Chapter 1

1.0 ORIENTATION

1.1 Historical background

Teacher misconduct in South African schools needs attention, more than ever before because the new Constitution which came into operation on 4 February 1997 prohibits the ill-treatment of everybody in our country (cf. section 9(1), 33(1), 34(1) & 35(3) of the Constitution Act, No. 108 of 1996). The new legal system in our country demands that principals as managers and leaders must know and follow legal procedures when managing misconduct (cf. Employment of Educators Act No. 76 of 1998, Labour Relations Act, No. 66 of 1995 and other prescripts). It is because of this reason that the research project intends to investigate teacher misconduct and the relevant variables that have a bearing on misconduct in schools. It will also investigate the management of misconduct and the impact it has on the management and leadership of principals, and the learners' right to education.

In order to have a better understanding of the situation in schools in general and in traditional black schools in particular, it is necessary to look back and also to consider the present. Subsequent to the winning of elections on the platform of apartheid, the National Party government introduce Bantu Education. Prior to the introduction of Bantu Education, the Eiselen Commission was set up to inquire into an education system suitable for blacks. In 1951 the Commission reported that Bantu Education should be integrated into the South African education system. However, it had to be part of a segregated system which would develop blacks' economic and social lives separately. This system placed emphasis on the transmission of the cultural values of blacks by the institutions meant for them (Christie & Collins 1984:160).

The Eiselen Commission's recommendations were implemented by Dr H.F. Verwoerd who was the Minister of the Native Affairs at that time. The control of black schools was taken away from the provinces and the missionaries and was placed under the Native Affairs Department (Lodge 1984:266-268). The policy of separate development gave Dr Verwoerd the power to segregate and isolate blacks from other population groups in South Africa. This policy was aimed at separating blacks geographically, culturally and politically (Christie & Collins 1984:161).

During its reign the National Party government budgeted inadequately for Bantu Education because blacks were regarded as inferior (Christie & Collins 1984:182). Black children were discriminated against. They were for instance, expected to buy their textbooks and stationery whereas it was not always the case with their white counterparts (Unterhalter 1991:49, Hartshorne 1992:37). Black parents were forced by the government to pay money towards the building of new schools and for the payment of teachers' salaries (Hartshorne 1992:37-41). Conditions at black schools were appalling. The classrooms were congested which resulted in double sessions being introduced (Lodge 1984:270).

The aforementioned discriminatory policy of the National Party government, which is popularly known as the apartheid policy, caused discontent among black teachers. The teachers who were affiliated with the Cape and Transvaal African Teachers' Association initiated resistance to Bantu Education. In 1951 the Transvaal African Teachers' Association opposed the findings and recommendations of the Eiselen Commission. As a token of dissatisfaction the disgruntled and dissident teachers heckled a Bantu Education officer who attended a school function at one of the schools on the Reef. In order to protect apartheid policy, the government dismissed those teachers who participated in that protest action (Lodge 1984:265-274).

The strategies and tactics used by the National Party government to silence teachers did not succeed. Instead the teachers, the learners and the parents intensified their struggle against Bantu Education. In 1976 Soweto learners boycotted schools as a protest action against the National Party government's policy regarding Afrikaans as a medium of instruction (Levin 1991:122). Subsequent to the Soweto uprising, the state harassed and arrested teachers who showed solidarity with the learners (Davies 1984:350-351).

In 1978 the state realised that there was a dire need to reform the education system designed for blacks. The regulations that required Afrikaans as a teaching language were replaced. The abhorred Department of Bantu Education (DBE) was replaced by the DET. The Education and Training Act (ETA) (No. 90 of 1979) replaced legislation relating to the Bantu Education Act (BEA) (No. 47 of 1953) (Davies 1984:351).

Black leaders and teachers were not impressed by this move because blacks were not included in the designing of the education system meant for black children. In 1990 the powerful South

African Democratic Teachers' Union (SADTU) was formed in order to enable teachers to negotiate issues pertaining to educational matters (Moll 1991:199-200). Another reason for the formation of SADTU was to unify all South African teachers so that they could effectively protest against the education crisis (Hartshorne 1992:324-328).

At this juncture, it is deemed fit and proper to indicate that the purpose of this study is not to deal with the South African politics *per se*; but to investigate the extent to which the teachers commit misconduct in schools, while taking into consideration the fact that politics cannot be divorced from educational matters. The study also attempts to investigate the nature of misconduct in schools. Furthermore, the study intends to explore the role players and the initiators of misconduct which stems from political actions, not ignoring other variables which may play a role in prompting teachers to commit misconduct.

1.2 Statement of the problem

The teachers affiliated with SADTU emulated trade unions, because they regarded themselves as political activists who were to take part in the broader liberation struggle against the National Party government (Hartshorne 1992:321). After the release of Mr Nelson Mandela in 1990 it was obvious that the then National Party government was on the verge of collapse. Having realised this, teachers began to defy and despise principals and the officers of the DET.

One would have thought that there would be stability at schools subsequent to the release of Mr Mandela and other black political leaders because the outcry had always been that decisions on educational matters were taken without the inclusion of the genuine black leaders (Hartshorne 1992:310). But the situation and conditions deteriorated at almost all schools to such an extent that anarchy, lawlessness and a laissez-faire type of attitude prevailed. In addition to this, teachers resorted to the strategies used by trade unions such as downing tools, defiance and strikes, thereby eroding professionalism and professional conduct at all educational institutions for blacks. They, for instance, humiliated principals by chasing them away from schools (Molefe 1993:3).

From 1990 the situation at almost all secondary schools for blacks worsened. Teachers lodged their grievances and demands with the DET during school hours without asking permission from the principals or officials of the DET to engage themselves in such an action. The government

tried to quell this practice by arresting those who participated in this action. To show solidarity with those who were arrested, the teachers staged sit-ins and sleep-ins at the offices of the DET (Heard & Mapisa 1990:2, Maseko 1993:7).

Stay-aways, boycotts and strikes including chalk downs, became the order of the day. All these took place during school hours, and in the name of the struggle. At times they were prolonged up to more than two months (Sompetha 1992:13). Teachers participated in the above-mentioned protest actions for a number of reasons. The following are mentioned: congested timetables that required teachers to teach up to 42 periods a week; overcrowding in classes; freezing of posts; transfer of teachers to rural areas; insufficient textbooks and retrenchment of teachers without consultation (Molusi 1990:2).

Principals who dared maintain discipline and order were chased away from schools, or alternatively their cars or houses were set alight (Makoe 1991:2). At one school in Soweto, teachers incited the rioting learners to whip a principal who reprimanded them. After whipping him, they ordered him to leave the school premises (Smith 1993:4). Owing to the illegal dismissal of principals by the teachers, schools operated for years without principals (Louw 1993:5). The illegal dismissal and harassment of principals affected the management and leadership of schools negatively.

Teachers' actions as the ones set out above not only affect management and leadership of schools but they also affect teachers' attitudes, their personality and behaviour. Teachers, for instance, no longer show respect for authority in schools formerly controlled by the now defunct DET (Mothapo 1997:10). Subsequent to the dissolution of the National Party government, the unionised teachers challenged the management and leadership of principals, thereby creating a new culture of defiance and intimidation which rendered the schools unproductive and ineffective (Matseke 1997:12). These actions were driven by political motives linked to the struggle and not necessarily by education. Among others it could be mentioned that teachers changed from the state of professionalism to the state of defiance and negativism because of the politicisation of the traditional black schools.

The problem outlined in the preceding paragraphs is as not simplistic as it appears to be. The complexity of the problem can be ascribed to a plethora of factors. For example, some unionised teachers were appointed in the higher echelons of the education administration and management,

whereas others were not (cf. Figure 2-3). This posed a serious problem because those who also took part in the liberation struggle, and who were not elevated to higher positions started resisting change in the new dispensation under the guise of protest against issues such as rationalisation and redeployment, thereby disrupting the culture of learning, teaching and service (Shiba 1999:6).

The elevation of some teachers to higher positions in the hierarchical structure of our educational system was a grievous mistake because they proved to be incompetent (Malatjie 1997:7). Incompetence among the senior managers whose appointment was based on political struggle credentials, not necessarily on experience or relevant training contributed to some of the problems that manifest themselves in schools as organisations. For example, misconduct cases are not promptly dealt with by inexperienced and incompetent education managers (Mabunda 2001:10, Khupiso & Pretorius 1998:4).

At the school level, there was also a belief among the unionised teachers that teachers would "control" themselves in the new dispensation without the "interference" of the principals. When it was realised that this was a difficult expectation to meet, some unionised teachers became disillusioned to such an extent that they became rebellious towards the authority of the education officials, and this resulted in their resisting of changes and transformation that were brought about in the new dispensation (Mothapo 1997:10).

Mind-set is another factor which needs to be mentioned because thinking along certain lines in an organisation which is in the process of change poses a problem (Nickols 2000:5). In South African education, many changes and transformation had taken place. As a result of this, both principals and unionised teachers were expected to commit themselves to the changes that take place, but the converse is true.

Consider for instance hostage taking which was used by some of the unionised teachers at the time when they were fighting against the previous regime, which is still being used even in the new dispensation. Similarly, some principals do not want to reflect the democratic values and principles that are enshrined in the Constitution (No. 108 of 1996) in their management style. Instead, they are still trapped in the legacy of the past (cf. paragraphs 2.3.3, 4.2.2.1 & 4.3.1.3).

Another point which needs to be mentioned is that, to a large extent, some principals resist change because of the fear of the unknown, while at the same time, the unionised teachers force

change down the throat of the principals who resist it by using atrocious means (cf. paragraphs 2.3.3, 2.4.6 & 2.4.8.5). Some problems are caused by situational variables. More often than not, both principals and teachers react differently in a given situation and this causes a problem (cf. paragraphs 4.3.1.10 & 4.3.2.2).

Finally and more importantly, the progressive teacher unions, more especially SADTU were used by the progressive political movements as agents of change and transformation in the Department of Education (Conradie 1998:79). Having realised that the Department of Education cannot do anything without them, they are inclined to oppose or resist everything that the Department of Education may want to do without involving them, no matter how good it is. A case in point here is the Teacher Awards which SADTU in the Free State in particular do not support.

From a legal point of view, the aforementioned actions of teachers could constitute misconduct or insubordination (Oosthuizen 1994:92, 103-104, Mawdsley 1990:18-19). In terms of section 17(1)(a)-(n) of the Employment of Educators Act (EEA) (No. 76 of 1998) a teacher is charged by the employer with misconduct if there are sufficient grounds surrounding the aforementioned teacher actions. Points to be considered when determining whether the actions of a teacher constitute misconduct are enumerated in sections 17(1)(a)-(n) and 28(1)(e) of the EEA (No. 76 of 1998). In terms of sections 24(2)(a) and 28(1)(f) of the EEA (No. 76 of 1998), teachers who are guilty of any transgression of codes of conduct are liable to criminal charges, misconduct or dismissal. In addition to the foregoing exposition, contravention of the provisions of section 64(1)(b)(c) of the Labour Relations Act (LRA) (No. 66 of 1995) and sections 3(1)(2), 7(1)-(3) and 8(1)-(10) of the Regulation Gatherings Act (RGA) (No. 205 of 1993) may constitute misconduct.

Management of misconduct and insubordination is an ongoing process which forms part of a principal's tasks. For the principal to be able to manage procedures related to dismissal and the formulation of charges against teachers, he or she needs to know statutes, regulations and rules (Oosthuizen 1994:64-72). Management as a practical activity cannot be separated from theory because there is a relationship between theory and practice (Bush 1994:33). According to Bush (1994), a theory assists in providing a framework for understanding the behaviour of the teachers and the events that take place within the school as an organisation.

Hoy and Miskel (1987:284) make mention of the contingency theories which "maintain that leadership effectiveness depends upon the fit between personality characteristics and behavior of the leader and situational variables . . ." They furthermore identify two contingency theories namely Fiedler's contingency theory and House's path-goal theory. As a framework for the researcher to understand the situation and the effective leadership of principals, the contingency and path-goal approaches will be examined at the four schools that were formerly controlled by the DET in order to test Fiedler's contingency model and House's path-goal theory at the aforementioned schools (cf. paragraph 1.8).

From the literature studied, it can be deduced that the following phenomena may have a bearing on misconduct: political activities within the school premises; bureaucracy in the education system; collegiality among the teachers; subjectivity among the teachers and principals, and ambiguity or hidden agendas within schools as organisations (Bush 1994:35-50). Focusing on the above-mentioned, the researcher will ask the following fundamental research questions:

1.2.1 How does teacher misconduct impact on the management of schools?

1.2.2 What are teachers' and principals' perceptions of what constitutes misconduct in schools?

1.2.3 What do teachers and principals perceive to be the cause of teacher misconduct?

1.2.4 How do principals and other education managers deal with teacher misconduct?

1.2.5 What is the perception of the School Management Developers of the impact of misconduct on the leadership and management of principals?

1.2.6 How is misconduct defined by the law?

Interpretation of the situation and data will give answers to the above-mentioned questions and the new questions that may be asked. It is these answers that will make it possible for the researcher to construct knowledge and to understand what is happening at schools with regard to misconduct. Constructing knowledge in the minds of human beings is a daily activity because minds of individuals are not passive (Schwandt 1994:125). A human being constructs knowledge by analysis of new situations, critiques of new and old situations, reiteration and re-analysis of old

situations (Schwandt 1994:128-129). The new knowledge regarding teacher misconduct will be regarded as trustworthy and authentic (Punch 1994:100-104), and the findings will not be generalised as is the case with the conventional research paradigm, e.g. quantitative research (Guba 1990:22) .

The preceding paragraph indicates that the constructivist or interpretivist approaches are to be used in the research project. A constructivist approach is a research design that is used by qualitative researchers to construct knowledge. It also enables a researcher to use phenomenological, dialectic and hermeneutic methods (Punch 1998:186-187). This research paradigm has been chosen by the researcher because the mind of an individual is continuously active in constructing knowledge everyday (Punch 1998:187).

An example of the interpretation of what is recorded in the official documents and the construction of knowledge from the contents of the official documents is the hermeneutic and critical reading of the logbooks and the minutes of the SGB/the staff. If, for instance, it is recorded in the logbook or in the minutes that the principal reprimanded a teacher who abused alcohol, the researcher reads this critically in order to find out whether this particular teacher does this regularly or occasionally.

The above-mentioned situation can be interpreted to mean that the reprimanded teacher is insolent and indolent; and that (s)he has adopted a laissez faire type of attitude, if (s)he is a habitual drunkard. It must however be noted that the same data or situation can be interpreted differently to give another meaning (Clark 2002:4). The knowledge which is constructed from this meaning is that this particular teacher commits misconduct by abusing alcohol.

The responses of the participants can also be interpreted during the interviews and discussions to construct knowledge. The knowledge which is constructed by interviewing participants is created and it is not discovered by the researcher. This knowledge is constructed as a result of the participation of the interviewees and the interviewer (Clark 2002:4).

The construction of knowledge is only possible if the interviews and discussions are dialectic in nature. This means that there must be dialogue which is characterised by a logical and critical argument between the researcher and respondents (cf. paragraphs 5.5.2, 5.6.2 & 5.5.7.2). Dialectic questions such as the structured and unstructured open-ended questions can help in this

regard. The question "Why are some teachers regularly coming to school late?" makes one think critically.

The above-mentioned question triggers argument and thinking. The respondents may argue as follows: The teachers come to school late because the principal also comes to school late; the teachers come to school late because they are not motivated; the teachers come to school late because they are not committed to teaching; the teachers come to school late because the principal is not strict; the teachers come to school late because there is no clear school policy. The foregoing responses are critically analysed and interpreted, and where necessary, the chaff is separated from the grain in the interpretation stage in order to construct knowledge.

Unlike the conventional positivist approach which lays emphasis on internal validity, external validity and reliability, the constructivist approach lays emphasis on trustworthiness and authenticity. In other words, in the constructivist approach internal and external validity are substituted by trustworthiness and authenticity (Punch 1998:186-187). The findings in the research project will not be generalised but they will be regarded as trustworthy and authentic. This is more so because human beings are not the same. For instance, the behaviour of the teachers of school B may not be the same as the behaviour of the teachers of school C (Clark 2002:1). The circumstantial and documentary evidence will endorse the trustworthiness and the authenticity of the findings (cf. Pictures 2-1 & 4-1, Figures 5-1 & Table 4-1).

Another discernible difference between the positivist and constructivist approaches is in methodology. The positivist approach uses methodology which enables the researcher to carry out experiments in which the variables are manipulated and controlled. The methodology is thus manipulative and experimental (Guba 1990:119). On the contrary, the constructivist approach is characterised by phenomenological, hermeneutic and dialectic methodologies which demand that the researcher must be on site to interact with the respondents so that (s)he can elicit data from them. In the constructivist approach, communication, reading of documents, observing and describing are important and there are no variables to manipulate and control (Guba 1990:27). In the research project, these are evident (cf. paragraphs 3.2.5, 5.5.2, 5.6.2 & 5.7.2).

More importantly, it must be noted that when perusing official records such as the school registers, newspaper reports, minutes of the SGB, and as well as interacting with the entire school as an organisation, a qualitative researcher uses an interpretivist approach in order to understand

the situation at the schools under investigation. For instance, the phenomena at the four project schools under investigation will be interpreted in order to construct knowledge (cf. paragraphs 5.4.2, 5.5.2 & 5.6.2). An interpretivist approach is a paradigm that is used interchangeably with constructivist approach. One cannot construct knowledge from the data collected without interpreting it (Guba & Lincoln 1998:212).

Furthermore, it can be said that an interpretivist approach may be used by a qualitative researcher together with the positivist and constructivist approaches. In the positivist approach, the interpretivist approach is used to interpret experiments and to explain what the experiments mean or depict. In the case study, the interpretivist approach can also be used to interpret it. The interpretivist approach is not possible without the constructivist approach. The situation has to be interpreted before knowledge is constructed (Denzin & Lincoln 1998:26-27).

In paragraphs 5.5.2, 5.6.2 and 5.7.2 the responses of the principals, the members of the teachers' unions and the school management developers of the four project schools are interpreted to construct knowledge. The documentary evidence helps in constructing authentic and trustworthy knowledge. This is done by critically reading and interpreting the official books to find out whether they contain the information which supports the responses of the aforementioned participants.

1.3 Working assumptions

Hypotheses are derived from daily observations and theories; and they can be tested if a researcher uses a quantitative research design (Ary, Jacobs & Razavieh 1987:78-79). In the case of a qualitative design, an investigator draws conclusions and inferences from the hypotheses (Ary *et al.* 1985:80-81). Another point to be noted is that qualitative research design lays less emphasis on hypotheses (Fiske 1994:200). This is because in qualitative research design hypotheses are not verified and statistically tested, and the findings are not generalised as is the case with quantitative research design. Instead, the findings are regarded as trustworthy and authentic (Guba & Lincoln 1994:112).

It must also be noted that in qualitative research experiments which allow an investigator to manipulate variables are not carried out. Instead, interactions, observations, dialogue and discussions are carried out by an investigator and participants in order to construct knowledge

(Guba & Lincoln 1994:107-110). For the purpose of this study, the word "hypotheses" is replaced by the concept "working assumptions."

The working assumptions which are derived from observations, and which are made in this research project are: 1) Teacher misconduct as it occurs in the schools under investigation, negatively influences the management and leadership performance of principals. 2) The learners' right to education as enumerated in section 29(1) of the Constitution (No. 108 of 1996) is also negatively affected by teacher misconduct. The researcher will construct knowledge from the above-mentioned working assumptions and the data gathered in the interviews and discussions with the help of the participants.

The participants who will help in the construction of knowledge will be the focus groups which will be drawn from the principals, the members of the site committees of the South African Teachers' Union (SADTU), the members of the Orange Free State Teachers' Association (OFSATA), the members of the South African Teachers' Union (SATU) and the School Management Developers (SMD), because it is assumed that they know the situation at schools and that they will be in a position to argue over issues that will yield multiple contributions to knowledge. As has already been mentioned, the knowledge which will be derived from the social setting, locality and the experience of the participants will be regarded as trustworthy and authentic, and it will not be statistically tested or verified (Guba & Lincoln 1994:105).

1.4 The aims of the research

1.4.1   To determine why teachers commit misconduct in schools and the extent to which misconduct is committed.

1.4.2   To determine whether education managers apply statutes, rules and regulations when dealing with teacher misconduct.

1.4.3   To determine whether the line function in the educational structure functions properly with regard to management of misconduct.

1.4.4   To explore the impact of misconduct on the leadership and management of principals.

1.4.5   To investigate and analyse legal provisions on educator misconduct.

1.5 Methodology

The inquiry will be made by making use of the hermeneutic, phenomenological and dialectical methods. The phenomenological method as used by Schwandt 1994:120-121, Maykut & Morehouse 1994:11-15, Schumacher & McMillan 1993:95 and Bryman 1988:51 is found preferable to using methods such as empirical and experimental methods which in a way depersonalise and violate the dignity of human being (du Plooy, Griesel & Oberholzer 1982:217-218).

According to du Plooy *et al.* (1982:218) the phenomenological method is appropriate and suitable for investigating or studying human being. They go further to say that the experimental method studies objects when the phenomenological method studies the phenomenon which manifests itself in the situation. For instance, the sexual abuse of learners is a phenomenon which appears in schools (cf. paragraph 3.2.5). Problems in the human sciences can be better studied by using the phenomenological method (du Plooy *et al.* 1982:218).

The phenomenological method enables the researcher to study what a person does in his/her life world by observing and describing it. What one perceives is actually what appears and this is the phenomenon itself which must be studied. For the phenomenon to be studied, it must attract the investigator (du Plooy *et al.* 1982:225). In other words, what shows itself in the life world must be revealed as is the case with late coming, corporal punishment and sexual abuse of learners (cf. paragraphs 2.2.4, 2.4.1, 2.4.7 & 3.2.5).

Du Plooy *et al.* (1982:225) points out that Landman has identified possible steps that the investigator may follow when using phenomenological method. Some of these steps which are found to be relevant to this study are discussed in the paragraphs that follow. According to du Plooy *et al.* (1982:225), Landman argues that the investigator's outlook on life can influence him/her to subjectively perceive and describe the phenomenon. Van Manen (2000:1) also expresses the anxiety that researchers are subjective in the description of phenomenon. However, van Manen (2000:1) postulates that the objectivity is possible if the process is well defined and described. For example, the case of sexual abuse which is discussed in paragraph 3.2.5 is clearly defined and described.

What is perceived and appears as a phenomenon at schools under investigation is recorded in minutes books, logbooks, time books and other official books of the four project schools. What the researcher observes like the vandalised and damaged buildings is noted in the note book meant for this purpose (cf. Pictures 2-1 & 4-1). The laws are analysed and informants are approached to discuss misconduct as a phenomenon which appears at the four project schools with them (cf. paragraphs 3.2.5, 5.5.2, 5.6.2 & 5.7.2). The cases of misconduct are listened to in court (cf. paragraph 3.2.5). All of these are places or actions through which the researcher could discover the essence of teacher misconduct as it manifests itself in the four project schools.

The investigator perceives what happens in the life world of the subjects/teachers, and (s)he chooses what is relevant to study. Du Plooy *et al.* (1982:226) indicate that Landman holds the view that what is relevant, genuine, and essential should be identified and described. In the research project, the unlawful lashing of learners by some teachers (cf. paragraph 2.4.7) is described and referred to as misconduct in terms of section 10(1)(2) of SASA (No. 84 of 1996).

The phenomenon which the researcher perceives as what actually appears at the four project schools, and which attracted the researcher to carry out this study is confirmed by newspaper reports, literature reports, reports of human rights commission and cases of misconduct which were put on trial in the court of law. The reported cases of misconduct which are confirmed as mentioned in the foregoing exposition are categorised to give a clear meaning of misconduct as a phenomenon which manifests itself in schools (cf. paragraphs 2.2, 2.3, 2.4 & 2.5).

Du Plooy *et al.* (1982:226) maintain that Landman points out that the phenomenological method demands that what is reported during the interviews and discussions, as a phenomenon should be tested and verified. In the case of this research project, the sexual abuse of learners by some of the teachers can be tested and verified (cf. paragraphs 2.4.1 & 3.2.5). This phenomenon is a reality, and it is misconduct irrespective whether it occurs once or regularly. One cannot talk about incidental manifestation of a phenomenon (du Plooy *et al.* 1982:227). Discussions with the respondents during the interviews also verifies the meaning of phenomenon or the meaning of what is happening at schools.

According to du Plooy *et al.* (1982:228) Landman argues that thinking, reading and interpretation are very important aspects of phenomenology. This means that when a researcher observes a phenomenon (s)he must do so solely in search of what is true. The phenomenological method

demands that what the researcher observes and describes should be reviewed again in order to avoid subjectivity (du Plooy *et al.* 1982:228). In the research project this is done by listening to the views of participants, analysing and re-analysing these views (cf. paragraphs 5.5.2, 5.6.2 & 5.7.2).

It is clear from the preceding paragraphs that the phenomenological method is a research tradition which enables a researcher to avail her/himself in the schools under review to interact with the participants/respondents or the entire schools as organisations in order to observe in *toto* and to take notes of what is happening in the situation or on site over a long period of time (cf. paragraphs 5.5.2, 5.6.2 & 5.7.2). The interaction with the respondents and their involvement helps the researcher to interpret and construct knowledge in the world of meaning and in the school setting. This is done by observing and describing the phenomenon which manifests itself.

For example, it is observed whether the educators adhere to rules and regulations, whether some educators come to school reeking of alcoholic beverages etc. In this way the phenomena in schools under study are described, and interpreted in order to construct knowledge. By identifying with the members of the participants or the schools which are under investigation, a researcher eventually becomes a member of the participants, or a member of those particular schools (Brewerton & Millward 2001:96).

The phenomenological approach enables a researcher to study the life-world of an individual. This means that the researcher is concerned with what happens in the life-world (van Rensburg & Landman 1988:446). In this research project, the phenomenon being studied will be observed. For example, it will be observed whether the buildings of the four project schools are wilfully and intentionally vandalised or damaged (cf. paragraphs 2.3.5 & 4.2.1.5). Photos of the damaged and vandalised buildings will be taken to support the assertion of the researcher.

The vandalised and damaged buildings will be interpreted in relation to education law to construct legal knowledge. As has already been mentioned in paragraph 1.2, the observation that will be made at the four project schools will not be generalised, because what will be observed at these schools may not occur or may not be a phenomenon at all schools in the Odendaalsrus district. Continuous and unlawful absenteeism of some teachers is another phenomenon which the researcher will observe at the four project schools in order to collect circumstantial evidence or data.

these official documents in the interpretation phase to construct authentic and trustworthy knowledge (cf. paragraphs 3.2.5, 4.2.5 & 5.5.2).

According to Schwandt (1998:227), the act of interpreting the contents of documents is a "hermeneutical undertaking analogous to the interpretation of a text." The purpose of interpreting official documents or newspaper reports is therefore to understand the behaviour of the teachers and the schools in their context. Schwandt (1998), furthermore holds the view that "the hermeneutical circle is a methodological device that provides a means for inquiry in the human science." From the foregoing exposition it becomes clear that an investigator must be in the situation to interpret texts in order to construct knowledge.

The word text means poems, posters, official books, magazines, newspapers, graphs etc. At the four project schools the incidents which were recorded in the official books will be read with understanding i.e. they will be interpreted in order to find out whether the recorded incidents constitute misconduct. For instance, if it is recorded in the logbook that a Grade 1 learner fell from a tree during interval, and that (s)he broke her arm, this cannot be interpreted to mean misconduct committed by a teacher. However, a teacher who was on duty on that day may be held liable and charged with negligence of duty in terms of the EEA (No. 76 of 1998).

Similarly, the dialectical method is used in the research project. The word "dialectic" has been derived from the word "dialogue". The word "dialectical" means that, there is a dialogue between the investigator and the respondents/participants during the interviews and discussions. To elicit data that will be valuable to construct knowledge, the dialogue must be dialectical in nature (Guba & Lincoln 1998:206). It is for this reason that the dialectic method is chosen because knowledge is constructed when there is conversation between the enquirer and the respondents (Schwandt 1994:121,122,127 & 129).

In paragraphs 5.5.2, 5.6.2 and 5.7.2 interviews and discussions will be held with the principals, the members of the unions and the school management developers of the four project schools. The new knowledge which will be unfolded by asking more and critical questions will be recorded. This will be done by taking notes, critical analysis of the responses, repeating questions where necessary in order to sort clarity and to understand the issues at hand.

The use of the above-mentioned methods will make it possible for the researcher to explore people, settings and behaviour as part of the milieu in which educators find themselves. According to Jacob (1987:1) settings are behaviour, milieu, location, duration, equipment, members, educators etc. As has already been alluded to, the hermeneutic method will help the researcher to peruse and to study the official documents as well as the newspaper reports, and the phenomenological method will assist in the observation of the new situation while taking into consideration the previous situations in the event of constructing knowledge (Maykut & Morehouse 1994:44). Interacting with respondents, the dialectical method will be of vital importance because there will be a dialogue between the investigator and the participants (Guba & Lincoln 1994:108-109).

1.6 Research Procedures

1.6.1   Four schools that were formerly controlled by the DET will be purposely selected from the schools in the Odendaalsrus District - Free State Province. The selection of these four schools will be based on scholastic performance, the outlook and the behaviour of teachers which has been recorded and reported to the officials. By selecting only four schools it will make it easier for the researcher to conduct a qualitative study effectively because the fewer the schools, the better the manageability of the research (Maykut & Morehouse 1994:174).

1.6.2   Interviews and group discussions will be used to induce information data (Bryman 1995:47-50, Ely, Anzul, Friedman, Garner & Steinmetz 1997:57). The interviews and discussions will be audio-taped if possible, while notes will be taken. Using a tape recorder and taking notes during the interview sessions and group discussions is a sensitive issue (Sherman & Webb 1988:132). The researcher will therefore ask permission from the participants beforehand to use a tape recorder and to take notes.

The three basic qualitative research principles namely respect, non-coercion and non-manipulation as well as support for democratic values and institutions will be applied (House 1990:158-161). The dialectical interpretation will be used by the researcher to construct knowledge during the interviews and group discussions (Guba & Lincoln 1994:114-115, Punch 1994:100). The argument will be refined and at the

same time the researcher will guard against subjectivity. What seem to be facts will be written down as notes that will be used later on.

1.6.3   The researcher will take notes and observe the daily routine, the management and the leadership of the principal as well as the behaviour of his or her teachers in the schools concerned (McMillan & Schumacher 1993:116-118). In the event of interacting with the participants, phenomenological interpretation which is the interpretation of the situation in which the investigator finds him/herself will help the researcher to construct knowledge regarding teacher misconduct.

1.6.4   Documents in which cases of misconduct have been recorded will be examined in order to find out whether they will yield information needed for this study (Ary *et al.* 1985:326). Cases of misconduct that went to trial will be analysed and interpreted. Hermeneutic interpretation which is the interpretation of the official records, the newspaper reports and other reports in the literature will help the researcher to construct new knowledge (Punch 1994:100, Guba & Lincoln 1994:128).

1.6.5   During the data collection phase new knowledge will be constructed. In the inquiring process the construction will be evaluated to find out whether it fits the collected data and also to find out whether it works or makes any sense and has relevance (Schwandt 1994:129).

1.6.6   During the data analysis phase the researcher will guard against subjectivity in the interpretation of data. Where necessary diagrams, charts, frequency lists, process figures etc., will be constructed (McMillan & Schumacher 1993:385).

1.7 Delimitation

The scope of this study and the sample of respondents are limited to four schools that were formally controlled by the DET in the Odendaalsrus district (cf. paragraphs 1.8.1 & 1.8.2). The methods used in this research project, namely hermeneutical, dialectical and phenomenological do not use mean, media and other formulae that are used in statistics. The findings will not be generalised, but they will be regarded as trustworthy and authentic facts that have been

constructed at the four schools mentioned above during the data collection and analysis phases (cf. paragraphs 1.2 & 1.3).

As noted by Schumacher and McMillan (1993:251) structured questions do have limitations, more especially if a researcher asks closed questions which require the respondents to select one option as an answer to the question. Regarding structured questions, it can also be said that they limit discussion because the respondents become nervous and suspicious in a formal interview session, whereas it is not the case with the respondents in an informal interview, where unstructured questions are used. As far as the collection of data is concerned, there are limitations in that some of the misconduct cases are not recorded whereas others are inadequately recorded in the schools logbooks from which the information is gleaned (cf. paragraph 1.8.5).

1.8 Definition of words and phrases

1.8.1   Misconduct

Misconduct is defined by Faris (1996:712) as "the contravention of any provision of the act or failure to comply with those provisions." Schedule 8 section 7(b) of the LRA (No. 66 of 1995) stipulates that an employee is guilty of misconduct if he or she contravenes "a rule or standard regulating conduct, or of relevance to, the work place." In terms of schedule 8(4) of the LRA (No. 66 of 1995), offences that constitute misconduct which may lead to the employee's dismissal are "gross dishonesty or wilful damage to the property of employer, wilful endangering of the safety of others, physical assault on the employer, a fellow employee, client or customer and gross insubordination."

As may be seen from the definitions, it is important for both the principal and the educators to acquire knowledge of law and legislative provisions in order to avoid conflicts within the school as an organisation. It is assumed that the acquisition of legal knowledge will make the principal effective and efficient in managing misconduct and insubordination within the school as an organisation because legal procedures must be followed and adhered to when managing misconduct.

1.8.2 Insubordination

The terms "employer" and "employee" have been defined elsewhere in the research project (cf. paragraphs 1.8.6 & 1.8.7). At this stage it suffices to say that there is a relationship between the employer and the employee which is referred to as the employer-employee relationship. There exist different types of relationships between the employer and the employee. For example, there is a relationship of authority between the employer and the employee and a relationship based on the different rights and duties of the employer and the employee (Beckmann, Bray, Foster, Maile, Smith and Squelch 2000:41). The employee is obliged to respect the authority as well as the rights and duties of the employer. The moment these are not respected, insubordination occurs.

As was alluded to in the preceding paragraph, insubordination as a form of misconduct is when an employee shows disrespect to an employer by way of defiance, intimidation, hostage taking and refusing to carry out legitimate instructions. Grogan (1997:117) defines insubordination as a "breach by employees of their duty to obey their employer's instructions;" while Dessler (1997:601) defines it as "wilful disregard or disobedience of the boss's authority or legitimate orders, criticizing the boss in public."

Carrell, Elbert and Hatfield (1995:698) perceive insubordination as "directly refusing to obey an order, using abusive language, committing acts of violence or not following health and safety rules". French (1994:187) concurs with the above mentioned scholars while laying emphasis on the refusal of the employee to carry out an employer's instructions and to observe organisational rules.

In terms of the above definitions of insubordination, an employee who does not observe the authority vested in his or her employer or supervisor and rules laid down by his or her organisation is liable to a charge of insubordination. In a school setting the principal is an immediate manager delegated by the employer. As an employee, an educator should obey a principal's legitimate instructions, observe the rules of the school and the authority vested in his or her principal. If an educator persistently and deliberately disrespects and disobeys legitimate instructions of a principal, such an educator commits insubordination because common law demands that every employee should respect and treat his or her employer with courtesy (Grogan 1993:43).

1.8.3 South African Council for Educators (SACE)

SACE is a professional organisation, therefore, a juristic person whose leadership mainly comprises teachers. However, there are other stakeholders who serve on SACE. The majority of teachers who serve on SACE means that through SACE education regulates itself (Abrams 2001:1). This body has been set up in terms of statute (cf. section 4 of the South African Council for Educators Act (SACEA) (No. 31 of 2000). Among others, SACE aims at dealing with professional standards for teachers, professional development of teachers and setting, maintaining and protecting a code of professional ethics for teachers (section 2 of SACEA, No. 31 of 2000).

In terms of section 21(1) of the SACEA No. 31 of 2000 all teachers who have successfully completed diploma in education at the recognised institution of learning must register with SACE even if they are not employed. In fact, section 21(2) of the SACEA No. 31 of 2000 clearly states that unemployed educators who are not registered with SACE may not be employed by any Department of Education in the country. The teachers mentioned in section 21(1)(2) of the SACEA No. 31 of 2000, are liable for disciplinary action. In terms of section 5(d)(iii)(bb) of SACEA (No. 31 of 2000), the names of teachers who are found guilty of professional misconduct or any offence could be struck from the register of educators.

1.8.4 Constitution

Bray (2000:5) stresses the fact that the Constitution of South Africa came about as a result of political organisations and other stakeholders who gathered together in Kempton Park under the umbrella of the Congress of the Democratic South Africa (CODESA) to negotiate it. Their negotiations resulted in their adoption of the interim Constitution Act (No. 200 of 1993). The 1993 Constitution came into operation on 27 April 1994, after the first democratic elections in our country. The Constitution Act (No. 200 of 1993) was amended before it was finally adopted in 1996. The 1996 Constitution Act (No. 108 of 1996), hereafter the Constitution came into operation on 4 February 1997.

Bray (2000:6) goes further to say that the purpose of the Constitution is to reconcile the South African persons, and to ensure that democracy is practised, because of the democratic values and principles it enshrines, and it also protects the dignity of everybody in this country. Secondly, it strives to treat everybody in South Africa equally because of the fundamental human rights it

enshrines, it furthermore states categorically that everyone is equal before the law (cf. section 9 of the Constitution, No. 108 of 1996). Thirdly, it intends to improve the quality of life of all the citizens of South Africa, while allowing them freedom in many respects. Finally and more importantly, it purports to build a united and democratic South Africa.

According to Devenish (1998:36) the Constitution is the highest law which creates a new *grundnorm* for the state and the body politic in South Africa. Similarly, Rautenbach and Malherbe (1998:4-5) hold the view that the Constitution has the following characteristics: the supremacy of the entrenched constitution, a Bill of Rights, a democratic system and proportional representation in parliament, the three levels of government, the principle of one nation with the diversity of interests, and the product of a detailed document.

1.8.5 Labour relations

In paragraph 1.8.2 the relationship between the employer and the employee which is referred to as employment relations or employee relations or labour relations by some scholars was discussed (Rollinson 1993:3, Storey & Sisson 1993:4). At this stage, it suffices to note that labour relations are employment relations that exist between the employer and the employee. The labour relations deal, among others, with the rights of employees, for example: the right to fair labour practices, the right to form and join trade unions; the right to organise and bargain collectively; the right to strike for the purpose of collective bargaining (section 64(1)-(5) of the LRA, No. 66 of 1995). The Constitution also refers to both the employee's and the employer's right to engage themselves in matters pertaining to employment or work situation (section 23(1)(a)-(b) of the Constitution, No. 108 of 1996).

1.8.6 Employer

In section 1(vi) of the EEA (No. 76 of 1998), the Director-General and the Head of Department are referred to as an employer because they employ and provide work for employees in the education public sector. In South Africa educators are employed by the specific department of education, represented by the Head of Department. In terms of section 23(3)-(5) of the Constitution (No. 108 of 1996), the employer has the right to belong to an employer's organisation, and to take part in all activities of the employers' organisation. Section 7(1) of the

LRA (No. 66 of 1995) alludes to the fact that the employer has the right to be protected against unfair labour practices.

1.8.7 Employee

The word employee is defined as "any person, excluding an independent contractor, who works for another person or for the State, or any person who in any manner assists in carrying on or conducting the business of an employer, and who receives, or is entitled to receive, any remuneration" (section 203(1)(c) of the LRA, No. 66 of 1995). In this research project, the employee referred to is an educator (section 1(v) of the EEA, No. 76 of 1998). Mention must be made that, as employees, educators are protected by the LRA (No. 66 of 1995). They have for instance, the fundamental rights which are catalogued in section 5(1)-(4) of the LRA (No. 66 of 1995), while section 23(1)(2) of the Constitution (No. 108 of 1996) enumerates the rights of employees which guarantee them fair labour practices and the opportunity to take part in trade union's activities.

1.8.8 Educator

An educator is a person who educates another person who might be a child or an adult. An educator does not need a specific time or venue in order to educate. Instead he/she may educate everywhere at any time when the need arises. In most cases an educator educates with love, care, sympathy and earnestness. There is a difference between an educator and a teacher. A teacher is someone who causes someone to know by way of giving him/her lessons at a specific time in a specific venue. In other words, someone who causes someone to learn at an institution of learning is a teacher.

On the contrary, section 1(v) of the EEA (No. 76 of 1998) defines an educator as "any person who teaches, educates or trains other persons or provides professional educational services, including professional therapy and education psychological services, at any public school, further education and training institution, departmental office or adult basic education centre and who is appointed in a post on any educator establishment." As employee an educator is protected by the LRA (No. 66 of 1995). This Act permits educators to bargain collectively, to register with employee unions or associations of their choice and to prevent or to settle disputes facing them

against unfair labour practice (section 5(1)-(4) of LRA, No. 66 of 1995 & section 23(1)-(6) of the Constitution, No. 108 of 1996).

In this dissertation the word "educator" is used as defined in section 1(v) of the EEA (No. 76 of 1998), and it will be used interchangeably with the word "teacher". The educator's code of conduct as defined by SACE in paragraphs 3-9 (Boshoff & Morkel 2000:4-9 up to 4-11) and section 17 (1) of the EEA (No. 76 of 1998) as well as other prescripts will be looked into.

1.8.9 Dismissal

Dismissal can be defined as the termination of the contract of the employee by the employer with or without notice, or the refusal by the employer to renew a fixed term of a contract of the employee, or the refusal of the employer to allow the employee to assume duty after the employee has taken maternity leave in terms of any law, or the action of the employer that forces the employee to terminate his or her duty (section 186(1)(a)-(e) & section 187(1)(a)-(e) of the LRA, No. 66 of 1995) . The dismissal of the employee may be fair or unfair.

1.8.10 Code of conduct

The code of conduct referred to in this dissertation "means the Professional Code of Conduct for Educators contemplated in the Constitution of the SACE" (Boshoff & Morkel 1999:4-12). An educator is a professional who interacts with learners, parents, community and his or her colleagues (cf. paragraph 1.5.8). Therefore, a code of conduct contains provisions with which an educator is obliged to comply, in respect of the aforementioned categories of people. The function of the code of conduct is to give the teaching profession the dignity it deserves because this profession is a noble calling for educators. The code of conduct for educators aims at establishing and maintaining harmony; loyalty; respect; dignity; human rights; upholding of standards, values and norms in the workplace in general and in our country in particular (section 28(1)(c)-(f) of the EEA, No. 76 of 1998).

1.9 Chapter planning

1.9.1 In chapter two, misconduct will be identified at schools by way of investigating what the literature indicates about teachers' behaviour inside and outside the school

premises of the schools that were formally controlled by the defunct DET. Possible causes of misconduct will also be explored.

1.9.2 In chapter three, points which are related to legal aspects will be discussed in order to establish what knowledge principals should have to manage misconduct.

1.9.3 Chapter four will outline the impact that misconduct has on the management and leadership of principals.

1.9.4 Chapter five will describe the teachers', principals', teachers unions' and teachers associations' perceptions of teacher misconduct by presenting and interpreting the data collected. This chapter will also strive to match practice with theory.

1.9.5 In chapter six, findings, conclusions and recommendations will be discussed. Suggestions for future school managers and leaders and for further research will be offered.

1.10 Conclusion

In this chapter an attempt was made at outlining the historical background of the education systems of this country since 1948 which led to the hardening of the hearts of the teachers, the parents and the learners. As a result of this, teachers took part in the liberation struggle against the National Party government which was ultimately dissolved. The struggle against the former regime changed the attitude and the professional conduct of the teachers; hence some of them are committing misconduct unknowingly or even knowingly e.g. illegal strikes, unauthorised time off etc.

It was also indicated that the problem identified is compounded by numerous factors or variables which should not be underestimated. To construct meaningful knowledge, a qualitative research design was chosen by the researcher. In order to enable the researcher to use qualitative research effectively, four schools were chosen. In this chapter it was explained how the data would be collected.