school says about them (F3/6).*

These responses confirm that some learners affirm their rights when those rights are of immediate benefit to them (F3/5) and relevant to what they aspire to (F4/8). This finding is consistent with the findings of Limber *et al.* (2000:373) who state that most learners in higher grades were of the opinion that they should be given the opportunity to make their own decisions. Peens (1998:137) found the same results in that learners between the ages of 17-18 affirmed their right to freedom of choice.

Another issue addressed in vignette one is freedom of religion. According to Article 14 of the CRC (1989), everyone has the freedom of conscience and religion (Detrick 1999:23; Ochaita & Espinosa 2001:332; Taylor *et al.* 2001:39). Section 15 of the Constitution recognises personal freedoms of conscience and religion and the right to conduct religious observances at state and state-aided schools. Religious observances are allowed in public schools, provided they are conducted in accordance with rules and on an equitable basis (Beckmann 1995:99 and 1997:9). If a school endorses one religion, learners might feel that they are being compelled to participate in that particular, religion against their will or beliefs. Such practices are inconsistent with the provisions of article 14 of the CRC of 1989 (Dunkle 1993:291).

While public school cannot promote only one religion at the expense of other religions, schools themselves are not necessarily religion-free zones. What is prohibited is to use an organ of the state such as a school, to promote a particular religion, or to privilege a particular religion over non-religion or *vice versa* (O’Hair *et al.* 2000:258).





With regard to freedom of religion (vignette one), responses of learners showed mixed perceptions. There were those who felt that religious education should be a compulsory subject and therefore affirmed the decision of the authority of the school to coerce learners into attending religious education classes. These learners were against the decision of a learner who refused to attend religious classes and they gave the following reasons:

- *If I were in the same position I would agree just to avoid bad treatment. I do not want to argue with the school authorities (F4/7)*
- *I do not understand well about religious education and rights at school. I would just attend and see what comes out of it. (F2/9)*
- *I am afraid that I might become spoiled (F2/12).*
- *I am afraid that if I do not follow school rules I might end up having a bad name in educator's records. Even if you are good in doing your school work, educators might see you as a spoiled learner or it may harm your reputation (I2/3)*

These responses indicate that some learners relinquish their rights and side with the school authority in order to avoid bad treatment (F4/7). Such lines of reasoning exemplify a Level I human rights understanding, because the reason given for asserting or not asserting the right is the avoidance of punishment.

With respect to whether or not learners should have access to their own school file (vignette three), some learners affirmed their right to see their progress files, while others affirmed that school authorities should keep school records confidential. I probed the reasons for their decisions. Fear and avoidance of bad consequences were the most prominent reasons when decisions were made. These are some of their responses:

- *I follow all the rules because if I do not do so, I suspect that the school might expel me. I do not know where I would go should that happen to me (F1/11).*
- *A learner must know what her file says about her. I think it might happen that an educator hates you. Then he can just record bad things about you just to spoil your name (F2/12).*
- *If I do not follow the rules, the educators may recommend that I be suspended from school (F1/11)*

Again these responses reveal the fact that some learners assert or not assert their right to education, because of possible negative consequences (F1/11).

Learners' responses showed mixed perceptions with regard to whether or not a learner should be allowed to publish an article criticising school rules (vignette four). Some would assert this right, while others were afraid that if one writes such an article, it could lead to expulsion (F1/11), suspension (F1/11) and being failed (F1/11) and that rules are rules (F2/3). This way of reasoning is exemplified by the following responses:

- *I follow all the rules, I do even at home, and there are rules which I follow. I follow all the regulations. If I do not follow the rules, the educators may recommend that I be suspended from school (F1/11).*





- *I follow all the rules... educators may fail you (Laughter) I suspect that they might fail me (F1/11).*
- *I follow all the rules so that I learn good manners. I do not want to become a bad learner. And if you display bad manners, educators may fail you (laughter). I suspect that they might fail me. Another thing is that we must follow the rules, because educators believed that those rules are good (F1/11).*
- *... cannot criticise the school rules. Follow all rules. Rules are there to be followed (F2/12).*

The above responses indicate a pre-conventional level of human rights reasoning, because the motive behind assertion or non-assertion of rights is the avoidance of punishment.

With regard to whether or not a learner should tell his educators of his illness (vignette five), their reasoning was not based on the fact that their right to education allows them to choose whether to do so, but out of fear of negative consequences, exposure or prejudices, for example:

- *I am afraid the educator might tell other educators, or learners and everything that I do could be judged against my illness. I once heard an educator saying that "don't listen to him he is not well" and that was bad (F1/12).*
- *I think a learner is the one who is doing things which are wrong. The principal is doing his job. He cannot allow her to come to school at will ... you come to school, or they punish you (F2/10).*

From the above responses, which again illustrate learner reasoning at Level I, I conclude that these learners regard it as their responsibility to follow all the externally defined rules, simply in order to avoid punishment or bad treatment. They understand a one way imposition of authority.

The second category that was derived from the data is that some learners, when confronted with the challenge to take decisions regarding exercising their right to education, tend to side with the authority and thereby surrender their rights. Other responses indicate that some learners' reasoning about the action of the learner depicted in each vignette was based on unconditional respect for those in authority. This attitude is discussed in the following subsection.

#### **6.2.1.2 Unconditional obedience to authority**

Some learners' reasoning indicates that they did not assert their right to education due to unconditional respect for authority (see Figure 7.2). They do not question the decisions of those in authority. Learners' responses show a trend where rights are perceived in terms of privileges that are bestowed or withdrawn upon the whims of authority figures. Their motivations are based on fear of authority, for example:

- *I follow all the regulations. If I do not follow the rules, the educators may recommend that I be suspended from school (F1/11)*
- *I must respect. I think it means I must respect my educators (I9/1)*



- *I would agree. If I were in John's position I would agree. I would not argue with older people. Arguing with older people shows disrespect (I7/2).*
- *The school knows why it should be like that (F2/11).*
- *I would agree, I would not argue with older people. Arguing with older people shows disrespect (I7/2).*
- *...must accept everything the educator says (F2/8).*
- *...a learner must do everything that his educators tell him to do (F2/8).*

When studying the above responses, one can deduce that some learners' reasoning about their right to education is still at Level I (pre-conventional level). They obey their educators unconditionally. When confronted with a challenge in which they have to judge whether or not to assert their right to education, they tend to side with the school authorities. The reasons given are that one must follow the school's decision no matter what (F2/8), and one must not argue with educators (F4/7) because educators know more (F2/11). This way of reasoning means that although some learners know that they have the right to education, they may choose not to exercise it because of respect for authority.

With regard to subject choices, some learners prefer to have a choice in the selection of subjects, whereas others believe that the school has greater autonomy in deciding the streams to be followed, for example:

- *I think it is important for the school to have subjects which are compulsory. Educators know which subjects are important for every learner. We must agree on everything which our educators say. If you do not want the subject that your school offers, then you do not want to become successful. And you are not respecting the decision that your school has taken (F2/8).*
- *I concur with the last speaker who says that a learner must do everything that his educators tell him to do. Because, if the school says these subjects are compulsory, and you do not want to do them, then why did you go to that school in the first place (F2/8).*

Concerning access to their own personal school files (vignette three), those learners who reason on a pre-conventional level again showed unconditional obedience to authority, for example:

- *When the school says a learner is not allowed to see her or his file, they mean that you must not see it. The school knows why it should be like that F2/11).*
- *Because rules were there, because rules were there before I came to this school, I must just obey (F4/13).*

Learners' responses indicate that they obey rules and laws that are imposed by adults in positions of authority, such as educators and parents. Rules and laws are seen as external to oneself. Rules are implemented to prevent learners from doing wrong, for example:

- *If there are no rules, fighting may increase. Schools might become hostile environment. Things like bullying; stealing may become rife (F2/15).*
- *If a learner did something wrong, the school may use the rules to charge him or her...and to demand respect. It is better to ...to attend a school which is governed by rules. You feel safe (F4/12)*



- *Rules help us to get to school in time. If they say you must arrive at school in time, and you arrive here during short break, educators use that rule to reprimand and to call you in to order (F2/14)*
- *Must listen to what the rules say. Rules are there to be followed (F1/9).*
- *There is nothing I can do because the school keeps the file (F4/10)*

From the evidence given above, the issue of respect for educators emerges strongly. The respect that is considered due to the educator is equated with the respect learners afford their parents, for example:

- *... he must respect his educator. We must hold them in higher esteem and treat them like our parents no matter what...it stays that way (F1/12).*

This finding of unconditional obedience to authority is consistent with that of Melton (1980:189), that learners from a low socio-economic background are suspicious that exercising their rights might lead to them being punished or may cause personal discomfort. This might be the case with respondents in this study who come from low socio-economic backgrounds.

Another point is that the respondents in my study are from a culture that encourages unconditional obedience to authority. African culture places greater emphasis on the concept of 'vhuthu' (humaneness), solidarity and respect for those in authority. This finding is consistent with Peens (1998:147) and Ncube (1998b:17), who confirm that some cultures naturally emphasise unconditional respect for authority (see § 3.4.5).

In the next sub-section, I focus on the category 'instrumental or relevant concordances'.

### 6.2.1.3 Instrumental/relevant concordances

Another fact that is evident from the learners' responses is that they assert individual rights presented in a particular vignette, because these rights may offer them something beneficial as individuals, for example:

- *In reality I go to school because I am preparing for my future. I want to have a better future, I want to have good job, better house and family ... I do not want to find myself suffering in my daily life (F4/5).*
- *There are some things that you get from Religious education, something like good morals, these are important in our lives (f1/6).*
- *... religious education would help you improve your morals. That is important even in the work place (F1/7)*
- *... if you follow rules, you become educable and learning becomes possible (F2/10).*
- *I want to be educated ... I want to reduce poverty in my place, especially poverty in my own family. I want to get a job. Most children, like me, come from poor families. And I do not want that to continue (F2/7).*

The above responses indicate learners' desires to fulfil own needs and aspirations, like having a brighter future (F4/5). There is much interest in satisfying one's own needs and



doing things that are instrumental in enhancing one's future, like following school rules, because if one does so, one becomes educable (F2/10). This way of thinking was also evident when learners were asked about subject choices. Some would do Mathematics after due consideration of its relevance to their future career, their competencies in the subject (F1/6), and the consequences of doing or not doing the subject. Grade twelve learners said:

- ... but I would take it or leave it depending on my ability in Mathematics (15/4).
- I would first consider if it is relevant to my future career. If it is not, I would prefer to choose other subjects which are relevant to my future career (15/4).

The above responses indicate a pre-conventional level of reasoning, where learners' reasons for affirming or not affirming their rights exhibit an egocentric orientation and rights are perceived in terms of privileges that are bestowed or withdrawn on the whim of authority (Ruck *et al.* 1998 a:405; Salkind 1994:540) (see § 3.5.2.1).

This finding is consistent with Helwig's (1997:492-493) finding that adolescent learners justify their judgments in terms of personal desires. However, the difference in this study is that when the right to education is not affirmed, learners give reasons concerning what is beneficial to them and personal needs (Level 1 responses). This level of reasoning is usually exhibited by primary school learners as revealed in part in Helwig's (1997:492-3) findings. Respondents in this study could have been expected to reason at a more advanced level as the literature suggests (Melton & Limber 1992:174; Helwig 1995:162 and 1997:493).

The most likely explanation might be that the learners participating in my investigation were previously not exposed to human rights experiences. The previous school system did not provide that experience, since exposure to human rights experience can be expected to improve the levels of human rights reasoning (Cherney & Perry 1996:243) (see also § 3.4.3). Another possible explanation could be that different cultures emphasise different kinds of human rights (Melton & Limber 1992:177; Cherney & Perry 1996:243).

Lastly I asked learners what it means to them to have the right to education. The evidence obtained from the interviews and focus group responses also confirms that some learners perceive their right to education in terms of what they must have or do in concrete terms (pre-conventional level), for example:

- I must get all learning support materials (14/1).
- Educators must teach us (F3/1).
- To me this right means that I should be given textbooks (F4/2)
- We must be taught by qualified educators (15/2)
- We should be allowed to do what we want (F3/1)
- I must be able to learn what I want, everything that I want. No one must choose for me what to learn or not to learn (15/1)



These responses imply that learners view their right to education in tangible and concrete terms (I4/1) and (F2/4). The educators are expected to confer this right upon them (F3/1). These responses exemplify a pre-conventional level of human rights understanding because the reasoning is based on what learners think they must have or be allowed to do in concrete terms. This finding is consistent with the results of the research conducted by Peens (1998:24) that learners may justify their rights in terms of concrete reality, especially those thinking at a pre-conventional level.

By way of conclusion, the responses presented in this section show that some learners reasoning about their right to education is at a pre-conventional level (Level I), although according to the literature they could be expected to reason at a more advanced level (Ruck *et al.* 1998b:284).

When learners were confronted with dilemmas where they had to supply their reasons for assertion or non-assertion of their right to education, some of them justified their decisions based on punishment avoidance and/or fear of any other physical harm.

Some learners' reasoning indicated that they assert or not assert their right to education due to unconditional respect for authority. This is consistent with Lickona's (1969:342) observations that parents from different social classes differ in the extent to which they exercise authority over children. This might be the core reason why some of the learners cannot envisage going against the authority of their educators. Parents from lower classes tend to use authority that promotes unquestioning, total acceptance of adults' imposed values. Parents, in so doing, cause a child to think of rules as physical, absolute and unchangeable. This retards the child's development to an autonomous level of thinking. This view is in line with the results of Peens (1998:147) that respect plays a strong role in the Sotho culture, in particular, strong respect for elderly people. Melton and Limber (1992:177) and Cherney and Perry (1996:243) also found that different cultures emphasise different kinds of human rights.

Another fact that is evident from the learners' responses is that they assert individual rights presented in a particular vignette, because these rights may offer them something beneficial as individuals. This finding is consistent with the literatures which reveal that learners who reason at instrumental stage reflect an individual orientation. There is much interest in fulfilling one's own needs (Kohlberg & Kramer 1969:100; Tapp & Levine 1974:21; Rowe 1992:79; Pagliuso 1976:24; Piaget 1997:95; Salkind 1994:540).

The second level of human rights understanding is the 'conventional level', which is explored in the following section in terms of the data that evidences learners' responses that can be classified under this level.

## 6.2.2 Human rights understanding and reasoning at the conventional level

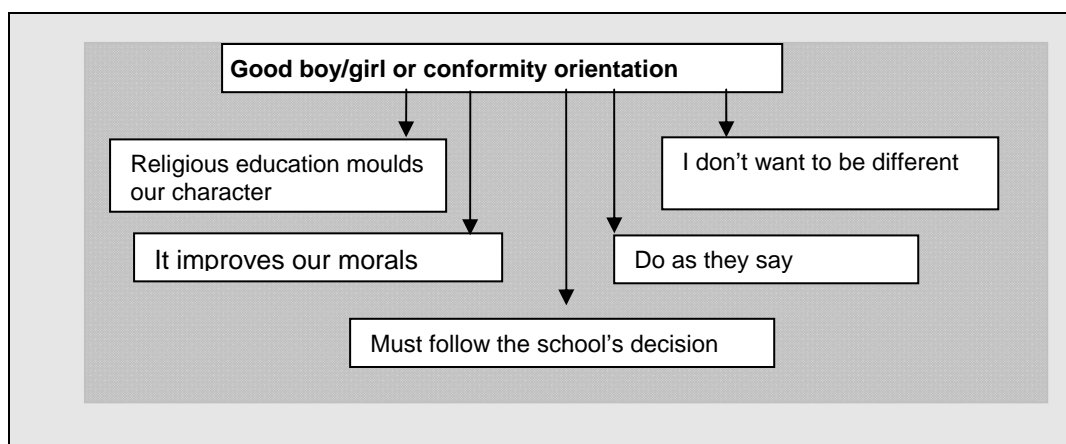
In this section my focus is on the responses, which I interpreted as belonging to the family that I named the 'conventional level'. I dealt with the theory of the conventional rule maintaining level of rights understanding or reasoning in § 3.5.2.2. When analysing the data, I realised that some learners are capable of reasoning on the conventional level when dealing with conflict-laden vignettes. Categories that make up the conventional level family are:

- Good-boy/girl or conformity orientation;
- Interpersonal relationships/fairness;
- Law and order/social system maintenance;
- Control of conduct;
- Protection of the school's image (see Figures 6.1 & 7.2).

Each of these categories is now discussed in turn.

### 6.2.2.1 Good boy/girl or conformity orientation

According to Fernhout (1990:106), Kohlberg and Kramer (1969:100) and Peens (1998:46-47) this level has two stages of human rights reasoning (see Table 6.3). The main reason for asserting or not asserting individual rights is the fulfilment of the expectations of a group or any institution to which one belongs.



**Figure 6.2: Depiction of the category: Good boy/girl or conformity orientation**

Figure 6.2 depicts the category good boy/girl or conformity orientation. According to this line of thought, good behaviour is that which pleases or assists others and is approved by them. With regard to freedom of religion (vignette one), responses of learners showed mixed perceptions. There were those who felt that religious education should be a compulsory subject and they therefore agreed with the decision of the authority of the school to coerce learners into attending religious education classes and in so doing, give-up their right to





religious freedom. These learners were against the decision of the main story character not to attend religious classes and gave reasons such as the maintenance of the expectations of those in authority and conformity to rules (F2/9), following the school's decisions or just leaving for another school (F3/5). These opinions are evidenced by the following responses:

- *I think he must attend the religious education classes, it is important and he must follow the school rules, and attend religious education classes, or otherwise he should have left his school for another one where there are subjects which he likes (F2/9).*
- *If educators say subjects are compulsory, then it is compulsory. Those who are saying the subjects are compulsory knows more about the subjects, they know how, and the importance of that subjects. If he is a real school child he would do as his educators' say, if he refuses, the educator must tell his parents that their child is refusing to do those subjects (I10/3).*

These kinds of responses were observed also in vignettes three (Access to own file), four (Freedom of expression and school rules) and five (Confidentiality and privacy). Learners showed that they want to conform to what is good for the school, for their own good. In this regard the majority of learners did not affirm their rights. Responses that emphasised conformity are, for example:

- *I see. If the school says the subjects are compulsory then, John must take them, if it is the grouping of his school. He cannot come and impose his own rules upon the school. If he does not want their grouping, he should just leave and go and seek admission in other schools, where the grouping suits him. Because it is like schools are not the same and they offer different subjects (F3/5).*
- *If she is a good learner, she must follow rules which apply to her own school (F2/9).*
- *I follow the school rules; I put on my school uniform every day. I want to look like all other learners. I do not like to be different. Rules help to mould us. And we become responsible people and help us to prepare for our future (F2/14).*
- *It is not good for a learner to criticise school rules publicly. If she dislikes school rules, she must just tell her parents that she could not attend that school because its rules are difficult for her to follow. She can move to another school. It is better that way. Because other learners find nothing wrong with those rules (F2/13).*

The above responses indicate that some learners' reasoning is at the conventional level where they affirm or do not affirm their rights, with the sole purpose of wanting to conform (F2/14) to the expectations of those in authority. They do not want to go against what has already been already agreed upon (F2/13).

Other learners seem to consider interpersonal relationships before making any claims on their right to education. In the next sub-section, I explain the category 'interpersonal relationships' based on the fairness of any act.

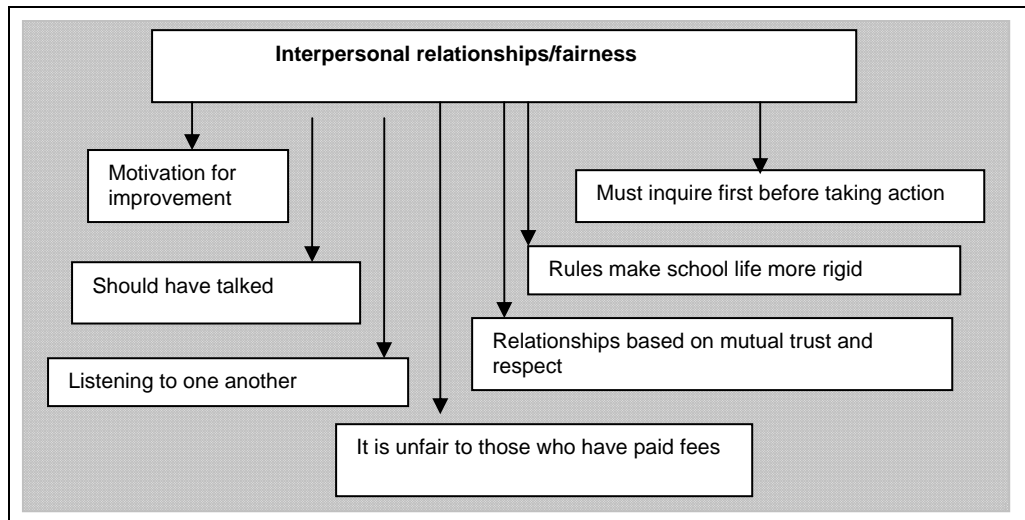
### **6.2.2.2 Interpersonal relationships or fairness**

The discussion concerning interpersonal relationships or fairness is based on Figure 6.3. Some learners considered interpersonal relationships before asserting or not asserting their rights. They considered whether or not their choices would damage the relationships



amongst themselves and their educators. Some responses show that they affirm their rights to see their files (vignette three):

- *She must see her file if she sees that some of her marks are low, she would be able to study hard so as to improve. If she sees that her conduct is bad, may be she could want to change and behave well. They must allow her to see her file. If I were in Andani's position I would humbly ask them to let me see my file (F3/6).*



**Figure 6.3: Depiction of the category: Interpersonal relationships or fairness**

- *If you respect your educators you will enjoy your schooling. You will learn more. If that is not the case learning will become a struggle. The educators will also not enjoy teaching you. How can they enjoy teaching you? How can they enjoy teaching a learner who undermines their authority? (F2/3).*
- *I would try by all means to persuade the principal to let me see my file, because everything that is written on that file concerns me. It contains my news, my work and all my rights and wrong doings. May be if I know what it says about me, I could change my ways of doing things. Or after all I have the right to know what it says about me (I5/5).*
- *I would tell him that a learner must be given a chance to see her file so that she knows what is written or known about her. Perhaps there might be some issues she might want to redress. If the file says well about her, it could make her feel good about herself (I5/5).*

Some of the responses indicate that learners are of the opinion that they must have access to their files, and would humbly request that they be given their files, had they been in the same position as the main story character (F3/6). The results indicate that various perceptions, reasons and motivations exist for demanding to see a personal file or not. Some learners are motivated by the fact that it is their right to do so (I5/5), whereas others claim that a learner must see a personal file because it will lead to motivation to work harder (F3/6), or to limit one's mistakes (F1/8) and ask for forgiveness (I5/5). Some are suspicious that educators may record wrong or damaging information under their name (F3/6 and F4/9) and therefore a learner must humbly ask to see a personal file (F3/6) as it may give them chance to redress any wrong doings.



Learners were also required to judge whether or not the principal was right to deny a learner access to learning resources, because of non-payment of school fees (vignette two). A learner, who believed that the principal was right, responded in this way:

- *I concur with what the principal did. If a learner does not pay her fees and yet he gets everything, it is not right; it is not fair because he would be spending other children's money (F1/7).*

Learners who believed that the principal was wrong when he denied a learner access to learning resources because of non-payment of school fees, responded in this way:

- *I have said earlier on that learners come from different backgrounds. I think that the principal is making things difficult for Mary. Mary should get her results, books and everything, because her parents do not have money. The principal should have tried to help her, maybe by contacting the social worker to help in this matter. Beating her is also not the good option. It is wrong. The principal should have listened to her first before taking any action against her (I9/3).*
- *Yes, the principal should have listened to her, but she in turn should have informed her principal about her problem. Maybe the principal would have listened to her. Maybe he would have acted differently. The principal and the learner should discuss the matter, listen to each other, respect each other. The older people should respect the young people, and so should the young people (F3/6).*

The above responses indicate that the learners' motivations for asserting a right are based on interpersonal relationships and what they perceive to be fair (F3/6). They reasoned that if a learner did not pay school fees, and yet received everything, it would be unfair to those who had paid school fees (F1/7).

With regard to whether or not the principal was right when he administered punishment to a learner (vignette one) for not attending school regularly, again the results revealed different views. Some learners felt that the principal violated the learner's right to education by administering corporal punishment. They provided alternative strategies that could be used such as lending support to the learner, listening to problems and talking the problem through. Besides emphasising good relationships and fairness, senior grade learners also considered the intention of an act, for example:

- *The worst thing is beating her. The principal should have listened to her side of the story, because there are learners who stay away for a bad cause, but hers is right. She has a good reason (poverty) (F3/6).*
- *I think, the principal did not do the right thing. He should not punish somebody who is trying to make things work for himself. He should have allowed him to have access to everything that concerned his education (F3/10).*
- *Beating hurts. I hate a person who beats me. The principal is not right here. Instead of beating her, he should have talked to her and advised her not to stay away from school (F1/8).*
- *He should have known beforehand that Mary is coming from a poor family, it is not right to punish her. Because this learner is trying to make things work for her ... (F4/8).*
- *There is too much punishment here. We are not totally against punishment, but it should be fairly administered ... if there is a recurrence of the same offence, parents can be called ... and be informed about their child's behaviour (F3/2).*

The deduction I made after analysing responses to most of the vignettes is that learners indicated some concern about maintaining mutually beneficial relationships (F3/6). Persons who exhibit this mode of reasoning are classified under the conventional level of reasoning. They differ from pre-conventional thinkers in that they understand that people may hold different views about the same issue, but both may have good intentions. So it is important to consider the views of others before taking sides, to avoid being judgemental and to maintain good relationships. This mode of rights understanding is confirmed by the literature. The work of Peens (1998:40), Rowe (1992:80), Tapp & Levine (1974:21), Kohlberg & Kramer (1969:100), Ruck *et al.* (1998a 405), Blasi (1980:35) and Salkind (1994:540) confirms that a learner who reasons at a conventional level considers interpersonal relationships and fairness of an act as the motivation for the assertion or non-assertion of legal rights.

The discussion now turns to the category 'law and order or social system maintenance'.

### 6.2.2.3 Law and order or social system maintenance

Tapp and Levin (1974:21) call this level of thinking the law maintenance level. At the law and order conventional level, affirmation and non-affirmation of rights and obedience stem from the perceived need for personal, social and moral conformity. Learners understand that rules and laws are necessary to prevent disorder, although the reason for obeying rules and laws remains the avoidance of negative consequences and chaos.

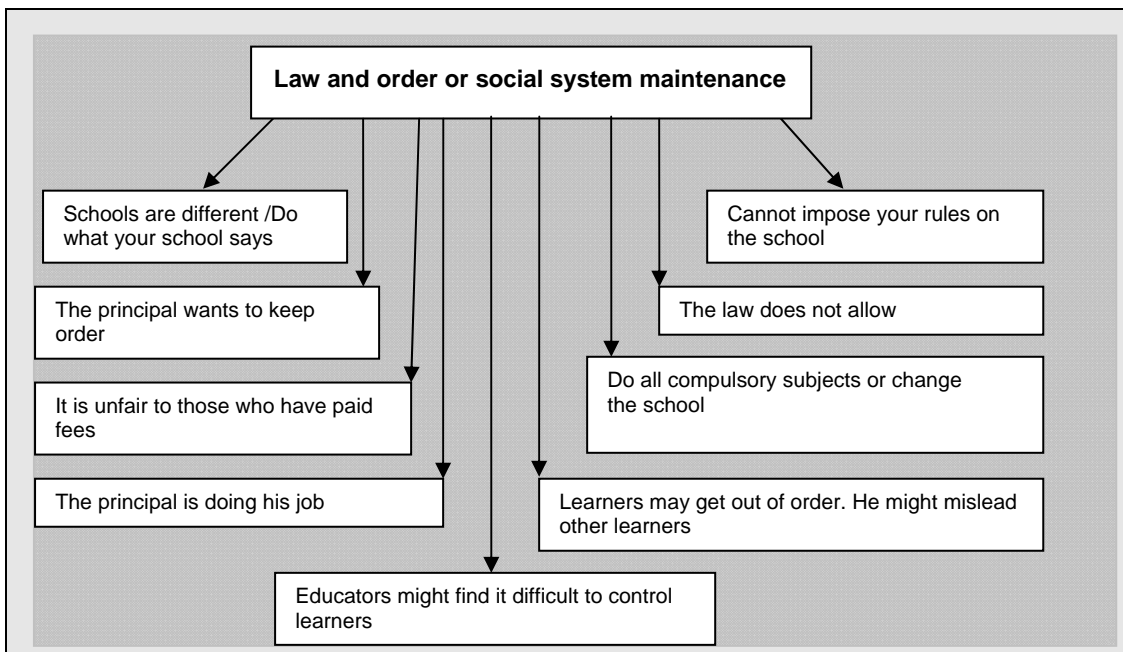


Figure 6.4: Depiction of the category: Law and order or social system maintenance



The conventional mode of reasoning was evident when learners responded to vignette four in which a learner wanted to publish an article criticising school rules and the principal refused the learner the right to express these ideas. Some learners considered what might happen to the school as a whole if every learner were to be allowed to criticise the school rules publicly and inconsiderately. Their reasons for affirming the school's decision were:

- *She must never criticise the school rules. If she senses that those rules are difficult for her to follow, she must just leave and go and seek admission in other schools. If she criticises school rules openly, she might spoil other learners and that would not be good for us (F1/9).*
- *A learner must not criticise school rules. They are rules which people (adults) have drawn up and agreed upon. If she feels that the rules are difficult for her to follow, she must ask for a transfer and just leave for another school (F1/9).*
- *We follow the rules which we think are of value, the rules which protect us, rules which help us to respect another and one another's rights. Rules that have best intentions, if that is not the case I see no reason to follow them (F4/9).*

These responses indicate reasoning at the conventional level. Learners recognise that schools are different and as such, a learner of a particular school must do what the school says (F1/9) in order to maintain its functionality, and they value mutual agreement.

With respect to whether or not a learner should see a personal file (vignette three), learners' judgements were based on maintaining the orderly functioning of their school.

- *She must not see her file...it is confidential... a learner knows when she has done something wrong or right. By recording your mistakes the principal is trying to call you into order, you must just know that your mistakes are being noticed (F2/11).*
- *She cannot see her file... because the principal said so. The principal is the person in authority here. A learner may be tempted to stealing or distorting the file (I6/3).*

With respect to whether or not a learner should be subjected to corporal punishment for not attending school regularly, some justified their choices by making references to the law. Those who affirmed the authority's actions reasoned as follows:

- *When he deprives her of her results, it is like he is taking her right to education away. The law does not allow him to do so.(F4/9)*
- *I think the learner is the one who is doing things which are not allowed. The principal is doing his job. He cannot allow her to come to school at will. She must come to school every day. Attending school and classes is not voluntary. You come to school or they punish you... You do not pay school fees or you do not get services. If you are a school child, your work on weekends finishes (F2/10).*
- *I would first explain to my principal about the financial status of my family. I would tell him that my parents do not have money to pay the school fees, but I know that there is a law that says that a learner must not be denied access to his school report and books, and other resources, because his parents can not afford to pay school fees. He must be given books and other learning material. For this reasons I think the principal is not right. When it comes to beating that is not allowed. He should have listened to the child's story before taking any action (F2/10).*

Some respondents affirmed the principal's decision to administer corporal punishment to a learner (vignette two). One response given was:



- *When they beat you, they are sending the signal that you are doing wrong (F2/10).*

The data indicates that learners also justify their reasons by making reference to what is allowed by the law. Learners who reason at the law and order level (conventional level) assert or give up their rights in order for the school to operate effectively and to maintain order for the wellbeing of the school and to avoid the system breaking down (F2/10, F2/11). Fernhout (1990:106) points out in this regard that the motivation for affirming or not affirming a right for a person thinking at the conventional level, is the anticipation of failure and wanting the institution to function as a whole.

With respect to the right to choose subjects at school, learners who reason at the conventional level expressed the idea that they would do mathematics, not because it is important, but out of respect for the school authorities or because it is the grouping of the subjects of their school, for example:

- *... as a school child, must follow the school's decision. He must do all the subjects that are compulsory. The school is not denying him his right to education, the thing is each school has its own rules and regulations which must be followed (F3/5).*
- *In case of religious education, I agree with you. But remember, he is not the only one who has the rights. He has the right to choose the subjects he wants to become, but the school authority too, has the responsibility to decide on the stream they want their learners to follow. Guys, you know that we have commercial schools, agricultural colleges and technical schools; they are different (F3/5).*
- *I see. If the school says the subjects are compulsory then, John must take them, if it is the grouping of his school. He cannot come and impose his own rules upon the school. If he does not want their grouping, he should just leave and go and seek admission in other schools, where the grouping suits him. Because it is like schools are not the same, and they offer different subjects (F3/5).*

Another dimension about how learners understand their right to education was observed when learners considered what would happen if they were allowed to exercise their rights without limits. Vignette four concerned learners' rights to voice their opinion (freedom of expression) in the school's newspaper. Learners were asked to judge whether or not learners should be allowed to publish articles criticising the school rules. Learners who were of the opinion that a learner must never publish that kind of an article were in the majority (see Table 6.2). They viewed it as correct for the school authorities to deny a learner the right to freedom of expression; their main reason was that the rules are there to control a learner's conduct and to maintain the school as a learning institution.

However, there were those who felt that learners must be allowed to publish such an article, and they reasoned in this way:

- *... must allow her to print ... might help the school to rectify mistakes/things that most learners are against ... Help educators understand what learners think (F4/11).*
- *It depends on what she wants to print. If she wants to print something that will bring the school into disrepute or that will damage the good name of the school, she must not be allowed to print her article. She must print things that place her school in*





*good position. She must print things which are acceptable to the learners, educators and other people around the school. She must print rules that will bring good changes. However, if people agree with what she has written, to me it is OK. I am afraid if she just prints her article, she might hurt the feeling of other people (I3/3).*

Learners confirmed the significance of school rules in terms of maintaining law and order, and reasoned that if there were no rules:

- *I am afraid; if I do not follow rules I might offend other people. If I follow rules, I respect others' rights, like I would not hurt other people. The school itself may become a safe place. And education may go smoothly. But, however, I do not follow all the rules. I follow rules which I understand, which are reasonable (I3.4).*
- *Learners might fight with one another. Crime in the school may increase, learners may stab one another. We may find that girls might be raped, here in the school premises. So many bad things might happen. Male learners may bully the girls or even stealing (I3.4.)*

Learners were expected to weigh their right to freedom of expression against the rights and duties of the school authority in fulfilling its educational purpose and ensuring that the institution itself is maintained, including censoring all written school press, maintaining sound school discipline by means of enforcing the rules, and creating an environment conducive for learning (Netshitahame 1999:14; O'Hair *et al.* 2000:257; Van Vollenhoven 2005:174-175).

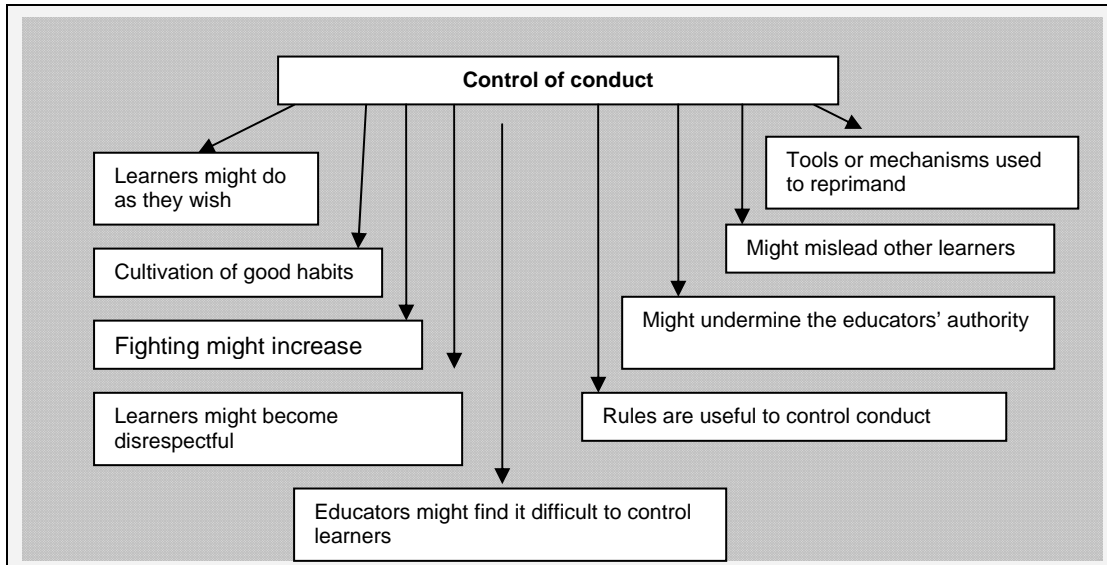
Learners' responses in this regard showed that they should be considerate when affirming their right to freedom of expression (I3/3), in order to avoid misleading other learners (I3/3). They also indicated the significance of school rules in that if rules are not followed, bullying and theft at school might increase (I3/4).

All the above responses indicate the conventional level of human rights reasoning. The category discussed in the following sub-section is 'control of conduct'.

#### **6.2.2.4 Control of conduct**

Figure 6.5 forms the basis of the discussion of learners' responses that exhibit this mode of understanding of rights. It portrays the category 'control of conduct'. Conduct implies a positive action ('commission'), as well as a negative side of doing nothing ('omission'). If learner A, for example, sees that learner B is destroying school property and does not report it (omit to report or to speak up), then learner A is also at fault.

The governing body of a public school is empowered to establish a code of conduct for learners aimed at establishing discipline and a purposeful school environment. Such a code should, *inter alia*, encourage school children to protect school property and to respect the various rights of other learners.



**Figure 6.5: Portrayal of category: Control of conduct**

The code should also be clear on the penalties to be imposed for various kinds of misconduct. A code of conduct for learners is also dedicated to the enhancement of a quality learning process and sound relationships between learners and educators. Learners are expected to observe the code of conduct as they are party to its development (Beckmann 1997:10; Dlamini 1997:51).

A school could encourage learners to commit to the code of conduct by means of a questionnaire, or by involving learners in drafting the school's code. They will realise the need to obey the rules set by themselves since, in fact, learners desire discipline. In this regard learners reason that educators may find it difficult to teach and if that is the case learning will not occur, for example:

- *It must not be printed. May be the rule prohibits something that he wants and feels bad about that. And then he wants to draw some learners towards him and the rules are not meant for one learner, but for all of us. He wants to mislead other learners (F4/11).*
- *If there are no rules, fighting may increase. Schools might become a hostile environment. Things like bullying; stealing may become rife (F2/15).*
- *Everyone could do as he or she wishes. Things might be in chaos. Learners may dodge classes. (F2/15).*

The above responses indicate the conventional level of human rights reasoning as learners emphasised the maintenance of the school system through the control of learners' conduct (F2/15 and F4/11). Mostly when rights were not affirmed, learners seemed to side with the authority and base their reasoning on the observance and the importance of rules and control of conduct (F2/15). With regard to vignette one, in which a learner was subjected to corporal punishment because of irregular school attendance, learners' reasoning shows that they sided with the principal, for example:





- *I think the learner is the one who is doing things which are not allowed. The principal is doing his job. He cannot allow her to come to school at will. She must come to school every day (F2/11).*
- *Some rules help us to keep things in order and they prevent us from doing wrong things. A rule serves as deterrence. Especially if you think the consequence of breaking the rules might be bad (F2/14).*
- *Learners may do things which are unacceptable like smoking, bringing in knives, drugs, fire arms and things like these; boys might come to school mixed up or they might bully other learners. If there are rules, we may feel protected. We will not fear for our lives and health (I3/4).*
- *Learners might fight with one another. Crime in the school may increase, learners may stab one another. We may find that girls might be raped, here on the school premises. So many bad things might happen. Male learners may bully the girls or even stealing and theft may increase (I3/4)*
- *Some rules help us to keep things in order and they prevent us from doing wrong things. A rule serves as deterrence. Especially if you think the consequence of breaking the rules might be bad (F2/15.)*

Some learners reasoned that if a learner is allowed to criticise school rules learners might do as they wish (F2/12); the educators' authority may be undermined (F2/12); learners might become disrespectful (F4/10); and fighting might increase (F2/12). In such cases, educators might find it hard to control learners (F2/12). However, there were some learners who reasoned that school rules should not be too strict, as this would restrict their freedoms. For example:

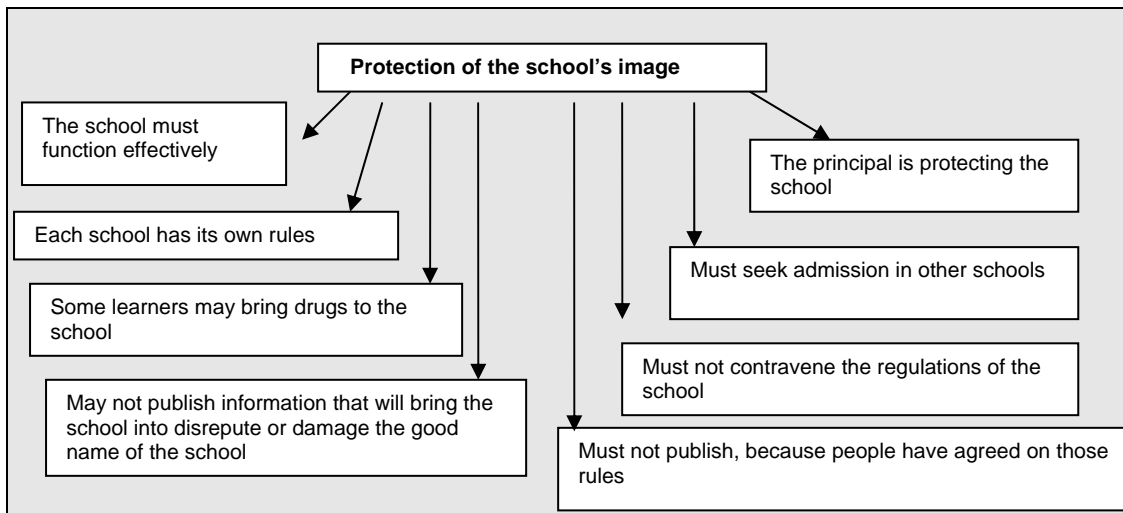
- *I don't think so. Rules make school life more rigid .You see. They prevent freedom of movement. You do things as they say (F4/13)*

The aforementioned responses indicate that learners who reason on the conventional level motivate their decisions to assert or not to assert their rights based on the necessity for good conduct in the school (Fernhout 1990:106-107). Response (F4/13) also implies that although schools need a system of rules, the rules should not be too rigid.

A formal institution such as a school should serve conflicting interests and promote a harmonious environment in which effective learning and teaching may occur (Peens 1998:47). However, rules that are too rigid may socialise learners into unconditional observance of the letter of the rule and this in itself may slow their development to Level III of human rights reasoning.

#### **6.2.2.5 Protection of the school's image**

The protection of the school's image is discussed in this sub-section. Learners' responses that exhibit this mode of reasoning are illustrated in Figure 6.6. Some learners value mutual agreements. They are of the opinion that once authorities have agreed on certain matters concerning the learners' right to education, this agreement must be upheld.



**Figure 6.6: Depiction of the category: Protection of the school's image**

It is like a contract that is binding on the individuals that sign it; however, the signing must be a deliberate act. In their opinion, this should be done in order to protect the school's image.

Under the category 'protection of the school's image', I found that the responses resonate with the previous category 'control of conduct'. This discussion goes further in showing why learners perceive it as important to protect the school's image instead of exercising their right to education. After being confronted with several dilemmas in which learners were supposed to take a stand and exercise their right to education, some learners considered the image of their school in deciding whether to affirm their rights or to side with the authorities. It seems as if the image of their school is more important than their rights, for example:

- *May not print the information that will bring the school into disrepute or damage the good name of the school (F2/9).*
- *She cannot criticise the school rules. The principal is protecting the school and other learners. If she feels that she would not be able to follow those rules, she must go to seek admission in other schools (F2/12).*
- *That article should not be printed because it may damage the good name of the school. The learner might have not looked at all sides of the rules. No. It must not be printed (F4/10).*

When asked to respond to the issues in different vignettes about their reasons for asserting or not asserting their rights, they said that because schools are different, a learner who dislikes the rules or subjects of his school should simply leave and seek admission at another school without expressing any objections, for example:

- *Must not print because people have agreed on those rules (F4/10).*
- *The first thing is that there should be a conversation and an agreement between her and those in authority. She cannot just say something bad about her school without consulting the principal. I would prefer to talk to the principal first (F3/7).*
- *Some rules help us to keep things in orders and they prevent us from doing wrong things. A rule serves as deterrence. Especially if you think the consequence of breaking the rules might be bad (F2/14).*



The above discussion indicates that some learners reason about their right to education on a conventional level. They justify their reasons for asserting or non-asserting their right to education in terms of maintaining the image of the school, control of conduct and references made to the rules. School rules are seen as the absolute law of the school, which should be upheld in order to maintain the system.

Tomasevski (2003:169) notes that the school system and the content of education may instil in learners or socialise them into the kind of thinking that makes them accept some practices that prevent or encourage them to exercise their right to education. A school is a communication centre for a whole range of values and aspirations of society and an arena for the exchange of ideas and should encourage learners to express their feelings and thoughts without fear. Educators occupy a position of trust and confidence and exert a considerable amount of influence over their learners as a result of this position (Tomasevski 2003:177). The possibility is high that schools, as a result of their rigidity of authority, might have contributed to learners valuing school rules as supreme law, since in the past the notion of the learners' right to education was not afforded to all groups of learners.

At this point, after analysing data captured from the conflict-laden vignettes, the results show that most responses depicted the conventional level of reasoning (Level II). The data shows that learners generally consider interpersonal relationships (see Figure 6.3), fairness of an act, maintaining social order (see Figure 6.4), the control of conduct at school (see Figure 6.5) and upholding the good name of their school (see Figure 6.6) as reasons for not asserting their rights. The results also show that the attitude of learners towards accepted moral norms reflects conformity and loyalty to personal expectations and social order, as well as active maintenance, support and justification of the order (the school) of which learners form part.

Kohlberg argues that most people are unable to proceed further than the conventional level of rights understanding, although only some do (Peens 1998:40; Rowe 1992:80; Tapp & Levine 1974:121; Kohlberg & Kramer, 1969:100; Abramovitch *et al.* 1998a:405; Blasi 1980:35; Salkind 1994:540).

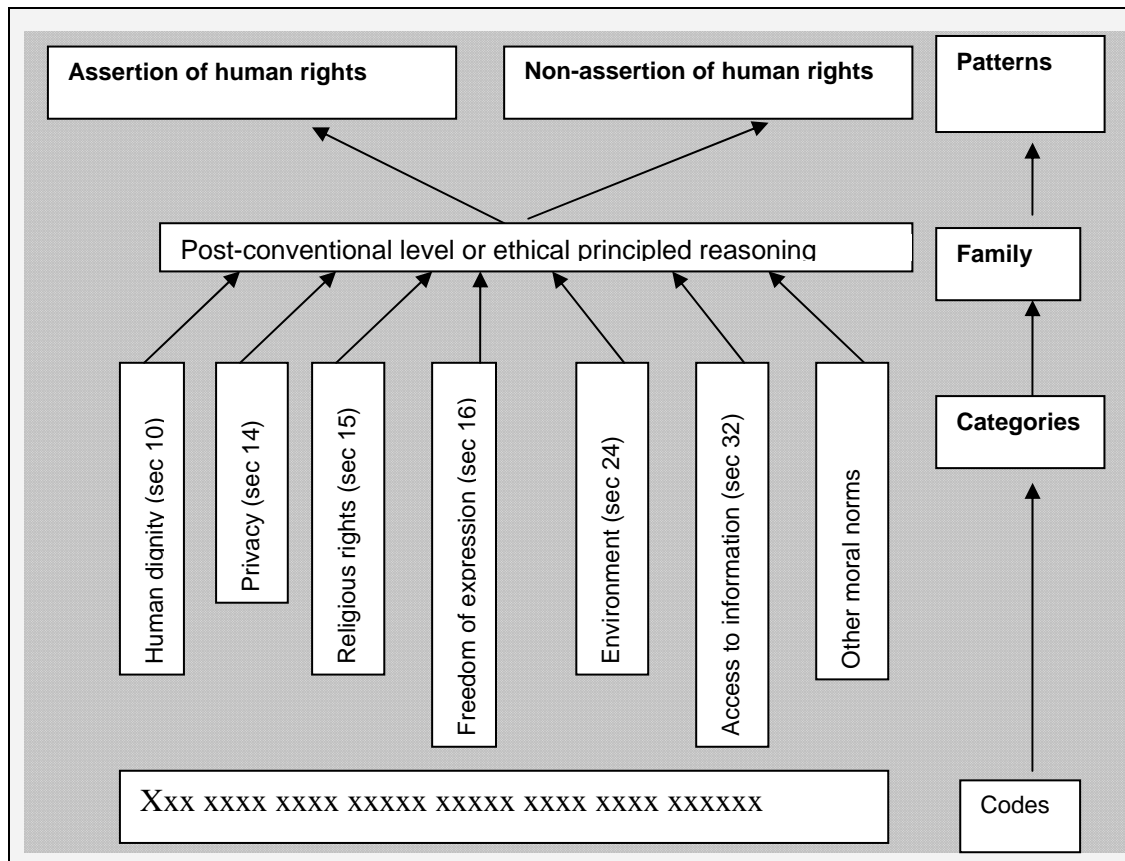
The next section deals with learners whose decisions to assert or not to assert their right to education represent the family 'post-conventional level of reasoning'.

### **6.2.3. Human rights understanding and reasoning at the post-conventional level**

The literature presents the post-conventional level (Level III) of human rights understanding as the highest level of ethical principled reasoning. People who reason at Level III understand that human rights are universal values and principles that all human beings have by virtue of

being human. To them the validity of social laws is evaluated in terms of the degree to which they protect and serve fundamental human rights and values. They also understand that social systems consist of a social contract that human beings deliberately enter into, and are relative, that is, they can be changed if they are inconsistent with universal principles (Tapp & Levine 1974; Fernhout 1990:105-106; Cherney & Perry 1996:242; Peens 1998:49; Ruck *et al.* 1998a:405).

When analysing the data, I discovered that some learners are capable of reasoning on a more advanced level (Level III) when dealing with conflict-laden vignettes. I realised that some learners assert or renounce their individual rights in order to protect the human rights and the rights of others. I classified this mode of reasoning under the family 'post-conventional level'. Figure 6.7 is the basis for the discussion of the family 'post-conventional level' or 'principled reasoning'. This figure represents learners' responses to different vignettes.



**Figure 6.7: Portrayal of the family 'post-conventional level': Protection of individual human rights and other moral norms.**

In the following sub-sections, I discuss the family 'post-conventional level' or 'ethical principled reasoning' under the category 'Protection of individual human rights'.



Categories that make up this family are:

- Protection of individual human rights:
  - Human dignity (Section 10 of the Constitution).
  - Privacy (Section 14 of the Constitution).
  - Religious rights (Section 15 of the Constitution).
  - Freedom of expression (Section 16 of the Constitution).
  - Environment (Section 24 of the Constitution).
  - Access to information (Section 32 of the Constitution).
- Moral norms values

The above figure represents the family in which learners affirm or do not affirm their rights with the intention of protecting individual human rights and other moral norms. Their reasoning is motivated by moral principles such as respect for the dignity of human beings as individuals, privacy, freedom of religion and beliefs, freedom of expression, safe environment and access to information.

#### **6.2.3.1 Protection of individual human rights**

**The first human right to be discussed here is the right to human dignity.**

- **The right to human dignity**

The next issue addressed in vignette two was that learners should not be subjected to inhumane and degrading punishment while they are at school (this refers to learners' right to education and to not receive corporal punishment). Legally, it is categorically clear that corporal punishment is not acceptable – there are several legislative and human rights instruments that ban the administration of corporal punishment (see § 2.6.3 & § 2.7.9 respectively).

With regard to the principal administering punishment (vignette two) to a learner for not attending school regularly, the results revealed different views. Some responses indicated learners were against corporal punishment and reasoned that the principal violated a learner's right to dignity. Other learners revealed that the principal did what was right for the school. I probed the reasons why they were for or against corporal punishment. Their reason ranged from value judgments, to the principle of fairness and other moral elements. They went as far as providing solutions and alternative strategies that could be used, such as lending support to the learner, listening to the learner's problem and just talking the problem through. Senior learners also considered the intention of an act, for example:



- *Let's say if I have made a mistake, the educator should not ... drag me out of the class ... or beat me. It is humiliating and embarrassing. It would be better if they allow you to stay in the classroom and do you punishment after school (F3/2.)*
- *Beating hurts. I hate a person who beats me. The principal is not right here. Instead of beating her, he should have talked to her and advised her not to stay away from school (F1/8).*
- *He should have known before hand that Mary is coming from a poor family, it is not right to punish her. Because this learner is trying to make things work for her ... (F4/8).*
- *The worst thing is beating her. The principal should have listened to her side of the story, because there are learners who stay away for a bad cause, but she is right. ... she has good reason (Poverty) (F3/6).*
- *Yes, the principal should have listened to her, but she in turn should have informed her principal about her problem. May be the principal would have listened to her. May be he would have acted differently. The principal and the learner should discuss the matter ... listen to each other ... respect each other. The older people should respect the young people, and so should the young people (F3/6).*

These responses indicate that learners assert the right to education by making reference to the human dignity of an individual. They are against the principal's action and reason that subjecting a learner to corporal punishment and dragging her out of the classroom is degrading and embarrassing (F3/2). They consider the socio-economic background, from which the learner depicted in the scenario, comes and argue that this learner has a good cause and should therefore be listened to (F4/8). From such responses I deduced that some learners are capable of reasoning at the highest level of human rights understanding and they defend their judgements by appealing to the universal principle of human dignity and the worth of a person.

The difference of opinion about corporal punishment exemplified in the responses may be explained in terms of societal and school beliefs. Cruel and unusual punishment is a problem of society as a whole, rather than that of the school in particular. Many societies and schools still prefer infliction of pain on learners as the best way of discipline. Those who are in favour of corporal DoE 2000:6-7). Corporal punishment is a sensitive issue (see Table 2.10). It is sensitive in that there are parents and educators who support corporal punishment while others are against it. Some think it is the best way to maintain discipline, despite the fact that it is a punishable offence and inconsistent with section 10 of Schools Act.

Covell and Howe (1996:255) found that 55% of boys and 41% of girls believed that it is sometimes desirable to administer corporal punishment. The best explanation could be that learners' understanding of human rights is sometimes influenced by the political environment and social agents from which they come (Keating 1990:77; Torney-Purta 1990:460; Covell & Howe 1996:253). Those who come from schools, families, cultures or religions that emphasise the infliction of pain as a disciplinary measure would probably endorse corporal punishment. Furthermore, the DoE (2000:7) notes that educators who cling to the use of corporal punishment believe that since they themselves experienced no harmful effects from having been beaten as children, there is no reason not to use it.





- **The right to privacy**

The right to privacy places a duty on the school not to disclose private information about a learner to unauthorised persons. Such information includes learners' records, school reports, disciplinary measures and learners' HIV status and other diseases. A learner's right to privacy is guaranteed under Section 14 of the Constitution and paragraph 3.4 of the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners of 1998. Under these provisions everyone has the right to privacy, which includes the right not to have:

- (a) their person or home searched;
- (b) their property searched;
- (c) their possessions seized; or
- (d) the privacy of communication infringed.

When considering learners' responses to vignette five concerning confidentiality and learners' rights to privacy, interesting facts can be deduced. A minority of learners perceived that they had to be afforded their right to privacy in terms of keeping their illness confidential (see Table 6.2). They gave different reasons ranging from knowing that one has the right to privacy (F2/16), mistrusting educators (F3/8), being afraid that it may be used against them (F3/8) and feeling uncomfortable talking to educators about one's illness (I9/5), for example:

- *In reality, when it come to matters concerning illness, there are other illnesses which you would feel uncomfortable telling anyone about them ... some illnesses, make you feel shameful, but you have the right to keep it a secret, any way (I9/5).*
- *The educator must respect my privacy (I8/4)*
- *Issues concerning illnesses are confidential (I2/4). We are afraid that your illness could be known by all learners, educators. The educators, we suspect that they might use your illness to discriminate against you, or to humiliate you or to prejudice you. If an educator cannot keep secrets, he may tell others about your illness (F3/8).*
- *The educators must respect her privacy. But what is important is that there should be an agreement between them (F2/16).*

From the responses by learners about their rights to privacy, it is evident that some learners regarded this right as being very important. Their reasoning behind asserting their rights to privacy of information (for example, their school report) was that they considered moral principles such as non-discrimination in education. They argued that learners must not reveal their status of illness to people (educators) they do not trust, because such people could use that information to discriminate against or humiliate them (F3/8). They were clear about the fact that educators should respect a learner's right to privacy (I8/4).

This type of abstract thinking is not evident until the late adolescent stage, a theme which is repeated in studies that suggest a developmental approach to understanding human rights (Melton & Limber 1992:174; Gallatin 1985 cited in Helwig 1995:153; Ruck *et al.* 1998a:405; Limber *et al.* 1999:379). My finding that a developmental trend was evident in learners' views





of their rights to privacy is consistent with that of Melton and Limber (1992:179) who found that young learners prefer privacy of space (concrete reality) whereas older learners prefer privacy of information (abstract thoughts).

In my study learners who preferred to disclose their illness to the authorities did so because they considered other moral principles such as telling the truth, honesty and respect for authority (see Figure 6.8) for example:

- *The educators must respect her privacy, but what is important is that there should be an agreement between them (F2/16).*
- *The educator is right. He should ask and get honest answers. The educator is like your parent. I would tell him about my illness (F2/16).*

The above responses indicate that some of those who asserted or did not assert their rights to privacy reasoned at Level III, in terms of moral principles such as respect for privacy (F2/16) and honesty (F2/16).

- **The right to freedom of religion**

Section 15 of the Constitution recognises personal freedoms of conscience and religion and the right to conduct religious observances at state and state-aided institutions. Religious freedoms are guaranteed, provided that they are consistent with the provisions of the Constitution, are conducted on an equitable base and the attendance thereof is free and voluntary (Beckmann *et al.* 1997:9 and 1995:95). For a more detailed discussion on freedom of religion see § 2.7.7 and § 5.2.3.6.

When considering learners' responses to vignette one in which a learner did not want to attend religious education classes, because of not believing in God, some fascinating facts emerged. According to the learner's particular school, religious education is compulsory. Some learners judged that the learner in the scenario was right and should not attend religious education classes, whereas others were of the opposite opinion. The reasoning behind their opinions was:

- *I understand that people believe in different things. I think this learner should tell the principal that what the school believes in is different from what he believes (F2/9).*
- *I feel that it is not right to force learners to do things that they do not want to do, because people's beliefs are different. For example, here at school they do not allow us to put on an arm ring of copper (talisman) or any other object that is associated with ancestral beliefs. I think it is wrong for a school to do that, because our parents gave us those charms to wear (F4/7).*
- *Yes. It is not right to force a person to attend religious education if it is against his own beliefs. If I were in this position, I would not... attend... I would tell the school authority that it is against my beliefs (F4/8).*
- *I concur with what has just been said. Most learners here at school believe in their ancestors. They wear all sorts of charms. I think the school should not get mixed up with that stuff. The school must allow each learner his or her right to believe in what they want (F4/8).*



What can be deduced from the above responses is that learners regard it as important to have the right to freedom of religion. In considering the reasons learners provided in terms of the affirmation or non-affirmation of the right to freedom of religion, some learners exhibited Level III of human rights understanding, since they based their opinions on universal principles and abstract thoughts. Response F2/9 recognises that people have different religions; as such it would be wrong to coerce a learner to attend a religious class contrary to his or her own beliefs (F4/7). Some learners were confident and had the courage to stand up for their rights and say that if they were in the same position as the learner depicted in the story, they would decline to attend religious education classes and tell the principal that it is against their beliefs. Some indicated that they should be allowed to express their beliefs through the wearing of a talisman and related bangles (F4/8).

The right to religion was mentioned several times by learners in grades 10 to 12. Most grade 10 to 12 learners were of the opinion that the school should allow them time to pray. Some of them suggested times for prayers and gave reasons about their need for the time to pray, for example:

- *We also want to be given a chance to attend prayers, some do have these opportunities (F3/3).*
- *We must be given time for prayer, may be two times a week (F4/3).*
- *Another thing is that we must have time to pray, because we also have rights, they must allow us time to attend to prayers. May be in the morning or arrange for us a student-run religious forum (F2/4).*
- *We must be allowed to wear talismans (bangles associated with religious beliefs). Sometimes educators do not allow us to do so. Educators must listen to us too F3/3.*

This finding is consistent with Peens (1998:137) that senior grades endorse freedom of religion. The best explanation might be (as in the case of the right to privacy) the body of scholarship, which suggests a developmental trend when it comes to learners' understanding of human rights (Abramovitch *et al.* 1995:4; Melton 1980:187; Melton & Limber 1992:175; Peterson-Badali & Abramovitch 1992:156; Ruck *et al.* 1998 a:404,413).

- **The right to freedom of expression**

Section 16 of the Constitution accords learners and every person the right to freedom of expression (Beckmann *et al.* 1995:53). Freedom of expression includes not only freedom of speech and the written press, but also the right to hear, read and wear what one chooses (Squelch 2000a:63-64; Van Vollenhoven 2005:69). In the school context learners have freedom of expression, but it is not unlimited. Freedom of expression may be limited by other regulations, which are meant to ensure the safety of all learners (paragraph 4.5.1 of the Guidelines for the Consideration of Governing Bodies in Adopting a Code of Conduct for Learners of 1998). School authorities have the right to restrict the freedom of opinion



expressed in school newspapers, as long as they have reasonable cause for action and an acceptable rationale for their decision (O'Hair *et al.* 200:257; Van Vollenhoven 2005:75).

Vignette four concerned learners' rights to voice their opinions (freedom of expression) in the school's newspaper. Learners were asked to judge whether or not a learner should be allowed to have her article criticising the school rules printed in the school newspaper. Learners were expected to weigh the learner's right to freedom of expression against the rights and duties of the school authority to censure all written school press (O'Hair *et al.* 2000:257).

Only a few learners endorsed the right to freedom of expression by perceiving that the school authority should allow the learner to publish her article. Their response showed greater maturity when it comes to criticising the school rules. They also considered the consequences of their choices and a way of balancing the rights, for example (some grade 11 and 12 learners):

- *The school must allow her to print her story. Sometimes her article might help the school to rectify its mistakes, or things that most of the learners are against as educators might overlook what learners think or feel. Perhaps if the article is printed, they might have an idea about what learners think (F4/11).*
- *She must be given a chance to print her article. It is time that those in authority listen to us. Most of the time learners are not consulted when decisions are taken (F3/7).*

The argument brought forward by learners in these responses serves to defend human rights. They reasoned that if the learner in the scenario were not allowed to criticise school rules, educators may overlook what learners think and feel. To them, being allowed to publish the article affords them the chance to express their thoughts (F4/11 and F3/7). This mode of reasoning can well be classified under Level III of understanding of human rights.

The majority of learners' responses to vignette four showed that the learner should not be allowed to publish her story. They affirmed the rights of the school authorities to regulate the school press. They were of the opinion that a learner could perhaps criticise the school or school rules, depending on what he wants to print. The reason given for this choice was:

- *I am afraid that if she just prints her article, she might hurt the feelings of other people (I3/4)*

What can be deduced from response (I3/4) is that when exercising their rights to freedom of expression, some learners are sensitive about the rights of others (protection from mental harm), in the sense of not hurting the feelings of other people.



To some learners the right to education implies that they should be given an opportunity to express their opinion (I5/2), to present their side of the story and be listened to (I3/1). For example:

- *My ideas and opinions should not be rejected unfairly. I also think that my opinions should be listened to... I must be given a chance to ask questions and be answered and not to be laughed at (I5/2).*
- *I must be given a chance to raise question, and educators must respect my opinions. They must listen to me. I should also listen to them (I3/1).*
- *We want to be given an opportunity to have a say, or decide on things that affect us at school (F3/3).*

It is evident from these responses that some learners value their right to freedom of opinion and express reasoning at the post-conventional level. This finding concurs with Taylor *et al*'s (2001:149) finding where learners revealed that they want to be afforded an opportunity and freedom to voice opinions without fear of being turned down.

Learners in my study also judged it wrong for a learner to use offensive words when they wanted to express their rights to freedom of expression (vignette four). In this regard they responded as follows:

- *That we say is wrong. Shouting at your educators is not allowed. It shows disrespect. If it were me, I would prefer to have a healthy communication between myself and my educators (F3/9).*
- *Shouting at the educator is wrong, because if you are asking for something, for you to get it you must humble yourself. You cannot always use a push and expect to be successful in getting what you want (F1/13).*
- *This learner is wrong by scolding the educator. Educators are like his parents. One is not allowed to scold his parents. Educators are very important to our school life, because they give us an education which we could not otherwise have had we not been to school (F1/13).*

The above responses indicate that learners take heed of what is morally acceptable when asserting their rights to freedom of expression. They argue that if the school has rules, their rights are protected, because rules create safety (F4/14) and protect their right to education (F1/13). Some learners expressed the feeling that there should be healthy communication between educators and learners. Learners may not use vulgar words directed at educators, even when they feel that their rights are being violated (I4/9). The right to freedom of expression does not include the use of vulgar language.

Van Vollenhoven (2005:69) also notes that learners are not allowed to use vulgar words, insults or racial slurs directed at either educators or other learners. If a learner's freedom of expression leads to a substantial disruption of school activities or infringes upon the rights of others, it can be limited. However, the limitation must be carried out with the purpose of maintaining orderly teaching and learning.



The finding that some learners regard freedom of expression as important to them is consistent with the findings of Taylor *et al.* (2001:149), who found that freedom of expression is a right that was most frequently mentioned by learners.

- **To have an environment that is conducive to learning**

Section 24(a) of the Constitution (1996) provides that everyone has the right to an environment, which is not harmful or detrimental to one's health and wellbeing. Consistent with Section 24(a) of the Constitution (1996), Section 4 of the Guidelines for the consideration for the SGB in adopting a code of conduct for learners of (1998) provides that learners have the right to a clean and safe environment. The word 'environment' therefore, includes any physical or mental condition or even a school (Cachalia *et al.* 1994:29). These provisions also concern a safe school environment such as safe school buildings and grounds. Van Aswegen, Fraser, Nortje Slabbert and Kaske (1993:136) maintain that the school physical and psychological environment should be conducive to teaching and learning. The school should protect learners from both physical and mental harm as these are not conducive to teaching and learning (see § 2.8.5).

Learners viewed their right to education in terms of their right to a safe environment that is conducive for learning. For example:

- *All of us have the rights, a right to education in particular. A learner has the right to come to school and be taught, but he or she does not have the right to take away others' rights, or to disturb the whole class (F3/3).*
- *To have the right to education means that I have the right to attend the school which is protected (I5/1).*
- *No, we did not mention all our rights; what makes things worse or difficult are these broken windows. We are subjected to severe cold, cold air gets in through these windows (F4/3)*
- *Another thing is that, educators must not yell at me when I answered their questions wrongly and call me names (I8/1).*
- *I think we must not be abused, especially we girls. I mean sexually or physically (laughter). You know, that happens some times. And if you refuse, they punish you for a very minor offence, and you would not know why. They may make you carry bricks, you see (F4/4).*
- *There should be school rules, so that the school must be a suitable place to learn (F1/10). Rules protect us (F1/11)*

The above responses reveal that some learners view their right to education in terms of the physical (F4/3) and psychological (I8/1) safety which the school must provide them. Effective learning cannot occur if learners do not feel secure. Responses (F1/10 & F1/11) reveal that learners yearn for school rules. Although learners' responses did not make it categorically clear that rules protect their right to safety and consequently their right to education, it can still be inferred that this type of reasoning partly reveals a post-conventional level of human rights reasoning. This finding is consistent with Tapp and Levine's (1974:22) observations that people who reason at the post-conventional level make judgements that are guided by an appreciation of the rights and conditions of others (see § 3.5.2.3).



- **The right to access to information**

The Promotion of Access to Information Act, 2 of 2000 (PAI Act), was enacted in accordance with Section 32(2) of the Constitution of South Africa, which provides that national legislation must be enacted to give effect to the right of access to information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. The PAI Act of 2000 regulates both publicly and privately held information and overrides other legislation in the matter of access to information. The right to freedom of expression converges with the right of access to information, as the former right includes the freedom to receive information and ideas (Section 16(1)(b) of the Constitution). The right to access to information is entrenched in the Human Rights Bill. Access to information is limited by the fact that information supplied to learners must not be harmful to them and should be such that it affords them opportunities to access and promote other rights. This applies to the need to supply learners regularly with information on their progress and other useful information in order to promote access to their right to education.

Vignette three refers to learners' rights to access personal files. This was addressed in part in vignette two. Most of the learners' responses were against the authority's decision of not allowing a learner to see her file. Some learners reasoned that they must have access to their files. When asked what they would have done if they were in the same position, Grade 11 learners said they would humbly request the principal to let them see their files. Some learners were motivated by the fact that they have the right to do so, whereas others said that learners must see their files because of the following:

- *To rectify one's own mistakes (F1/8), it could be a motivation for working hard (F1/5), reform and to ask for forgiveness (15/1) boosting self confidence and being suspicious that educators may record wrong and bad information (F3/6).*

Others felt that seeing their files could keep them aware of their progress and behaviour (F3/6) and motivate them to work even harder. The fact that most responses affirm learners' rights to access personal files is consistent with Peens' (1998:130) findings that seeing one's own progress chart might influence one to work more diligently and that learners aged 15 to 18 years affirm their rights to access to personal progress charts (Peens 1998:137).

These responses indicate that some learners' reasoning seems to be at Level III of rights understanding. Their motivation behind the affirmation of the decision of the learner depicted in vignette two was the protection of their right to education.

Vignette two also refers to equal access to learning resources and own progress. Learners responded in this way:





- *The principal's actions are wrong. When he deprives her of her results, it is like he is taking her right to education away. The law does not allow him to do so (F4/8).*
- *I see that the principal's action is wrong, he is violating her rights. It is not allowed to deprive a learner her right to access her results and books (F4/9).*
- *I too say so. The principal's actions were wrong. He is violating Mary's right. If I had been in her position, I would demand to see my results and the books. If a learner just comes to school and has no books, the possibility is that he will not pass (F4/9).*

These responses indicate that some learners respond at the Level III mode of reasoning. The reason exhibited by response F4/8 indicates that this learner is defending the right to education, in that depriving a learner the right to access results will hamper the learner's actualisation of a deserved and entitled right to education.

Learners know that they have the right to education and access to learning resources, even if their parents are unable to, or do not pay school fees, for example:

- *She must get everything; she must enjoy her right to education even if her parents did not pay school fees, because her parents are poor. If I were in her position I would have explained my situation to the principal so that he knows my problem (I3/3).*
- *She does not have any duty to pay her own fees. I think the principal is doing her wrong. She must have access to books and her results, which are necessary for her education (F3/6).*

Clearly the empirical results pertaining to equal access indicate that there are learners who agree with the action of authority figures and those who do not. The level of reasoning for the affirmation or non-affirmation of the action of the authority also differ, the main finding being that some learners exhibit Level III of human rights understanding. Their motivation for asserting rights is prompted by the need to protect other rights.

Although most learners affirmed their right to education and other rights, which are directly relevant to their right to education, there were fewer responses that could be classified on the post-conventional level. The responses that I classified under the family post-conventional level are those that affirmed or did not affirm their right to education with a view to protecting individual rights and other ethical principles (human rights)..

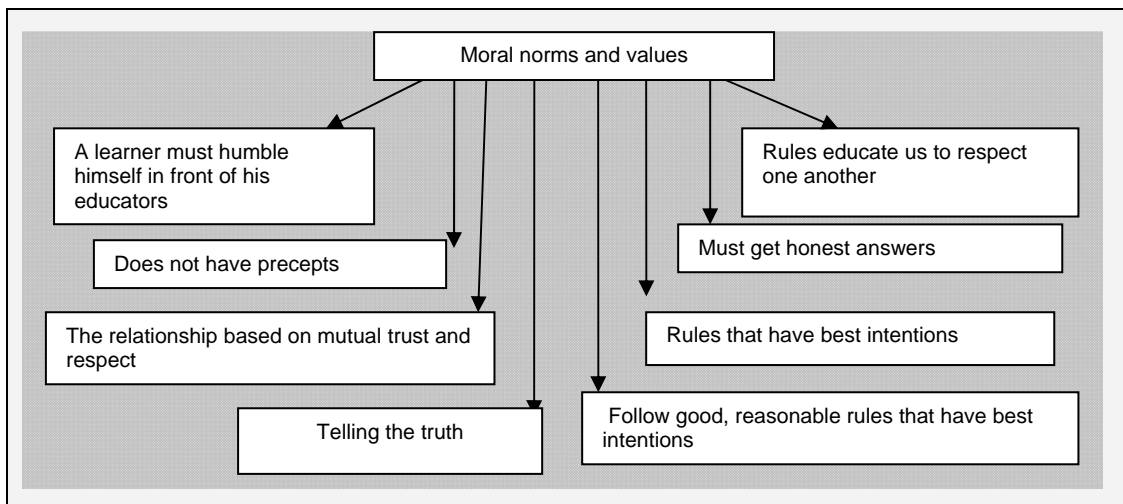
The above responses were classified under the family post-conventional level because the reasons for assertion and non-assertion of the rights were defending individual human rights, moral values and basic human rights.

The category of moral norms and values is discussed in the following sub-section.

#### **6.2.3.2 Moral norms and values**

Figure 6.8 forms the basis of the following discussion, and depicts learners' responses regarding the category of moral norms and values.





**Figure 6.8: Depiction of the category: Moral norms and values**

The democratic values that educators must engender in learners are provided for in the preamble of the Constitution. These include the rights to equality, human dignity, freedom and security, freedom of religion, beliefs and expression. The specific values that educators should foster in learners that would demonstrate respect for these democratic values are: care, empathy, fairness, honour, integrity, justice, moral courage, respect for self and others, respect for privacy and properties of others, responsibility, trustworthiness, truthfulness and fairness (De Villiers *et al.* 2000:26, 27).

When asked to say what they would have done if they were in the position of the learners portrayed in different scenarios, learners' responses indicated that there are some moral values which they respect (see Figure 6.8). As has already been depicted in the families 'pre-conventional' and 'conventional' levels, the responses were diverse. There were those who affirmed their right to education and those who aligned themselves with the school authorities. The responses that affirmed the right to privacy, human dignity and basic freedoms varied according to the level of human rights reasoning. The responses in line with the right to privacy were fewer than those asserting the idea that a learner should disclose his illness, thereby renouncing the right to privacy. The reasons behind their choices were the consideration of moral norms, for example:

- *What is important is that a learner must humble herself in front of her educators (F2/16).*
- *The educators must **respect** her privacy, but what is important is that there should be an agreement between them (F2/16).*
- *We follow the rules which we think are of value, rules which protect us, rules which help us to respect another, and one another's rights. Rules that have the best intentions ... if that is not the case I see no reason to follow them (F3/8).*
- *I think the principal must allow her to print her story. As long as she says something that is true about the rules, to me it is OK. The principal drew up those rules and if they were good and reasonable rules, the learner would not dislike*



*them, may be learners did not have a say at the time when rules were drawn up (F3/7).*

- *Let say if I have made a mistake, the educator should not ... drag me out of the class ... or beat me. It is humiliating and embarrassing. It would be better if they allow you to stay in the classroom and do you punishment after school (F3/2)*
- *The educators must respect my privacy. But what is important is that there should be an agreement ((F2/6)*
- *...but I think it would be unfair to the learners who belong to other religions if they are forced to attend Religious education. And if I belonged to other religions I would objects to the school's decision, because I would be going against my own beliefs (I3/3)*

The relationships between learners and educators should be based on mutual trust and respect:

- *Yes, the principal should listen to her first, and she in turn should have informed her principal about her problem, may be the principal would have listened to her. The principal and the learner should have discussed the matter and then listen to each other. We must listen to one another. We must respect one another. The older people should respect the young people and so are the young people (F3/6).*

What emerged in the reasoning of other learners on the post-conventional level, was references to moral values, for example, humbleness (F2/16), respect (F2/16), trust, truthfulness, best intentions (F3/8) and reasonableness. This kind of reasoning captures the core of human rights in general. Peens (1998:35) notes that human rights are social issues which cannot be dealt with without touching on moral issues such as fairness and equality. Even if one has rights, they cannot be exercised without limits. When exercising one's rights, one must consider the rights of others and the intentions of one's actions.

### **6.3 CONCLUSION**

In this chapter I presented the findings on my third premise. I shifted the emphasis from knowing the content, beneficiaries, absolutising and limitations of the right to education, (chapter five) to a more in-depth understanding of the right to education. The emphasis was on the learners' levels of understanding the right to education and their reasoning which emerged from their responses. I used the data gathered during phase two (focus group discussions) and phase three (in-depth face to face interviews). The results from phases two and three were presented together as an integrated whole.

After writing this chapter, I came to the conclusion that my third premise was affirmed, namely that learners are capable of reasoning at different levels when dealing with dilemmas in which the exercise of the right to education may be in conflict with school authorities. Learners' responses exhibited all three levels of moral-ethical reasoning according to Kohlberg's and Tapp and Levine's theory of moral ethical reasoning (Kurtines & Greif 1974:376 & 454; Tapp & Levine 1974:21-22; Kohlberg & Kramer 1969:100; Fernhout 1990:105-107).



There were those who supplied responses at the pre-conventional level (Level I). Their reasons for the assertion or non-assertion of human rights were avoidance of punishment and other personal harm, unconditional obedience to authority, and individual benefits. This mode of reasoning is in line with the works of authors such as Kohlberg and Kramer (1969:100), Tapp and Levin (1974:21), Rowe (1992:79), Pagliuso (1976:24), Piaget (1997:95) and Salkind (1994:540), who wrote that people reasoning at the pre-conventional level have a significant interest in fulfilling their own needs, avoiding punishment and being unconditionally obedient to authority.

There were those learners who reasoned at the conventional level (Level II) and they were in the majority. Their reasons for the assertion or non-assertion of their right to education were based mainly on conformity and loyalty to the school to which they belong; interpersonal relationships, law and order, and maintenance of the social system (the school); control of conduct and the protection of the school's image. These findings lend support to the literature which confirms that people who reason at the conventional level (Level II) see rights as being based on fairness, maintaining social order and obeying rules, because rules help to maintain the social system or order. Learners at this level understand that rules and laws are necessary to prevent disorder, though the reason for obeying rules and laws remains the avoidance of negative consequences and chaos (Peens 1998:40; Rowe 1992:80; Tapp & Levine 1974:21; Kohlberg & Kramer 1969:100; Abramovitch *et al.* 1998a:405; Blasi 1980:35 and Salkind 1994:540). It is believed that most people's development ceases at this level and they are then unable to proceed further than this level, although some manage to do so (Tapp & Levine 1974:21-22).

Lastly there were a few learners who reasoned at the post-conventional level (Level III). Their reasons of asserting or non-asserting their rights were the protection of individual human rights such as human dignity; privacy; religious rights; freedom of expression; safe and secure school environments and access to information. Their reasoning was also based on moral norms and values such as humbleness, respect, trust, truthfulness, best intentions and reasonableness.

Based on the literature, people who reason at the post-conventional level (Level III) reveal personal commitment to universal principles. When laws violate universal ethical principles, one is expected to act in accordance with universal principles of justice, which are equality of human rights and respect for the dignity and worth of human beings as individuals (Fernhout 1990:107). Learners at this level are said to understand that individual human rights are balanced by social standards and essential principles and conscience (Cunningham 1991:97).



Limber *et al.* (1999:379) found that most learners' responses belonged to Levels II and III of human rights reasoning, and the levels of reasoning varied per vignette. The same learners who provided Level II reasoning in one vignette could provide Level III reasoning in another vignette. This trend is evident in the findings of this study, in that learners provided responses that showed understanding of human rights on all three levels of human rights understanding (Levels I, II and III). One should note the fact that the sample in Limber *et al.*'s (1999:379) study included learners from grades one to eleven. This study consisted of learners only from grades nine to twelve, aged between 15 and 18 years who, according to the literature, are more likely to reason at a more advanced level (Peterson-Badali & Abramovitch 1992:156 Melton & Limber 1992:175; Covell & Howe 1996:252; Ruck *et al.* 1998a:404,413).

How do I explain my finding that some learners as old as 15-18 years reason at Level I and are still afraid to assert their right to education out of fear of punishment and unconditional obedience for authorities? Van Vollenhoven (2005:201) claimed that somehow the authoritarian school environment could contribute to learners' fears of asserting their right to freedom of expression and thereby renounce their rights in favour of siding with the authorities and protecting the school's image.

The next question I ask myself is: How do I account for the findings that learners from the same school, same cultural background and falling in the same age group differ in their levels of reasoning about their right to education? The best possible explanations could be:

- Respondents of this study are from the lower classes and ethnic minorities (see Table 2.8 & § 4.1). The literature indicates that sometimes learners from minority groups are suspicious that exercising their rights might result in less favourable treatment by authorities or may lead to punishment. This perception may render the notion of having rights meaningless and useless. Accordingly there may be little reason for these learners to believe the guarantees by benevolent authorities that their rights will be regarded as outstanding entitlement (Melton & Limber 1992:184).
- The same learner is capable of giving Level III responses in one context, yet regresses to lower levels of reasoning in another scenario, depending on the context in which a right is being applied (Limber *et al.* 1999:379).
- Some misconceptions about human rights may persist until late adolescence (Ruck *et al.* 1998b:276).
- Learners' development of understanding of human rights does not happen in a uniform way, but differently, depending on how they are exposed to human rights experiences within their own homes and school. Some will develop to the level of principled reasoning faster, while others will never reach this level (Melton 1980:189; Helwig 1997:485, Ruck *et al.* 1998b:276).
- The right to education is a relatively new concept in South Africa, which is a new democracy. This trend may change in future, since the political environment and



exposure to human rights experiences may stimulate the rate and level of human rights understanding (Grisso & Pomicter 1977:321; Covell & Howe 1996:253)

- Although respondents of this study fall within the same age group, there is an age difference between grade nine ( $\pm$  15 years) and grade twelve ( $\pm$  18 years), which could influence the development of understanding of the right to education according to age or grade level (Peterson-Badali & Abramovitch 1992:156; Abramovitch *et al.* 1995:4; Ruck *et al.* 1998a:404,413).

Chapters 5 and 6 have explored and interpreted the data in terms of my three research premises. Chapter 7 discusses my findings and the recommendations that logically emerge from them.