

# The Right to a Basic Education in South Africa: Providing Content to the Right to Achieve Adequacy in Schools

---

## Abstract

This dissertation is a multi-disciplinary examine at the meaning of a right to basic education in South Africa. It will attempt to better understand the present circumstances in schools and the disparities in educational resources, both material and human. In order to provide context for an unfamiliar reader, a brief review of the history of education will be provided. Resource disparities between the wealthy (minority) and middle class and poor (majority) will be reviewed and discussed with special focus on the Western Cape, where the research for this dissertation was conducted. The Western Cape is also the site of the ethnographic work collected and arranged in a section of the dissertation. US Legal cases surrounding education, a brief overview of the possibilities and problems of the legal approach are included in order to challenge but ultimately support the notion of the utility of the law as a tool to achieve substantive changes in educational equality. Recent cases in South Africa addressing the right are introduced as indicative of the possible jurisprudential trajectory that lies ahead. Finally, a list of the resources deemed 'basic' and necessary for educational success will be included and fleshed out within the dissertation.

## Acknowledgments

First and foremost, I would like to acknowledge the efforts of my advisor, Richard Calland, in aiding me throughout the process of producing this dissertation, I am very grateful for his support and flexibility as the dissertation inevitably changed and finally took shape. I wish to acknowledge my loving family for their support and encouragement, My deepest appreciation is extended to the families and students included in the ethnographic section of this dissertation. They have changed my life forever for the better, and I could not have completed this dissertation without them.

The copyright of this thesis vests in the author. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

Published by the University of Cape Town (UCT) in terms of the non-exclusive license granted to UCT by the author.

## Preface

The South African Constitution guarantees the right to a basic education. The scope of this right has recently begun to be interpreted by the courts and some initial legal consideration has developed around what a "basic" education entails. These specific cases do not examine the issue of adequacy in schools, but this work will discuss ways means to use these cases, which have produced some initial dialogue around what South African students can expect from their right to a basic education. This work, at its center, supports the argument for quality, or adequacy as component of a basic education. In order to support this notion, a further discussion of the personal research will be employed in an investigation of the meaning of the right to a basic education. Similar points have been drawn out, particularly by NGO's deeply devoted to the promotion of the right to education, most notably Equal Education, an organization which provided a springboard as I began my work some three years ago, allowing me to find informants and provided some education through experiences and interaction with individuals so deeply dedicated to this cause. Following this preliminary stage of this work, I became isolated in my research and centrally focused on ethnography and academic surveying. Interestingly, years after being briefly introduced to Equal Education, some of the concepts discussed in this dissertation have come up in their recent campaigns and, in fact, have drawn out the issue using far more man power and a great deal of additional resources. The congruence in some of the ideas of schools' most urgent needs may be more than a coincidence and I hope my work can be used to support organizations like Equal Education and a multitude of others by disseminating the information to individuals who may otherwise remain unexposed to the issue. I believe, however, that the ethnographic portion of this work, as well as intended audience of this dissertation give my work a very different approach and outcome to this work. The concept of school adequacy as a part of a 'basic' education is at the crux of the argument of this work. What adequacy in schools means will also be further questioned and explored in within work.

The backdrop of South African educational history, specifically the history of institutions which resemble those prevalent in the (conventionally termed) west<sup>1</sup> differed from the forms of education that had historically existed in the region. A lack of 'formal' ("western") education certainly did not coincide with a lack of education and instruction altogether. Cultural practices of many kinds informed forms of education which allowed for the development of a child or learner based on what was considered culturally relevant and necessary knowledge life. The history of 'formal' or 'western' education has been one which has severely disadvantaged poor black learners and continues to do so today (notably, this demographic group remains the majority of the South Africa's student population).

The history of formal education in South Africa began on a small scale during colonialism but only had a real impact within the last century. Specifically within the last sixty years, access to education became increasingly widely available. During this period, educational institutions were established and access to schools was made available to students more widely, yet the quality or adequacy (the term preferred in this dissertation) of the schools established were poor.

This was true, first, in terms of enormous gaps in the quality of education for the majority of students in South Africa (demographically poor and black South African) and a minority of wealthy students who receive a very different level of adequacy in their educational experience and have altogether better outcomes. Secondly, this is illustrated in the outcomes of international surveys which find South Africa consistently behind other nations, even in comparison to countries of a similar GDP. (Van Der Berg, Servaas; Spaul, 2011:1)

In order to argue for the urgency of change in the educational system, it must be asserted that this dissertation takes the foundational stance that the educational system in South Africa is currently (and has been historically) broken and dysfunctional and will continue to systematically disadvantage the majority of students in the country if significant changes and progress are not made urgently. This vantage point will be discussed more thoroughly, but serves as the premise for the necessity of swift action.

---

<sup>1</sup> I wish to acknowledge the problem with such a term, as the term suggests that the world's 'centre' is Europe. This term will be used as a quick and direct way to address what is colloquially meant by the term.

Also very significantly, as briefly aforementioned, South African courts have recently ruled on cases which have begun to develop some expectations around the right to a basic education (attention to the issue of adequacy has yet to be given the attention received by access, though this dissertation rates that both absolutely must be addressed to see educational reform in any real way). These cases are particularly noteworthy because they are the first in history to cope with this section of the Constitution. The *Juma Masjid* judgement (Governing Body of the Juma Masjid Primary School & Others v Ahmed Asruff Essay N.O. and Others (2011) CCT 29:10) handed down by the Constitutional Court as well as what have colloquially been referred to as Mud School cases (cases in the Eastern Cape operating on the premise that a lack of school infrastructure is unconstitutional), have interpreted the right and declared that the right is effective immediately. In the Mud Schools cases, the court has regarded the right to education to be worthy of immediate attention with the intention of overall long and short term social and economic transformation. The government has dealt with these cases and presents an argument that this coincides with social and political recognition of a failing system. Further, these cases set up (albeit very basic and access focused) standards for education. Although these cases do not make adequacy specifications, they begin to confront the right to education, give the right some content, and discuss the urgency and immediate availability of the right, which could lay a foundation for engaging the full content of the right and ideally coping with adequacy issues in the near future. I will go on to suggest that South Africa should continue to define, at least generally, the core components of what makes up a basic education, and prioritizing those elements.

In the final part of my work, I address aspects of a basic education which I have concluded to be the most fundamental components of a basic education and illustrate why each of these issues are most problematic in the South African educational system. In order to address these core aspects of education which are currently missing in South African schools, it is of use in further litigation to consider international precedents. In the recent legal developments in education, all have, thus far, remained limited to access to infrastructure. Adequacy cases are concerned with what takes place after we accomplish access to educational institutions. This type of interaction with the law will not make specific 'minimum core' demands per se, but rather will loosely describe standards, more general inputs and outcomes that are absolutely essential to a student experiencing what we can fairly call a basic education. The implementation of these standards would be a process left in the hands of stakeholders, and calls for the Ministry at its various levels to respond to these bare-bone essential items and streamline their efforts to cope with the most pertinent needs. This allows for the general standards to remain open to interpretive implementation means that the courts, if necessary, set these or similar standards without over-stepping the constitutionally entrenched separation of powers.

The significance of the educational needs which are specified and understood by this dissertation to be essential will be outlined and discussed thoroughly. The methodology used to conclude which characteristics of education are most important for the achievement of a meaningful education included qualitative ethnographic work in education, and research collected on school adequacy. Largely, these components deemed to need the most immediate attention often came down to a pragmatic approach, and a consideration of what would be most useful in achieving optimal outcomes in education and creating a competent workforce and building an informed citizenry capable of participating in the country's democratic system. The most influential method of data analysis has been my review of my work gathering qualitative data, developed during field-work in an ethnographic study of an urban black school in the Western Cape.

## Table of Contents

▪ Abstract & Acknowledgements	1
▪ Preface	2
▪ 1) Introduction	5
▪ 1a) Motivation	3
▪ 1b) Dissertation Structure	9
▪ 2) History of Education in SA	12
▪ 2a) Formal Education (1652-1994)	17
▪ 2b) Post-Apartheid developments in Education Policy	21
▪ 3) Legal Considerations: Introduction	25
▪ 3a) Lessons from Abroad: US experiences with equity and adequacy litigation	26
4) Ethnographic Research	37
▪ 4a) Introduction to Ethnography: value and ethics?	37
▪ 4b) Ethnographic Data	44
▪ 5a) Basic Infrastructure	53
▪ 5b) Informational Resources	56
▪ 5c) Human Resources – Teacher qualifications and Training	59
▪ 5d) Language Policy	64
▪ 5e) Math and Science Proficiency	65
▪ 5f) Informational Resources	65
▪ 6) Conclusion	70
▪ 7) Bibliography	76

## 1) Introduction

### 1a) Motivation

This dissertation has been influenced by my committed belief in the utility, power, and need for education in a democratic society. I take the position that education directly correlates with a state's social, political and economic transformation. The utility of education extends to its capacity to catalyse further economic development and has the potential to aid in the realization of many other socio-economic rights. The converse is true and noteworthy as well; education has the potential to be used as a means to repress particular groups, and/or maintain an existing hierarchy (directly or by proxy). The use of education as a means to distribute social and economic power is a central characteristic of South African 'formal' schooling.

For centuries, 'formal' education in South Africa (directed by white colonists or later by apartheid government officials) has been used as a method of reinforcing social inequalities and maintaining economic and social racial hierarchy. The use of education as a tool to oppress began on a very small scale during the colonial era and was employed on a much more extensive basis during apartheid. It was during the apartheid era that education became government mandated. It was also during this time that strategic planning around the type of education allotted to each racial group took place. This was based on socio-economic ideal outcomes that promote and develop hierarchy (based on race). Policy makers were interested in designing educational content and quality of the education based on the student's race. (Hlatshwayo 2000, p.. 41) This has remained a meaningful factor in assigning racial groups their "positions" in the racial hierarchy society of apartheid.

The racially divided educational system intentionally disenfranchised black South Africans the most severely, methodically training young men and women to 'learn their place' in the hierarchy (that place being at the bottom). This created a precedent of inequity that remained supported and continuously recreated by the educational system. Thus even

following the shift into democracy, a deeply problematic short-term history and ongoing socio-economic inequality are factors crucial in molding a current system that is alarming for educational commentators. (“Teachers’ Maths Problems Just Don’t Add Up“, 2011:1); (“Fewer Matrics Taking Passing Maths“ 2011, p. 1)

As previously mentioned, the urgency for change, I submit, is largely of a pragmatic nature for overall socio-economic transformation in South Africa. The government of South Africa currently recognizes the need to promote quality in education for the same reason, as one might note in the *Juma Masjid* judgement (Governing Body of the Juma Masjid Primary School & Others v Ahmed Asruff Essay N.O. and Others (2011) CCT 29/10). Further, there is evidence of South Africa’s dedication to education in the amount of funding allocated to education. “Education takes up the largest share of government spending – 21 per cent of non-interest allocations – and receives the largest share of the additional allocations.” (Gordhan, 2011) It is clear that the South African government prioritizes investment in education and holds a particular interest in transformation for previously disadvantaged students.

It is difficult to ascertain the degree to which the government capable of streamlining the budget for education in a more organized and practical way. Further, determining the specific actors who are failing to use resources efficiently is a weighty process, made more difficult by some obscurity in details of resources and resource allocation made available to the public. It seems most likely that a combination the inheritance of a poor educational system and failures which take place at a variety of levels and amongst more than one isolated role player (political or institutional). It would be unlikely that one isolated body must change in order to repair the educational system, the changes must be holistic. At the same time, changes must take place in a variety of areas and will need to be shared amongst many stakeholders (at a variety of levels) in the educational system (for example: in the ministry of education, amongst teachers, amongst community leaders, and teachers unions)

these high level stakeholders all share the greatest responsibility to initiate changes which improve the adequacy of the education offered to students.

This work will attempt to outline those areas of most extreme urgency, components of the educational process which are presently lacking and are most necessary and practical. I submit that the focus areas developed further in my work are those that I estimate would be in the best interest to address first. These changes would provide a strong basis for South African students in order to challenge the existing socio-economic order, and particularly to challenge restrictions previously placed on black students to eventually enter into the skilled labour market. Determination of the components to be addressed most urgently came largely from ethnographic fieldwork, and a literature survey. Methodology will be discussed further in a section forthcoming.

It has been mentioned previously in this work, and affirmed by (Bhorat, 2004, p. 29) that real shifts in education have a great capacity to make socio-economic changes that could affect additional issues. Some of the socio-economic developments which intuitively and empirically correlate to development in education include health and housing through exposure to new ideas, options and outcomes. (Bhorat 2004, p. 30)

Although this work asserts that increased education directly correlates to increased marketability and increased job opportunities, given the low employment rates in South Africa it is reasonable and useful to ask how realistic it is to prepare students for a job market that does not have space to accommodate a significant number of them. Admittedly, the employment situation in South Africa is abysmal, so one might argue that investing in educating individuals at present is a waste. While I appreciate the assessment of the realities of the job market, I would argue that a lack of access to quality education limits the individual's capacities, whether opportunities are abundant or few. Further, higher education and increased numbers of skilled labourers is intuitively favourable for the economy, as it

inevitably encourages creativity and improves individuals' ability to operate in a global economy effectively. In fact, in his work on the utility of education in South Africa in a practical economic sense, Borat states that there are increasing demands for skilled labour, illustrating that education is crucial for economic growth worldwide. (Bhorat 2004, p. 31)

He states specifically:

“The national figure reflects the continuation of the long-run labour demand trend, namely that output growth continues to be skills-biased. Despite the evidence garnered of aggregate employment growth, the share of unskilled workers in the labour force declined by four percentage points, from 31 per cent in 1995 to 27 per cent in 2002, while the share of skilled and semi-skilled employment both increased by two percentage points.” (Bhorat 2004, p. 39)

Bhorat emphasizes that the data presented in the above-mentioned study is not novel.

In fact, this study runs concurrently with other long-term studies which consistently show that high skills labourers (Bhorat relates “skills” directly to an individual’s education level, that is to say “high skill” means highly educated) are virtually always those with the best outlook for outcomes in the job market, particularly for ‘white collar’ or ‘professional’ positions.

Conversely, it is increasingly difficult for unskilled labourers to find employment, especially older individuals, compared to younger individuals who have the potential to be trained over time. The key remains education, or the potential to become educated at a higher level.

(Bhorat 2004, p. 47)

Providing more adequate education can also aid in the creation of additional jobs within the educational system itself, as it can provide employment at a variety of levels when schooling is promoted (from teachers at all levels, to professors, grounds caretakers, secretaries, librarians, etc), as well as positive economic outcomes due to a more highly skilled, more globally competitive learner population. (Hlatshwayo 2000, p. 14)

I claim that education is vital for the health of a democracy with a market-based economy. I have briefly touched on the utility of education as a means of economic transformation, which is necessary for the large previously disadvantaged population in South

Africa. But further, education functions in a democracy as a vital resource as a means of creating an educated citizenry who become capable voters and active participants in democracy. The South African Constitution, further, envisages a participatory democracy. A true participatory democracy would be developed and enriched by an improved educational system and a better-educated citizenry. Hlatshwayo explains the Durkheimian perspective on education as a socializing process, as well as a process of personal development in order to eventually function as an economically and politically active citizen. (Hlatshwayo 2000, p. 13) Further, Durkheim (according to Hlatshwayo) pointed out the functionality of education, and focused on the economic outcomes which education can create or destroy. Overall, he underlined the economy to be the central motivation and interest when considering how to construct our education systems. (Hlatshwayo 2000, p. 12)

In closing, I believe the most important basis of this work is a conviction about the fundamental significance of education for the achievement of central (and constitutionally ensured) socio-economic rights. The power of education and the urgent need for change to the educational system in South Africa remain areas of concern to the present, as drawn out in the *Juma Masjid* judgement confirms the court's recognition of the pragmatic necessity of education,

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitation and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognised as one of the best financial investments States can make. But the importance of education is not just practical: a well educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.” (Governing Body of the Juma Masjid Primary School & Others v Ahmed Asruff Essay N.O. and Others (2011) CCT29/10, Section 44)

Education cannot be underestimated as a social force, an economic force, and a means of potentially maintaining the status quo, or shifting individual and group social and economic statuses in society. In this sense, education can reinforce hierarchy and has the potential to maintain and support hegemony, just as it can weaken an unjust system by supplying a nation with individuals who are aware of inequalities and given the tools to make meaningful changes to existing social economic hierarchies which have historically, and continue to structurally disadvantage the majority of students in South Africa's schools.

### **1b) Dissertation Structure**

This dissertation will provide a brief contextualization of education in South Africa, then examine the content of this right. In order to establish context, a short review of the history of education in South Africa, from colonialism up to post-apartheid policy establishments will be included. Because this work is multi-disciplinary in nature, it is possible that there may be interest in this work amongst individuals who lack knowledge on the history of education in South Africa, which influenced the inclusion of a history section. In addition, a historical context is necessarily given due to the significance of an ongoing grossly unbalanced system (with large gaps in the quality of education based on a racially hierarchical educational system).

After contextualizing the history of education in South Africa, I will begin to address the right to education expressed in Section 29(a) of the South African Constitution. This work addresses what is meant in this section by the right to a basic education. At the time of this dissertation's culmination, unprecedented changes have occurred, as litigation dealing with Section 29(a) had not, until months before the submission of this work, been brought to South African courts. This work will give a short explanation of these new cases and their relevance in developing content to the right to a basic education. I will go on to suggest, however, that what has been done is forward movement, but insufficient. This work calls for more

meaningful development of the content of this right is necessary to allow for a full realization of what I argue one can fairly call “basic education”. In spite of recent interpretations of the right to mean a particular length of time in a school structure, and the positive forward movement this marks, I suggest that obtaining a “basic” education must have some semblance of quality. If not, a basic education could be reduced to providing students space to learn for the duration of nine years, but insufficient resources (material and human) to do so. This reading of the right to a basic education fails to acknowledge the significance of a quality education.

In order to establish basic education quality standards, my work will look at cases from US state courts on the right to education which have dealt with educational adequacy in public schools. Giving due respect to the separation of powers amongst branches of the United States government, the remedies in various state ‘adequacy cases’ created vague lists of baseline inputs and outputs which are agreed to be necessary components of a quality education. It is then left to various provincial and local government officials to contend with these standards in a way that is contextually appropriate.

As mentioned in the previous section, ethnographic research largely informed the list of inputs and outputs I eventually suggest are necessary components of a basic education. The section of my dissertation that discusses ethnographic observations focuses on time spent in an urban historically black high school, as well as discussions with informants outside the school setting. Further, time spent in their homes and with their family members had a pronounced impact on the shape of my work. In this section, I will briefly describe what informants noted in our conversations (and which I observed) to be core components of their education, or in other words, issues that were perceived to be the most influential in ensuring that students accrued proficiency in their core subjects. The final section will draw attention to the urgency of each of these flagged components, illustrating the absence of these

components in the majority of South African students' education based on literature review. This work will ultimately suggest that these components are necessary and urgent in order to establish what can be fairly termed a 'basic' education (by standards of adequacy, not just of access), and urges developing further content to the right to education, this dissertation recommends specifically targeting:

1. Qualified Teachers (available progressively) and ongoing teacher training, (use of human and material resources to secure teacher's ability to cope with the material as well as the OBE framework which they are expected to use, especially for teachers in previously disadvantaged schools, and especially for under qualified teachers)
2. Teacher proficiency in:
  - a. Maths
  - b. Physical Science
  - c. Language(s) with heavy encouragement placed on bilingualism
3. Material resources – baseline for successful schools:
  - a. Basic infrastructure (can be read broadly, but it seems quite obvious. The school needs to be a solid, secure space with bathrooms available and protection from the elements)
4. Informational resources
  - a. Textbooks
  - b. Library Books (available progressively)
  - c. Computers (“ “)
5. Student (learner) proficiency in:
  - a. Maths
  - b. Physical Science
  - c. Language(s) with an emphasis on the availability of English for pragmatic reasons, but without proposing to relinquish programs that include or transition between mother tongue and English, or programs completely in the mother tongue if the SGB so opts.

## **2) History of Education in SA**

### **2a) Formal Education (1652-1994)**

In the recent *Juma Masjid* case, the Constitutional Court per Nkabinde J discusses the significance of the context of education in South Africa, particularly the history of apartheid:

“The significance of education, in particular basic education for individual and societal development in our democratic dispensation in the light of the legacy of apartheid cannot be overlooked. The inadequacy of schooling facilities, particularly for many blacks was entrenched by the formal institution of apartheid, after 1948,

when segregation even in education and schools in South Africa was codified. Today, the lasting effects of the educational segregation of apartheid are discernible in the systemic problems of inadequate facilities and the discrepancy in the level of basic education for the majority of learners.” (Governing Body of the Juma Masjid Primary School & Others v Essay N.O. and Others, South African Constitutional Court (2011) CCT29/10, Sections 42-47)

In South Africa, historical context is an extremely salient topic in regard to the educational system, which, in its short history, has been socially manipulative and entrenched with politically designated to create a socio-economic hierarchy which was race-based. Fiske poignantly quotes Myrdal (1973) on the significance of education “...[m]onopoly in education is—together with monopoly of ownership of land—the most fundamental basis of inequality.” (Fiske 2004)

Hlatshwayo discusses Castle’s work (1966) which depicts pre-colonial African education as a holistic education based on learning life-skills. Learning about one’s family clan and preserving the knowledge of cultural practices were large components of the educational process that existed prior to colonialism. Children were taught ways to cope with their surroundings and survive, mindful of living according to customary laws, institutions and values passed down to them, in their own language. (Hlatshwayo 2000, p. 28) In spite of the significance of these systems, I wish to focus on the history of what could be termed ‘western’ or perhaps ‘formal’ education.

The first mission school was founded in the Western Cape in 1658, provided instruction in Dutch with the goal of students becoming proficient enough in the language to study Christianity. Students were encouraged to follow their religion and could be rewarded in brandy and tobacco – the objective was the production of docile servants. (Hlatshwayo 2000 p. 29) The school was founded weeks after 170 slaves arrived in the Cape for the Dutch East India Company, and the school was intended as a means of allowing the native to be ‘morally’ and socially trained. (Molteno 1984, p. 45)

According to Hlatshwayo, the second school was established five years later, both schools hosted notably small groups of students, yet the second school was the first to segregate classes. (Molteno 1984, p. 46) According to Troup, as cited by Hlatshwayo:

“...there were twelve Europeans and five non-European pupils: four slave children and one Khoikhoi child. In 1676 the Church Council suggested the segregation of schools based on class and sex. One school for the slaves and another for non-slaves, one school for the boys and another for the girls were proposed. Such schools were established in 1685. This marks the beginning of segregation in the education system of South Africa.” (Hlatshwayo 2000, p. 29)

The number of students enrolled in mission schools was very small in comparison to the overall population, and remained so until the introduction of the Bantu Education system, in spite of spurts of new mission schools. The seventeenth and eighteenth century passed with a tiny fraction of the population attending any type of schooling and the content of schooling made available was largely designed for social and religious manipulation. The nineteenth century brought a significant shift towards a greater number of students being educated. The mark of mission schools remained complicated:

“The role of missionaries in educating Africans in South Africa has been invaluable in one sense: most of Southern Africa’s leaders went to mission schools. There were 9,000 African students in 1850, 100,000 in 1900 and 170,000 in 1909 receiving education in South African mission schools (Walshe 1971, 7). Evangelization was the primary objective of these schools. Blacks were taught how to read and write so that they could spread the gospel.” (Hlatshwayo 2000, p. 30)

This type of curriculum, while an improvement from no schooling, was intentionally structured to provide students an education that ensured the desired socio-economic structure. Prior to, but much more markedly following the rise of apartheid, this structure was race based. Educational systems intended to keep the divided racial groups separate physically as well as socially and economically, and set students on different paths. Black African students’ experiences were the worst by design, and their intended outcome was to be subservient. The religious focus of African schooling disallowed opportunities for students to

explore alternative fields, concepts or means to apply literacy to anything but the Bible, and their ability to speak Dutch could be applied to nothing more than a position as a servant. Further, it was explicitly stated that schooling for white students, alternatively, was to socialize a firm understanding of the white child's place in society – the superior, and the supreme lord of the land. (Hlatshwayo 2000, p. 30)

Outside the Cape Colony, the remainder of what is now the Republic of South Africa was notably less engaged with education. These areas were marked by a lack of educational institutions for students of all races. In the twentieth century, the Dutch Reformed Church began to plant mission schools slowly in the Orange Free State and the Transvaal. In Natal, schools were introduced comparatively soon, but still over a decade after schools were established in the Western Cape. On the subject of education in Natal, Hlatshwayo illustrates attitudes toward education in the nineteenth century,

“Under the directorship of Sir Theophilus Shepstone, all education in Natal developed with a general policy from 1845 to the 1940s that was designed “to foster segregation of the races, to pressure as much as possible and use the tribal organization and communal land tenure, and to extend the powers of the chiefs and codify Native law. Education was shaped accordingly and there began differentiation between the races” (Troup 1976, p. 13) (Hlatshwayo 2000, p. 33)

A very small population of African students attended missionary schools before the twenty first century, and what was considered a ‘notable increase’ in the early twentieth century, was still relatively small enrolment numbers for black South Africans in comparison to the overall population. Hlatshwayo specifically notes that: “In 1905, 2.1 percent (73,000) of the total African population was in primary school (none in post-primary school). In 1925 the number in primary school had increased to 206,623 (4.1 percent) of the African population, with 3,752 in post-primary school.” (Hlatshwayo 2000, p. 35) Further Hlatshwayo cites Horrell to note the exceptionally tiny number of Africans who successfully finished secondary school: “During the years 1901 to 1910 only five Africans matriculated,

and 59 passed the Junior Certificate or equivalent examinations. In the next decade these figures rose to 22 and 662 respectively.” (Hlatshwayo 2000, p. 35)

One mechanism used to keep black education substandard was the provision of few to no resources from whites, and later by the government of South Africa under apartheid. As Johnson points out, “by the time of Union in 1910, the ratio of government expenditures for white and African education, per capita of population, was R333 to R1.” (Johnson, 1982) Johnson’s work also discusses racial segregation patterns through the 1920’s and 1930’s, which allowed for the grooming of white learners to possess a knowledge base considerably greater than their coloured or black colleagues. use the present South African economic situation for their personal benefit, while also informing them of their social standing in the country and emphasizing superiority. As he notes,

“Per capita expenditures on white education increased in real terms by 263 percent between 1910 and 1948. Withholding education was used to limit African ability to compete for these rewards. In 1936, the Interdepartmental Committee on Native Education found that...’the education of the White child prepares him for life in a dominant society and the education of the black child for a subordinate society’ (Wilson & Thompson 1975, p. 224).” (Johnson 1982)

Black South Africans who appeared before the committee stressed that separate schools would result in severe inequalities in the standards for adequacy and access to schools, yet the commission ultimately found that separation was the best route.

The Governor-General in each respective province, over the course of the early decades of the twentieth century, had the capacity to make grants within their province using money obtained by Parliament taxing Africans. (Hlatshwayo 2000, p. 36)

“All institutions wanting to receive grants from government had to be registered. The registration process meant accepting and following a syllabus prescribed by the government. The inspector of Native education was influential in the creation of primary school courses for Africans or syllabi for African pupils. At this juncture the state had solidified hegemony in terms of form, content (syllabus), and structure (registration and funding) of African education.” (Hlatshwayo 2000, p. 36)

Under apartheid, momentous changes were made to the educational system. Firstly, a state school system was instituted, with very particular intended outcomes. The introduction

of apartheid policies in 1948 would come to include outlines for nationalized education after five years. In 1953 the Bantu Education Act initiated a system that sought to take effect socially, politically and probably most significantly, economically, and intended to maintain hierarchical labour forces which were to remain race-based. Hlatshwayo notes that a shift from agriculture as a means of survival to wage labour, particularly in the increasingly large urban spaces. (Hlatshwayo 2000: p. 10)

The institution of the Bantu Education Act created a system that extended far beyond the reach of existing missionary schools, and made schooling available to the black African population on an entirely new level. The ability to access education (even if the quality and curriculum of the education were more than problematic) became available at a rate that was historically unprecedented, with the aim of continuing to increase availability of access to schooling until became virtually fully inclusive. This shift, though opening the doors of formal schooling to black African students on a large scale for the first time, was deeply focused on recreating hegemony on an even larger scale. Schools were informed by a race-based policy structure intended to create on the desired outcome: maintaining and strengthening control in keeping black Africans in the lowest ranks in economic and social spheres.

The Bantu Education Act's intention to exponentially increase access to education for students of all races did not mean an education of a similar quality would be available to each respective racial group. As previously stated, black students were allowed an education that would keep them capable of semi-skilled or manual labour generally working at servant level. In very important ways, this system had an immense effect on black Africans, and its legacy remains to date. Hlatshwayo quotes Verwoerd, who delivered the following speech in 1954:

“More institutions for advanced education in urban areas are not desired. Deliberate attempts will be made to keep institutions for advanced education away from the urban environment and to establish them as far as possible in the Native community. There Bantu education must be able to give itself complete expression and there it

will perform its real service. The Bantu must be guided to serve his own community in all respects. There is no place for him in the European community above the level of certain forms of labour. Within his own community, however, all doors are open...It is abundantly clear that unplanned education creates many problems, disrupting the community life of the Bantu and endangering the community life of the Europeans." (Hlatshwayo 2000, p. 11)

Additional statements by Verwoerd and other advocates of Bantu Education echoed the same idea, albeit expressed in slightly different ways. (Rose 1965, p. 210)

Human resources were also highly problematic in African schools. To cite one particularly illustrative example: "In one excellently administrated urban school fourteen teachers including the principal tried to educate 1,050 children. Not only does staff work a double shift but the teachers also teach basketball, soccer and athletics." (Rose 1965, p. 211)

Language was a significant component in the design of Bantu education. 'Mother tongue' policies were used as a tool for the apartheid regime (mother-tongue being a term used in literature around language and education which represents a student's first language, typically referring to African languages). This was used as the sole method of instruction for African students in primary school and at the secondary level, teaching integrated English and Afrikaans. (Rose 1965, p. 212) According to the Senate speech delivered by Dr. Verwoerd in 1954, there was resistance to the 'mother tongue' policies. He argued that, "In fact, instructions regarding the medium of instruction through mother tongue were never accepted by Native teachers". He saw in this a desire on the part of the teachers "to show off their knowledge of English culture." (Rose 1965, p. 212)

The Bantu Educational system under apartheid was of an extraordinarily and straightforwardly racist design. Although this system and its outcome are perhaps the most synonymous with racism in education, its precedent of colonialism allowed for such a design. When colonialists became aware of diamonds and gold within South Africa's present borders, the economy changed significantly.

“The urbanization and industrialization of South Africa not only led to severe conflicts between the two white ethnic groups, but to conflicts between Africans and whites. The struggle for jobs, wealth, and economic opportunity between poor whites, mainly Afrikaners, and Africans reflected itself in decisions about education.” (Johnson 1982)

Indisputably, education was used as a tool by the apartheid regime in economic and political power to make black South Africans economically useful for them. This was a means of social and political control.

As previously noted, language policies (which encouraged black South Africans to speak their first language in schools), were a part of a socialization method which grouped students racially and by their home language. (Johnson 1982) In addition, students were required to learn Afrikaans, but for the purposes of filling servant and manual labour positions.

The quality of schools under the Bantu Education Act was clearly problematic. As Johnson notes, the quality of African education was far below the standards of schools with white students, noting specifically conditions of overcrowding, untrained and poorly trained teachers and a complete lack of material resources necessary for learning. (Johnson 1982)

One of the results of stratification in education was the creation of a dual labour market in which the ‘professional’ or white collar sector was exclusively White and the pegged the majority of Black South Africans into service positions – Bantu Education was aimed at sharpening and deepening this dichotomy. (Kallaway 1984) (Hlatshwayo 2000, p. 11)

The socio-economic place of black Africans was to be shaped by education. This fact remained clear in apartheid political rhetoric. For example:

“Cecil Rhodes (founder of the DeBeers gold and diamond empire) was in congruence with the statement when he forthrightly and unequivocally said, “I will lay down my policy on the Native question...either you receive them on equal footing as citizens or call them a subject race...I have made up my mind that there must be class [race] legislation...The Native is to be treated as a child and denied the franchise. We must

adopt the system of despotism... These are my policies and these are the politics of South Africa." (Hlatshwayo 2000, p. 46)

The Bantu Education Act further specified that schools could not be established for black South Africans outside state control (without legal exception). Additionally, this set up a racially tiered Ministry of Education, and appointed a Minister of Bantu Education. This position, first held by Verwoerd, was intended to secure the execution of the goals of the Bantu Education Act in practice. (Hlatshwayo 2000, p. 2) (Christie & Collins 1982, p. 171)

Verwoerd insisted that teacher's salaries should be set 'appropriately', based on the average salaries of parents in the school's surrounding area. He suggested that a child is entitled to an education on par with their expected outcome and consistent with the designated status of their racial group. Education was directly related to the (politically perceived) socio-economic 'value' of the individuals being educated. (Hlatshwayo 2000, p. 63)

M.C. Botha, Minister of Bantu Education initiated a new language policy for African schools in 1975. Botha proposed a shift to half Afrikaans, half home language in a student's reading as well as for their medium of instruction. Black South Africans were largely opposed to this change for a variety of reasons. First, a lack of training amongst teachers in Afrikaans, but had strong overtones of the political rejection of the language of the oppressor. One of the most striking examples of such political rejection of these policies were the events in Soweto 1976, and began with protest of students against the use of Afrikaans as a medium of instruction and learning. Hlatshwayo notes "The government responded by using its might, guns: the first victim was a thirteen-year-old boy, Hector Peterson." (Hlatshwayo 2000, p. 83)

In 1976, the student uprisings were met with horrific police violence, but were successful in leading to some small adjustments to which the apartheid government ultimately conceded. Compulsory Afrikaans-medium instruction would not be enforced,

some channels were created for African teachers to communicate school problems (whether or not black teacher complaints were attended to is questionable). An additional concession was the intention to increase the staffing of Black tertiary institutions, and allow some African students to attend white universities in segregated residences. (Hlatshwayo 2000, p. 86)

Yet the quality of learning remained problematic, as did the quality of teaching:

“Most of the African teachers under apartheid were underqualified. Louw (1988, 59) cites the DET data on teachers in 1986: 9,921 (18.56 percent) passed only a Standard 8 (10<sup>th</sup> grade) certificate, 8,601 (16.09 percent) passed only a Standard 10 (12<sup>th</sup> degree) certificate, 1,311 (2.45 percent) passed on a university degree. This means that 81 percent of teachers did not graduate from high school, 16 percent of those who graduated from high school did not receive any teaching preparation, and only the 2 percent with university degrees were certified as teachers...[general practice] maintained through rote memory [as a style or learning] and the corporal punishment [later found to be highly problematic, particularly during this period, to say the least] which was used in most Black schools in South Africa. (Hlatshwayo 2000, p. 113)

The shift was towards, and ultimately into democracy is often most closely associated with the first democratic vote in 1994. The post-apartheid history of educational policy shifts, intended to correct the ills of the Bantu Education system will be reviewed in the next section, with a focus on policies produced. The policies which developed following democracy hold ongoing significance to the educational system as they continue to shape the system in many ways.

In this section, I have given a brief overview of the formal educational system in South Africa. The history and context of the educational system in particular is extremely valuable to this work as it sets up many of the challenges which have followed. Further the Bantu Educational Act, though providing education on a large scale for the first time, also engineered a system which assigned students their social and economic spaces in the country. This history is still very fresh, and those members of the teaching workforce were educated under apartheid with significant barriers set against their own education. Additionally many

school buildings and infrastructure have been inherited from apartheid, not to mention the various levels of quality in education meant to be available to students of each respective race as designated by the apartheid government. The historical precedents set in the formal education system have an ongoing impact and thus, the reader should bear this context in mind as they approach the description of the system as it exists now.

As a final note, the changes necessary in the educational system, given the short history of formal education, and within that short history, the extent to which apartheid disrupted potential learning for black students. This cannot be underestimated. A perfect, equal system may take time to properly establish, but it's a goal worth pursuit.

## **2b) Post-apartheid Developments in Education Policy**

With the end of apartheid and the move to democracy, the race-based inequalities of apartheid were politically dismantled. The policies formulated during this period are also important to this work, because they form the foundation of the educational system in democratic South Africa, and again, the general policy framework is important because of its impact on schools and learners. First, one must note the recent nature of the establishment of these bodies and policies may allow for a strong argument that additional time is needed to really affect change. This will be addressed. Secondly, and more importantly for this dissertation, one must note the overall ubiquity of language around "quality" and the attention this notion has received in policymaking. This is significant because the notion of quality in education is the particular interest of this work.

Ultimately this dissertation shares similar notions of the critical problem areas, which appear in policies related to educational quality (teacher qualifications and training, basic infrastructure, informational resources and an expectation of student efficiency in core areas

of maths, physical science and language). In spite of policy efforts illustrates that policy efforts have not been sufficient, and reinforces the notion that these issues may need to be confronted and grappled with by another branch of government if policymakers are consistently coming up short.

The Bill of Rights' inclusion of the right to a basic education (Section 29(1)(a)), and likewise policy did away with race-based departments. The post-apartheid era would mark the first time education would become compulsory for African children, as for all children in the country, up to grade nine. (Fiske 2004, p.57) Further, according to Veriava (2010), the right excludes "internal qualifiers" (Veriava 2007, p.3) and thus, as a socio-economic right gives citizens immediate and direct claim to the right to a basic education. (Veriava 2010, p. 3) Veriava (2010) notes, "Save for acknowledging this positive obligation in the provision of basic education, South African courts have, to date, not had the opportunity to develop a test for adjudicating whether or not the current provisioning of public education has met or failed to meet this positive obligation...." (Veriava 2010, p. 17)

The National Education Policy Act provides for the establishment of national education policy, while the South African Schools Act establishes uniform norms and standards for the education of learners and the organisation, governance and funding of schools. The South African Qualifications Authority is the body with responsibility for overseeing the development and implementation of the National Qualifications Framework. These bodies intended to create an integrated national framework of learning achievements and facilitating access to, and mobility and progression within, education training and career paths (Report of the Study Team on the Implementation of the National Qualifications Framework, 2002). Other aspects of education at the national level come under the jurisdiction. (Smith & Ngoma-Maema, August 2005, p. 353) (Harber, 2001, p. 42)

At each level of government, officials have been established to address particular concerns relevant to their position. Key positions in the national Ministry of Education, include, "the Minister of Education, the Deputy Minister of Education, advisors and administrative staff... and is headed by a Director-General, assisted by the deputies." (Mothata 2000, p. 3) At this level, representatives are responsible for the organization and supervision of educational policy. Further they are responsible for consistent evaluation of policies and adaptations made appropriately for necessary teacher training.

At the provincial level, each respective province has a Member of Executive Council, intended to oversee the educational system in their province. Provincial Education Departments are involved in the process of exam administration and organisation and have the capacity to create provincially relevant acts and address provincially relevant issues within their jurisdiction and within the framework of national policy.

Locally, School Governing Bodies (SGBs) make a variety of decisions that are highly significant for the individual school. These bodies are elected, and consist of a variety of individuals who all hold a stake in the local education system. This body includes parents, teachers, students (Grade 8 and older) and community members concerned about their local school. The School Governing Bodies' capacities allow them to set the language policy of the school, create a school constitution and a student code of conduct, oversee budgets, dictate the school mission statement, and to be in contact with the provincial head of department as an advisory board for the appointment of teachers and community members. (Mothata 2000, p. 14)

The most significant (and contested) shifts in policy have been around curriculum, particularly, around the employment of Outcomes Based Education (OBE) methodology:

"Education reform in South Africa proposes a paradigm shift from a teacher-based and content-driven curriculum to an outcomes-based and learner-centered curriculum. (Geyser 2000:22) Intuitively, outcomes refer to the results of learning and a student's increased capacities at the end of the educational experience. Specifically, outcomes

based learning is intended “to define, direct, derive, focus and organise what we do according to the substance and nature of the learning result that we want to happen at the end of the learning process. (Geysers 2000, p.22)

Outcomes Based Education curriculum implementation took place in 1998, beginning with Grade 1 learners. (Geysers 2000, p. 23) Geysers suggests that the potential utility of OBE methods is contested, yet ultimately argues that the use of outcomes based education has come to represent a complete “paradigm shift” in some ways, and in others, carries on traditions that have existed over the short history of education in South Africa. According to Geysers, the use of these methods cannot be seen as wholly revolutionary, as there have been “outcomes based” approaches prior to the standards being established. In spite of a different structure, Geysers points out that many “managed to guide learners to a deep understanding and appreciation of their subjects.” (Geysers 2000, p. 26) Yet as Geysers suggests, although there were teachers who followed this approach, still many more use methods that involved little teacher to student interaction.

Outcomes Based Education is intended to be interactive, and to allow for the development of the student’s capacity to think analytically, to engage in higher level critical thought, and to develop skills that have practical life use. The system is meant to adapt to each learner’s particular needs. (Geysers 2000, pp. 26-28) Whether or not the system has the capacity to be effective in the South African context is highly questionable.

The bodies established to ensure quality have not adequately accomplished this goal. Evidence of the lack of meaningful progress, particularly amongst the country’s poorest students, is not only a matter of academic research concern, but has been an area of great concern for the general public. In addition, “The Draft National Policy for an Equitable Provision of Enabling School and Teaching and Learning Environment,” was produced as well as “The Draft National Minimum Norms and Standards for School Infrastructure”, which, Veriava (2010) acknowledges “the link between poor infrastructural conditions and

poor learner outcomes. "(Veriava 2010, p. 23) These documents are notably interested in creating some baseline standards for schools and flags attention to adequacy in schools as well. (Veriava 2010, p. 24)

### 3) Legal Considerations

#### 3a) Introduction

#### General Comment 13 to the International Covenant on Economic, Social and Cultural Rights

General Comment 13 to the International Covenant on Economic, Social and Cultural Rights holds that education is dually a human right as well as a necessary way to promote the realization of additional rights as well. (General Comment 13:1) The Covenant calls education an "empowerment right" and expands on its ability to make real shifts in the lives of the socio-economically marginalized. Further, it notes, "...the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence." (Article 13 of the Covenant) □ □ □ (Twenty-first session, 1999:1) The right to education relates directly to a sense of human dignity and which allows for a participatory democratic process. The article stresses most significantly that education is meaningful because it develops a full personality. (Article 13 of the Covenant:4)

Further the Covenant instructs that availability of resources "in sufficient quantity within the jurisdiction of the State party." (Article 13 of the Covenant:6a) Such resources may include..."buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology..."(Article 13 of the Covenant:6a) The

covenant also discusses the material improvement of teaching conditions and notes that in many states, conditions have worsened and thus require careful attention. (Article 13 of the Covenant:27).

Perhaps most significantly to this dissertation, the covenant calls for states to "...establish "minimum educational standards" to which all educational institutions established in accordance with article 13 (3) and (4) are required to conform. They must also maintain a transparent and effective system to monitor such standards. A State party has no obligation to fund institutions established in accordance with article 13 (3) and (4); however, if a State elects to make a financial contribution to private educational institutions, it must do so without discrimination on any of the prohibited grounds."

*Juma Masjid Primary School & Others V Essay N.O. and Others*

The *Juma Masjid* case (Governing Body of the Juma Masjid Primary School & Others v Essay N.O. and Others, South African Constitutional Court 2011) case dealt with the right to a basic education, and is extremely relevant and valuable to this work and strengthens my argument considerably. A trust which owned the land for a school in KwaZulu Natal intended to evict the school building. This was met with a negative response from the MEC for Education, Kwazulu Natal, who was obliged in terms of a relevant statute to conclude agreements with the trust in connection with the lease of the premises. The MEC did not resolve these agreements and the trust sought to evict the MEC and inter alia the learners at the school. The MEC as well as the SGB of the school involved refused to accept the eviction and made allegations against the trust arguing that the students of the school's right to education was being infringed.

When brought to the high court, the eviction order was upheld with the court holding that the right to education did not bind private bodies, and that this right is fulfilled by the hands of the state. After leave to appeal was refused by the High Court and Supreme Court of Appeals the Constitutional Court heard an appeal. The judgment that followed specifically addressed the right to a basic education. The court per Nkabinde J, discussed the scope of the right and handed down a very specific interpretation to the right to a basic education. The judgment makes a number of points which are of interest to my work. The most important of which are 1) that the right to a basic education should be immediately realized (as opposed to other socio-economic rights which become available on a progressive basis) and 2) the court established a 'necessary condition' for this right to be fulfilled.

The significance of the second point lies in that it establishes a baseline standard, something often associated with minimum core rights that have, thus far, been declined by the Constitutional Court concerning socio-economic rights. The concept of minimum core rights, which establish baseline 'absolutes' of a right, may have also been rejected in prior cases because, as mentioned, socio-economic rights are often accepted as rights which will develop over time. If a right is not guaranteed immediately, it seems intuitive that it would be easier to decline establishing what should be available now, as it will continue to change with time. The court held that the right to a basic education in s29(1)(a) was not qualified by the internal limitations phrase – "which the state, through reasonable measures, must make progressively available and accessible" – which applies to section 29(1)(b) only. Roithmayr notes that unlike other socio-economic rights, it is extremely significant that the right to education does not have internal qualifiers. Providing the example, "s 27(2), which governs the right to health care, provides that '[t]he state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights' ." This language calls for the attention of the state, but allows a looser

expectation of the speed of the realization of the right than one lacking such a “progressive realization” clause that the right to education lacks. (Roithmayr 2003:421) Importantly then the right to a basic education is “immediately realisable”<sup>2</sup> and it is now clear that the state will be unable to rely on claims that it has resource shortages<sup>3</sup> and cannot fully make a basic education available to all.

Basic education being a socio-economic right which is immediately realizable, it seems that both the nature of the right and the initial establishment of a term necessary for a basic education (which the court decided was student access to schools – specifically educational infrastructure). I interpret this to signify that the court may be willing to give greater content to the right to education. I will discuss the content that appears to be most urgent and necessary for a functional system based on research and fieldwork.

I would challenge the interpretation of the Constitutional Court, and pose the question to South Africans more generally, about whether it is really acceptable to leave access alone as the baseline standard for basic education, which additionally applies only up to ninth grade, or age 15. It seems logical that access to a classroom alone surely doesn’t mean that the school is adequate. The quantity of student enrollment and ease of access to infrastructure are crucial, but without further development, these standards are extremely weak, and I’d argue, an affront to students. The right to sit in a classroom for nine years does not equate to an education. The remainder of this dissertation aims to promote additional standards to give fuller content to the right to a basic education.

“Basic” as defined by the World English Dictionary, means:

- “1) of, relating to, or forming a base or basis; fundamental; underlying
- 2) elementary or simple
- 3) excluding additions or extras.”

“Education” according to the same source, means:

---

<sup>2</sup> Paragraph 37 of the judgment.

<sup>3</sup> See paragraph 37 where the court notes that “[t]here is no internal limitation requiring that the right be “progressively realised” within “available resources” subject to “reasonable legislative measures”.”

“1)the act or process of imparting or acquiring general knowledge, developing the powers of reasoning and judgment, and generally of preparing oneself or others intellectually for mature life.

1. the act or process of imparting or acquiring particular knowledge or skills, as for a profession
2. a degree, level, or kind of schooling: *a university education.*
3. the result produced by instruction, training, or study: *to show one's education.*
4. 5. the science or art of teaching; pedagogics.”

It seems, based on the definition of each word that an ordinary (lay) interpretation of the meaning of a ‘basic education’ has little to do with time. More specifically, it certainly does not denote a particular number of years spent in a classroom. The definition of education, even if basic acts as a word that limits a term to its most central meaning, has much more to do with skills acquired. Even the least invasive understanding we can derive from these terms would involve more than a particular number of years in a school building. The issue of restricting a basic education to the ninth grade is actually less bothersome, if the quality of the education offered was adequate. This would allow students to continue in school with the skills necessary to finish matric and going on to a profession or career of their choice.

### **3b) Lessons from Abroad: US experiences with equity and adequacy litigation**

Unlike South Africa, the United States has no outright federal Constitutional right to education. In the US Constitution, education is set as a state issue, thus different states have a variety of statutes and policies around education. Ultimately, I argue that many state educational rights cases can be of use to South Africa. State cases on the right to education may prove to illuminate strategies that will be useful for South Africa. Particularly, in the United States, the movement for educational adequacy and equity amongst racial groups has been strong for thirty years. (Rebell & Wolff 2006) This concept is particularly interesting for this project because it proposes the same approach to improving educational standards, particularly for students in poor, usually de facto racially segregated, schools. Similar to the intentions of this dissertation, US state courts have tried to define adequacy standard for schools, specifically how to provide a “...basic “quality” education that provides the students with the essential skills they need to function productively in contemporary society”. (Rebell

& Wolff 2006) More specifically, the constitution calls for a standard of education where their 'basic quality' expectation sufficiently prepares students to participate as able voters (as part of a well functioning democracy), and to allow students to have an opportunity to compete in their futures economically. (Rebell & Wolff 2006) This lays out a foundation for how the state might interpret the right to quality education. Underlining the points of state interest in citizens that are able to participate in democracy, and individuals who are able to contribute to the state's economy, one might expect the ubiquitous expression of these desires by democratic state leadership.

Further the authors specifically state what courts have consistently assessed students should expect after completing this basic education,

“(1) sufficient ability to read, write and speak the English language and sufficient knowledge of fundamental mathematics and physical science to enable them to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to make informed choices with regard to issues that affect them personally or affect their communities, states and nation; (3) sufficient intellectual tools to evaluate complex issues and sufficient social and communication skills to work well with others and communicate ideas to a group; and (4) sufficient academic and vocational skills to enable them to compete on an equal basis with others in further formal education or gainful employment in contemporary society.” (Rebell & Wolff 2006)

Although these descriptions may be somewhat vague, they are also useful in allowing policies within states to be created, and for public officials to have a base to interpret and decide learning expectations that are specifically acceptable for their space. This type of wording might be more useful and more legally appropriate for constitutional implementation, as it remains specific enough to give some content to the right, and vague enough to allow for appropriate shifts and developments to be made based on locality and time. I assert that access to a certain number of years in a school building (providing access and nothing more) is rendered useless if the years are not spent gaining knowledge that will be useful in students' lives and futures.

The adequacy movement also discusses the resources necessary to make the process of ensuring adequacy functional:

The essential resources students need to acquire this knowledge and these skills are (1) qualified teachers, principals and other personnel; (2) appropriate class sizes; (3) high-quality early childhood and preschool services; (4) adequate school facilities; (5) supplemental programs and services for students from high-poverty backgrounds including summer and after school programs; (6) appropriate programs and services for English language learners and students with disabilities; (7) instrumentalities of learning including, but not limited to, textbooks, libraries, laboratories and computers; and (8) a safe, orderly learning environment.” (Rebell & Wolff 2006)

It is notable that a significant proportion of the South African budget goes toward education; and this right is enshrined in the Constitution in South Africa, when it is not in the United States. This has, in fact, deterred some equality cases in the US from being effective, and should reinforce and encourage the potential opportunity to litigate the right to education in South Africa. As state court cases in the US have asserted, the use of standards-based education calls for equality in school adequacy, or school quality, in order to maintain schools’ capacity to actually *meet* those standards. “Instead of dealing with equal funding concepts and complex property tax reforms, the adequacy approach allows courts to focus on the concrete issues of what resources are needed to provide the opportunity for an adequate education to all students and the extent to which those resources are actually being provided.” (Rebell 2000)

We have seen that these cases can be highly effective, “since 1989, plaintiffs have prevailed in 21 of 28 cases that have sought to ensure that all students are provided the resources they need for a meaningful education and to meet the challenging new state standards.” (Rebell 2000)

It is the aim of this dissertation to look at this particular type of effort, a judicial route based largely on defining the precise expectations in order to deem a school adequate. The US adequacy movement will be discussed in more depth, as will the parallels between South

African and US educational law, and values of education. Further, international law on the subject will also be discussed and considered.

William E Thro points to the major divide in educational reform cases in the US. He argues that there have been two major trends, one is that of “equity suits”, where the plaintiffs assert that all children are entitled to have the same amount of money spent on their education and/or that children are entitled to equal educational opportunities” (Thro, 1990).

Qualitative adequacy suits have maintained an interest in the upkeep of particular standards in the education system.

“In a quality suit, the plaintiffs assert that the state constitution establishes a particular quality and that the schools do not measure up to that standard. The plaintiffs assume that the reason for this failure is inadequate funds. Although many contemporary cases have equity suit arguments, the quality suit is the dominant strategy of the 1990s.” (Thro 1990)

Adequacy-based litigation (as opposed to argument on the basis of equality) has been useful in simplifying the process of coping with the inefficiencies of educational systems.

While equality claims call for “the two-step process of also examining the equal protection clause and/or then discerning a specific requirement of equality in the education clause...,”

(Rebell & Wolff 2006) adequacy claims can be made in a more straightforward manner.

Another benefit of the use of adequacy claims is the exclusivity of this term, as underlined by Thro. A call for adequacy or quality in reference to education is unlikely to be linked to other socio-economic rights than it would if one was to use an equality argument.

“Unlike equality, which may be applied as a measure of all government services, adequacy, as rooted in the education clauses, serves to only calibrate the constitutionality of education. Thus, local leaders need not fear the extension of this measurement to other realms of local government.” (Cover 2002)

Tying together some of the main points on the utility of the adequacy argument,

Kramer explains that adequacy advocates rationalize favoring adequacy litigation over equity litigation strategies. One benefit is potentially improved political feasibility as it provides greater flexibility and local strategizing and policy building as is found appropriate in each local context. Adequacy strategies have achieved more in terms of qualitative outcomes than

attempts at equity litigation. This is true, as it places the focus on student achievement and improving outcomes, rather than solely focusing on spending or quantitative changes. Finally these strategies are believed to ensure greater “accountability, better management, higher standards in curriculum, and site-based management to the mix.” (Kramer 2002)

In addition, adequacy cases are less invasive. These cases set a baseline of educational standards but do not discuss details of policy or financial obligations. This applies to the degree of flexibility in funding; adequacy cases serve to create vague baseline standards which establish what basic components exist in a functional education means so that a basic quality education can be achieved. The real numbers involved in each school would be suited to their own history and present needs, and what is necessary to create a space where education can take place effectively. In constructing this baseline, Thro explains that the court will encounter two questions, first how they will craft a definition of adequacy or quality, and second, what is required to meet this definition. (Thro 1990)

The results of adequacy cases vary, but two cases which represent a strong positive judicial response brought to courts in Massachusetts and Kentucky have resulted in choices by the courts to set the baseline high. Kentucky, for example, declared that:

“An educated child must possess ‘at least the seven following capabilities: (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable students to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient level of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.” (Thro 3) Thro notes that further, “the Supreme Court of New Jersey concluded that a ‘thorough and efficient’ educational system was one that gave every student a modicum of variety and a chance to excel.” (Thro 1990)

Kentucky's *Rose v Council for Better Education* is a notably robust case, in which the education clause was used to declare its entire public school system unconstitutional. (Thro 1990) Beyond this case, as the adequacy movement progressed, "it became apparent that equal distribution of funding did not necessarily improve educational outcomes." (Thro 1990) This seems to be information that could not be better suited for South Africa's consideration. At present, education has been given budget priority, and the scheme set up to distribute funds works in a manner that should equalize financial inputs. Yet Thro's argument draws attention to the notion that equalized inputs will not necessarily mean equalized outputs. (Thro 1990, p. 47)

Isaacs (2007) notes the significance of social mobilization to support tangible change in education. (Isaacs 2007, p. 28) In addition Isaacs notes the failures and successes of *Rose* in Kentucky, providing that, "Making the new legislation real and meaningful for Kentucky schools, as envisioned in the court order and the preceding activism, has been difficult and incomplete. The breakdown appears to have occurred precisely at the point where a centralised government department must empower localised and diversified community-based implementation." (Isaacs 2007, p. 22)

Very positively, however, Isaacs (2007) notes that Kentucky is able to serve as a useful example of improving disparity in educational quality amongst schools according to wealth and often race. "The legislative changes disaggregated regional education budgets to the district and school level and made decision-making dramatically more transparent; this has seen some local management councils find innovative means of influence." (Isaacs 2007 p. 23) In addition, he makes note of the results that have come following the decision. "From 1992 to 2002, Kentucky's improvement in 4<sup>th</sup> grade reading standards was the sixth best in

the country.<sup>4</sup> By 2006 Kentucky was above the national average in reading, language and mathematics.<sup>5</sup> By 2005 the state's national rankings for per pupil spending, pupil-teacher ratios and average teacher salary had improved " (Isaacs 2007, p. 23) Isaacs makes the significant note that students' race-based differentials were some of the lowest in the nation (Isaacs 2007, p. 24)

Roithmayr notes "Foreign jurisprudence also supports the notion of minimum core for substantive adequacy." (Roithmayr 2003, p. 402) Specifically citing *Rose v Council for a Better Education* as a case which demanded a form of "substantial adequacy" in schools. (Roithmayr 2003, p. 402) Further, "Several other states have followed Kentucky's lead in finding that the right to education guarantees a right to a minimum level of substantive adequacy,<sup>83</sup> and that combination property-tax/state funding financing schemes were unconstitutional because they failed to guarantee an adequate minimum to learners." (Roithmayr 2003, p. 402)

Roithmayr notes that the nature of the right to education is one that is immediately available and thus a "priority" right lacking the reasonability clause which would restrict claims on the right. Further, Roithmayr argues that given the nature of this right (as a "priority" right), it would be useful to provide the "content of such a right to give the right full constitutional effect." And goes further to state, "Accordingly, the Court may choose to define the minimum core content of the right to basic education in much the same way as US state courts and international instruments have done." (Roithmayr 2003, p. 404)

Ultimately, the Kentucky decision was the beginning of an educational reform process that was necessitated by commitment to a constitution which valued education, and based on

---

this mandate, the development of ideals in education which gave additional substance to the right. The decision also called directly for funding by the state legislature. Thro discusses the differences between the cases brought to the state courts in Kentucky and New Jersey, pointing out that where New Jersey failed to address the issue of quality in a meaningful way, Kentucky was able to engage with this concept thoroughly. In a manner particularly useful to the South African case, Thro suggests that political dynamics currently call for comprehensive change, and that state's education clauses should recognize social interest in improved educational quality. Specifically, Thro states that,

“Courts and plaintiffs should follow Kentucky's lead and realize that constitutional theory and positive political theory favor education reform remedies that are based on an appeal for a system that provides for overall educational quality.” (Thro 1990, p. 49)

The argument of this dissertation is in full agreement with the necessity for such involvement, particularly in South Africa, where one can point to other socio-economic success cases with a grassroots base, such as the Treatment Action Campaign (Minister of Health and Others v Treatment Action Campaign and Others. (2002) 5 SA 721 (CC); 5 July 2002). In South Carolina a case for educational adequacy started in 1993, “when forty public school districts sued the state, alleging that the state's education finance scheme violated state and federal law.” (Hawthorne 2005, p. 61) Although the circuit court dismissed the case, the U.S. Supreme Court,

“After affirming the dismissal of the plaintiffs' claims under state and federal equal protection clauses and South Carolina's Education Finance Act (EFA)...went on to hold that the South Carolina Constitution "requires the General Assembly to provide the opportunity for each child to receive a minimally adequate education." (Hawthorne 2005)

These acts did not use language that insisted on a qualitative notion of adequacy, yet the court called for minimal educational programs to be made available, which has later been

interpreted as an experimentalist approach, as well as a trend amongst states across the US.

(Hawthorne 2005, p. 62)

Isaacs details the meaning of a true non-court-centric remedy which he claims would include a high level of involvement with a community, a real participatory process, whereby change is achieved through means where the court demands of the communities affected by legal changes. (Isaacs 2007, p. 28)

He argues in the favor of such remedies,

”Where possible though courts can use non-court-centric remedies to encourage democratic participation. Ordering participatory processes stimulates grass-roots democracy and the possibility of local tailoring of constitutional standards to community-specific conditions and needs. They may also discourage, in a healthy way, the use of courts as a first-instance site of struggle, sending a signal to reformers that they may be rewarded with a greater remedial role if they build their knowledge, capacity and political strength first.” (Isaacs 2007, p. 30)

#### **4) Ethnographic Research**

##### **4a) Introduction to Ethnography and Human Research Ethics**

The background described in the former preceding sections of my work sets the work to follow in a historical context. The prior sections are intended to illustrate the ways that education has contributed to, and even orchestrated inequality. Further, these sections have been intended to be read as context to the development of my work. Over the course of my studies, I have considered (in detail) the ramifications of history, and certainly remained keenly aware of the bodies that operate at present. Another piece of my analysis of context, however, took place in my ethnography. To begin, briefly, I will discuss the methods and ethics used in my work.

Ethnographic research has played a central role in shaping this dissertation. My fieldwork largely determined my perception of the most important components of a basic education. It seems unrealistic that I could have maintained a lack of bias or emotional disconnection to the material, and some of the suggestions that follow are directly related to ethnographic experience. Experiences which occurred over the course of my fieldwork will direct the work to follow.

The adequacy cases in the United States, discussed in the previous section, include both key inputs and outputs. I suggest that both educational inputs (specifically, I argue for qualified teachers, teacher proficiency in math, language, and science, and informational resources such as books, textbooks, and computers) as well as outputs (student proficiency in math, science and language), all make up what we can fairly call a basic education. The direction of my dissertation shifted a great deal over the course of my work. Though the body of work at large is concerned with the right to a basic education, my experiences changed the way I understood what matters most for students and what components are necessary to prepare students for the job market or further schooling.

Over the course of my fieldwork, I sought to gain insight through ‘experiential’, or on-the-ground research. This fieldwork involved a significant investment of time to develop relationships with six young women who were my primary informants. The time spent was dedicated, primarily, to learn about their experiences in the educational system, but secondarily to understand more about their life contexts as well. This allowed me a perspective that can only be gained in this manner. I firmly believe that each individual’s life experiences are valid, valuable, and worthy of discussion – particularly when an individual’s constitutional rights are being denied.

As a result of a recommendation based on my broad initial research interest, I visited an NGO that promotes educational rights. I was introduced to a small group of young women through attending a series of youth group meetings for the organization. The young women I met were formally asked to participate in my work. All of these women were over the age of 18, and it was

communicated, and mutually understood and agreed upon that our time spent together was subject to documentation and could be used in further work. Privacy has also been considered in determining the depth at which I discuss issues of a personal or sensitive nature. Finally, names will be changed out of appreciation for the privacy of my informants.

### Ethnography: Brief Introduction and Key Informants

I felt an immediate connection to Nomble, a senior at Xolani High School. We met for the first time while waiting for the beginning of a youth group session for Equal Education, an NGO that promotes the right to education through work with student activists, parents, schools and community leaders based in Khayelitsha, a suburb of Cape Town. Nomble was with some friends, and she caught my attention when she stood at a podium, set up on its own in the middle off to the side of a large open centre. She began reciting Martin Luther King's "I Have a Dream" speech and I was immediately captivated. After engaging with her for a few minutes, I noticed that she spoke to me with a greater sense of confidence than the other students, but without a sense of superiority to her colleagues. As was noted by Nomble, speaking strong English is a status symbol, and can be perceived as a means of showing that you are "better" than the majority of the community whose English was largely at an introductory level.

After a few weeks of spending time talking about music, family, friends and general interests, I learned that Nomble was a poet. I enquired about her poetry and she was kind enough to let me read some of her work. More than ever, I gained extraordinary respect for Nomble, as she expressed herself artistically and meaningfully. I found that the concepts invoked in her writing, and her mindset, were at a much higher level than other individuals her age. While I expected a teenager to write about their angst toward their parents, an ex-boyfriend perhaps, or maybe their inability to fit in at school, instead, Nomble wrote about issues that mattered to (and some which plagued) her community. She wrote about experiences with her family that were raw and difficult. She wrote about the pain she felt for her friends and for individuals in her community whom she could see suffering but was unable to aid. Nomble channelled prior generations, and in her writing specifically honoured

the students who engaged in protests in 1976, feeling a debt and a sense of duty implied by their efforts. Another frequent subject of her writing were the females in the community that were beacons of strength for her. The support of females in her own family, and particularly the support given to Nomble by her mother, gave her strength and passion to overcome challenges. She recounted the desire to honour her mother and all the work her mother had done for her, all the hopes she has for her. Nomble is her fifth child and is the first to attend University. She was accepted to two tertiary institutions in the Western Cape, to the credit of her incredibly hard work.

I was amazed by Nomble as I spent more time with her. She spent countless hours at the **“Greater Cape Town Tertiary” (GCTT)** library (This dissertation will use the name Greater Cape Town Tertiary to denote a particular University in Greater Cape Town which will remain unnamed). Often, during her first year, she would wake up for school around five a.m., and return home on the last bus, which arrived at her residence at eleven p.m. This was not a practice confined to particular periods of intense study (like during exams), but the general practice throughout the semester, as I noted through observation and through a variety of conversations with Nomble on the subject. She told me that the time in the Library was necessary, and additional group work was essential as well because both helped to make up for the gaps she noticed in her own education and that of the students at GCTT who came from similar backgrounds. In spite of going to one of the best schools in her township, and being a top student, it was (and remains) a real challenge for Nomble to keep up with her classmates, in spite of her ability to learn quickly and absorb information easily – the gaps in the system have created obstacles that cannot be overcome without a great deal of extra work on her part.

### **Ethnography: Student Language, Math and Science Proficiency**

Nomble doesn't complain a great deal about her experience at Xolani High School. She knows, however, that the quality of her education is greatly different from that of her peers in wealthier schools, which she associates with the mixed race schools rather than historically African schools, which remain virtually solely composed of black students. Nomble has expressly noted that a lack of English training became a serious problem, and that class lessons were infrequently held in English. Some classes may have made an attempt at inclusion of English, but inevitably in virtually

every course, a switch would take place during class into isiXhosa. She explained to me that a great deal of her learning has come from making attempts to read subtitles on television, and she took every opportunity she could to read and re-read any books available. A great deal of her learning has been the result of her own exploration and her estimation of the value of English. She has shared that learning English has been a challenge, but she has pushed herself out of her comfort zone using the language in order to improve her capabilities. She was invested in learning the language from a young age. Much of this can be related to her understanding that the ability to use English was very valuable in aiding one to acquire a skilled position in the labour market, and this was a long-term goal for Nomble. Her foresight is keen and she is relentlessly aimed on doing anything necessary to make the future she wants for herself and her family.

Math has also been an ongoing issue for Nomble, and, in fact, all of my informants. Nomble chose to take Maths Literacy, explained to her to be a more basic maths course with a higher success rate. This held her back, however from being accepted into a particular program of study. By her account, the implications of her choice were never communicated to her when she initially chose her courses. On the other hand, Nombeko, another one of my informants, took Higher Grade Maths in order to be eligible for said institution, and ultimately failed this course, and thus could not matriculate.

Nombeko, a good friend of Nomble's was introduced to me after I complimented Nomble's poetry. Nomble told me her real inspiration, and the best writer she knew, was her friend Nombeko. When we met, I was impressed again by the difference between the level of confidence exerted in speaking English amongst Nombeko and Nomble, as Nombeko was also incredibly at ease with her conversational skills and, in fact, loves to talk. Thankfully, due to efforts similar to those of Nomble to learn English outside of school, Nombeko is capable of engaging and/or carrying conversations in English. Both girls are confident in delivering speeches, and both have never exhibited the slightest anxiety around me in our (all English) conversations.

It was not long before I met with a small group of young women, including Nonyameko (known amongst her friends as a beauty queen, and a dedicated student who is now a student at Greater Cape Town Tertiary (GCTT2), Nkosazana (a bright, bold personality, is currently studying to

teach at GCTT3), Mandisa (a student with nearly perfect English and a very positive attitude, she was unable to matriculate due to failing maths), Nomuula (a soft spoken, focused, diligent young woman, also unable to matriculate for the same reason).

Each of these informants demonstrated exceptionally strong English skills compared to their colleagues, and each was an active, ambitious, hard working and capable young woman. Thus, their academic proficiency should be understood to be relatively strong most obviously in their English skills. Yet the difficulties described by the young women, in regard to English in particular, were still noteworthy. Nombeko will sometimes joke that she “forgot to pack her English in her bag today”. Some days, she explains, it is too difficult to try to deal with increasingly high level academic concepts in her second language.

Further notably in my informants and even more so in their colleagues, conversational skills were clearly developed far beyond abilities to write in English clearly. Because of the primary methods of learning (listening to people speaking whenever possible, listening to music and watching television in English) allowed the young women to acquire the ability to communicate very clearly. The capacity and desire to incorporate new words into their vocabularies was noticeable, I often noted that some of my choice (overused) words would later become integrated into their conversational vocabulary, when previously I'd never heard them use the word. These young women are keen to pick up anything new and to add to their knowledge base. In spite of ongoing learning and strengthening of conversational skills, a proper development of understanding grammar rules, spelling, and consistently proper word usage in essay writing is lacking. Although these young women could likely present their work comprehensibly in strong (but basic) English, but writing is far more complicated and these types of errors are serious problems.

As a region, the Western Cape fares well economically and in spite of ongoing poor educational performances in this province as well, the educational performances are generally superior to those in the remainder of the country. It seems significant to note that I was observing what is a statistically average to good school environment. Specifically, urban (but still poor) black learners fare in terms of the availability of a quality education compared to rural counterparts. Further, the young women included in this study are capable (high achieving, active) students, as well as exceptionally hard

working (based on raw observation). The sense I am able to make of this work, and its best use, may be to understand that even in the very best scenario, even the best schools that remain (and have been historically) black, are failing students who I posit would have markedly different rates of success in an alternative school setting.

## **4b( Ethnographic Data**

### **Ethnography: Basic Infrastructure**

Initially, my intention had been to investigate the lack of material resources in schools, with attention being given to infrastructure, supplies, toilets, fencing, playgrounds and the like. With recent challenges being brought to court in the Eastern Cape on these grounds, and ample evidence to show a lack of these material resources, there is no doubt that this issue is deserving of attention. The complexity of the problem of education in South African schools, and my personal experiences in urban schools caused me to re-evaluate what appears to be most important in shaping education. It appeared to me that resources in Xolani High School were run down, classrooms had desks and chairs that were sometimes broken and covered in writing from student's sketches, presumably over decades. The bathrooms were sub-par, toilet seats were missing in some stalls, and doors were improperly attached or broken on stalls. Water in the bathrooms ran off and rusted along pipelines, the surrounding area of the school does not offer space for students to play or exercise. However, it was my experience over time and ongoing observation that students are quite able to cope with the material situation as it stands. This does not mean that it is optimal, or even acceptable to lack high quality material resources, but in line with this dissertation's intention to focus on the most significant factors in promoting quality education. It appeared to me that these material factors were superficial in comparison to more central problems.

No learners at Xolani High School (nor any of my informants) complained about school infrastructure when citing particular problems in their educational experience. These infrastructural inadequacies were not among the primary issues that caused them to struggle in learning and achieving their academic and career goals. My work does not intend to undermine efforts to improve infrastructural situations, but in my estimation, even with only basic infrastructure, students are able

to learn provided a few things: qualified, trained teachers and informational resources – books and textbooks specifically. Including a basic infrastructure as a core part of a basic education confronts those schools which exist in the Eastern Cape (and other rural spaces throughout the country) which lack a structure that is solid and weather-proof, and calls for change in these schools. Yet, it would be on the basis of need and more significant material enhancements beyond a basic infrastructure would wait. In the Western Cape, I believe that a basic education calls for what I term ‘informational resources’ – again, a qualified trained workforce and material informational resources – books and textbooks.

### **Ethnography: Informational Resources**

Students often noted that the lack of these informational resources did have an impact on their experience. These issues were both noted by my informants, and far more noticeable as a problem in my observation. On any given day, facilities were adequate to host resources and students and would allow for teacher-student interaction as well as to store resources necessary for classroom functionality. The infrastructure of the schools I attended caused no interruption in the learning process. Interruptions were caused to the learning process, alternatively, by issues such as teachers failing to show up to class. Interruptions were caused in the classroom by issues such as the lack of visual resources outside chalkboards (which were available and are useful but insufficient as the sole source of written information). Yet a lack of available written or visual resources makes studying extremely difficult and making note-taking the sole-source of student access to written information. Especially as a student progresses through the educational process it seems necessary to have visual resources other than a single teacher’s chalkboard notes, which were frequently the only classroom documents available for parts (or in some cases all) of a class. These resources are crucial in aiding visual learners in particular, but all learners as aids in understanding concepts, learning about how to analyse text, and in forming skills to find information without assistance.

In all of my visits to Xolani High School, the library was very rarely open. No librarian looks after the library and the doors remain locked throughout the day. Similarly, the computers available to the school were difficult and often impossible for students to access. There were twenty one units to be exact, all old but functional PC’s, also in a room that remained locked the vast majority of school

days. In a few instances teachers would schedule days to use them. Sometimes the room was used for teaching but the computers were left untouched (this was true of Nombeko's Math classes).

Sometimes students could gain access to a key to use the room, but the same was not true of the library. Almost always closed, even when the library opened, one enters and sees what seem like a great deal of shelves, largely empty.

The lack of informational resources in schools is compounded by a lack of community resources. In my visits to the community library with my informants, it was obvious that the library lacked resources and sufficient space. Although the community library stored considerably more books than the library at Xolani High School, the books were sparse and what was available was extremely outdated and the subjects or topics covered in the library's books were very scattered. In other words, while some information existed in the local community library, huge gaps exist in the availability of information, and the ability to find any information is hit-or-miss, and as mentioned, the resources that are available rarely include new or academically acclaimed works.

### **Ethnography: Teacher Qualifications, Professionalism, and Subject Proficiency**

At Xolani High School, I was surprised at my deep disappointment with teachers. Perhaps a positive personal bias (and quite possibly the influence of having three teachers in my family) caused me to romanticize the field of teaching. Additionally, I went in to the school understanding of the context in which black South African schools exist and appreciating the uphill battle teachers face in historically black schools. In other words, when I set out to do school ethnography, I was sympathetic towards the teachers to a much greater degree, and lost a great deal of that sense of sympathy over time. To the best of my ability, I tried to keep the framework of history and the struggles that teachers have dealt with and tried to give them the benefit of the doubt. Yet, as I began attending classes I was increasingly taken aback. Teacher's attitudes, towards their own work and towards their students were almost always unabashedly negative. To be frank, teachers were frequently unprofessional in their interactions with students and in their behaviour around attendance, tardiness, and preparedness for the upcoming lesson.

When attending school with the informant(s), I found that usually at least one teacher would fail to show up for class each day. Often they were on the premises talking to a colleague, and students surprised me further by maintaining almost perfect order and working through past notes or assignments in small groups or alone. My experiences with teachers in their classrooms were highly illustrative of a real lack of structure, and a methodology of teaching that appeared to me to be incredibly hands off. Teachers did not engage with students, learners in Grade 12, beyond the most common method of instruction which involved the teacher speaking and students listening and repeating in chorus, as well as working through long tedious problems alone on the board, again asking for chorus responses to questions that require one word answers. Beyond that, a genuine distaste for their own work prevailed amongst staff and a general irritation with students and with the system was abundantly clear.

**Teacher 1** spoke to me, nearly every time we met, about the need to reinstate corporal punishment. This theme was not uncommon, but he was particularly vocal about unruly children who he could not control or teach. I never attended a class at Xolani High School where students were unruly, uncontrollable or even difficult by any means, though it is possible that my presence had a bearing on this. **Teacher 2**, who taught English, lamented her position and the system at large, as well as the students and their work ethic. Again, amongst these complaints about students my experience was that the exact opposite was true. I found that an exceptional work ethic prevailed amongst Matric students, who seemed engaged, stayed for extra lessons, formed additional study groups, and looked for extra opportunities to learn and acquire skills necessary for further education. However, **Teacher 2** felt that students who came to her were already so far behind that sometimes they were a lost cause. She specified that she often teaches students in Grade 9, and when they come to her they have completely inadequate knowledge, so she works hard to help them catch up and does see some progress in their work together. She relayed that the same students would return to her in Grade 12 and have actually regressed significantly since they last worked together, and it is at this point, she explains, that she feels defeated by the system. She placed the majority of blame on other teachers for a lack of English knowledge and a capacity to work with students in this language. This was surprising to me because I found that her English was not at a particularly strong conversational level,

and although she seemed deeply aware of all of the errors made by students, she did not seem to realise that she frequently made grammatical errors herself, or did not make the effort to correct them.

**Teacher 3** conducted math class, and here I am not sure of my impact on the outcomes of the class. I recognize that my presence in the classroom alters the environment significantly, and teachers as well as students were likely to alter their behaviour in ways I cannot try to guess. I noted that this teacher seemed particularly aware of my presence. Interestingly, he set me to work the first time I attended his class, having me check answers and explain to students the errors they were making, etc. I found out a few things through this exercise. First, my perceived socio-economic status seemed to speak for more for my potential level of knowledge than any confirmation of my comprehension of the material being studied in matric year higher grade math. Second, the students participate in classroom exercises to varying degrees, because ultimately it isn't necessary to do so. That is because shortly, the teacher answers each question on the chalkboard, and students copy these notes to study. Often, if students are confused, rather than asking a question, even if they cannot find the result themselves, they use the teacher's answer in their notes, and take it home to work through later, or in a small group.

Ultimately, I relate this reluctance to ask questions in class to poor communication skills, particularly in classrooms where there is pressure applied to speak in English. It may have applied extra pressure for classes to be conducted in English due to my presence as what may have seemed to be an auditor. Often students, highly uncomfortable with their own competencies in English refrain from engaging with the teacher, which seems to be preferred by the teacher anyhow. In my experience, the teacher's English vocabulary was also virtually always limited and could not likely cope with higher level academic questions before teachers would switch to isiXhosa. In theory, all classes except for isiXhosa are intended to be taught in English (as decided by Xolani High Schools' School Governing Board (SGB), yet classes conducted in English were rarely the case. **Teacher 4**, who handled the science course taken by the informant(s) I attended school with, was very friendly, but conducted her class almost entirely in isiXhosa, or at least in broken half and half English and isiXhosa. Her proficiency English seemed limited, but I admired her willingness to help students and

making herself available to students after classes for additional explanations for areas in which the students were struggling.

What made, perhaps, the deepest impression on me, was the experience of remaining a part of the student study experience during teacher strikes. I found the method of striking to be highly problematic, and incredibly self-focused on the part of teachers. All of my informants experienced a strike while they were attending secondary school. These interruptions could be short or last over a month. Teachers not only vacated schools but protested outside the grounds and deterred students (sometimes with threats or actions involving violence) from coming onto the grounds for study purposes. For Grade 12 learners, a strike that takes up to a month to end is an enormous interruption in the learning process and in studying for the matriculation exam, which essentially decides whether or not all of the schooling you have worked through to this point is valuable, and decides how you can potentially proceed with life, limiting your career and academic choices substantially. This seemed (and seems) excessive and unfair for teachers interested in higher pay. Marching and protest are one's right, but become problematic when students rely on their teachers for the bulk of their learning. Without books or teachers, it becomes increasingly difficult for students to keep up with the information they are expected to learn for Matric exams which dictated (at minimum) the next year of the student's life, and could potentially affect their life much longer.

Beyond a lack of experienced teachers, and a large portion of teachers outright stating that they felt their position and that of their students to be mostly hopeless, students lack a strong sense of guidance, certainly outside of school, but within as well. Advice or guidance towards employment or schooling were lacking heavily, which complicated already difficult circumstances in matriculation and moving into tertiary education. Even if a student is able to achieve a passable mark and matriculates, in Xolani High School for example, little data on the options available post secondary school exist in an accessible way for them. Sometimes a lack of instruction or organization can complicate or completely withhold a student from graduation. In the case of several informants, scores were lost and an inordinate amount of time passed allowing little to no time for university applications. In other cases, information about the standards of particular universities, in the Western Cape, most specifically the credentials necessary to apply and be accepted to the University of Cape

Town may be widely understood in the wealthy suburbs, but are not so clear in black urban townships. University visits and explanations on what may hinder or help progression into the university are not available, and exposure to college graduates is usually slim to none in students' life experiences. This is of major concern.

As a result of a combination of school inadequacies and a lack of capacity to allot all materials and information necessary to perform well in school and eventually matriculate, students are set up with the odds against them. Often, by senior year, serious gaps in knowledge exist, particularly in core areas of language, maths and science. Language, both home and English, are problematic because the home language is used in a conversational sense, and is frequently interchanged with English for the purposes of convenience. However, as a result of this system of frequently switching based on the language that best lends itself to the subject or terminology at hand, neither language is mastered or fully comfortable for students. Most Grade 12 students at Xolani High School would feel equally uncomfortable speaking to a colleague who was completely proficient in English as they would speaking to a community or perhaps even family member from the Eastern Cape, where isiXhosa is spoken in a more traditional form, and applied 'properly' in terms of vocabulary, grammar and pronunciation. Students are losing out as neither language is mastered – and seemingly not by the teachers, thus no one is imparting this knowledge on students.

Further, math and science concepts that were part of prior years' curriculum seem to build up, due to inadequacies in the learning system. These inadequacies include teachers who are unqualified and untrained, and a lack of resources for any studying or input outside the teacher, doing away with the capacity to do self-propelled research and learning or to allow for visual learners to excel. During the time of the strike, all informants took part in a study group for maths and science, and it was within this time that the gaps in education and a lack of understanding of core concepts, such as multiplication tables, became most clear to me. Further, problems posed by in competencies in English cause further problems include difficulties interpreting problem questions written in English, and selecting answers in English. This is particularly a problem for students when taking the Matric exam, in which all non-language subjects are offered in either English or Afrikaans.

In the case of three informants, any number of these factors could have contributed to their failure to matriculate, but had nothing to do with the amount of effort applied. I expect that the effort I observed being applied to studying amongst my informants was on par, or far beyond many of their counterparts who passed successfully because of the information available to them throughout their educational career. When calculating effort spent on schoolwork, study groups, and personal study time, the only plausible conclusion is that the educational system is broken.

### **Ethnography: Conclusion**

These informants were highly motivated, and invested hard work and time in and out of the classroom to learn and develop skills necessary for tertiary education. Further, each showed a dedication to the promotion of educational rights at large, and held personal strong beliefs around the power of education. Each informant was also an activist in the promotion of access to quality education for themselves and others. These informants had the characteristics of students, who given a basic education, should have no problem moving towards their goals of attending university.

This portion of my work is an illustration, a snapshot if you will, of black students in a historically black school, which actually fares well comparably in the area, and this school in particular (Xolani High School) certainly compares favourably to historically black schools in other provinces, particular those in rural spaces. Given this information, it seems that students attending historically black schools – the majority of students in the country – have significant obstacles to overcome. The ‘snapshot’ of these young women, part of a one of the better institutions, as far as historically black high schools go, gives us a look into the realities of the depth of the problems in the South African educational system. If this is truly a better-case scenario school for black African students, the observations made are exceptionally worrying. These students, likely to be in a better scenario than many of their (rural) peers, who have the motivation, dedication and natural ability to learn, still struggled,

and some failed. In my small sample of six young women, half failed to matriculate their first time taking the exams. This is a really problematic statistic. Not as it represents anything on a large scale, but as, in the given context, it leads one to believe that the educational system is failing students. Access to a building with a basic infrastructure is simply not enough to constitute a basic education.

My ethnographic experiences allowed me to map out the priorities for change in education. First this work calls for formal recognition of the system as it stands as unconstitutional without a further definition of the term "basic". Second, this work is asking for a remedy similar to those of US adequacy cases where a loose outline is set in place for the most central needs for inputs and outputs in education, but leaves the expectations general enough to allow for implementation on a provincial and local level which is less invasive but still holds schools nationally accountable.

## **5) Suggested Adequacy Standards**

### **Introduction**

The suggested inputs and outputs included in the following section were primarily influenced by my ethnographic work, and secondarily on international legal conventions (particularly in the US) on education, and considered in light of the recent history of education in South Africa. My ethnographic work most markedly informed my ideas about the most significant (and urgent) inputs and outputs of education in South Africa, thus one may note that these inputs and outputs are exactly the same as those mentioned in the ethnographic section. The purpose of this section is to explore the urgency of each of the items of the list of inputs and outputs that are as follows:

### **BASELINE INPUTS**

1. Qualified Teachers (available progressively) and ongoing teacher training, (use of human and material resources to secure teacher's ability to cope with the material as well as the OBE framework which they are expected to use, especially for teachers in previously disadvantaged schools, and especially for under qualified teachers)
2. Teacher proficiency in:
  - a. Maths
  - b. Physical Science
  - c. Language(s) with heavy encouragement placed on bilingualism
3. Material resources – baseline for successful schools:
  - a. Basic infrastructure (can be read broadly, but it seems quite obvious. The school needs to be a solid, secure space with bathrooms available and protection from the elements)
4. Informational resources
  - a. Textbooks
  - b. Library Books (available progressively)
  - c. Computers (“ “)

### BASELINE OUTPUTS

5. Student (learner) proficiency in:
  - d. Maths
  - e. Physical Science
  - f. Language(s) with an emphasis on the availability of English for pragmatic reasons, but without proposing to relinquish programs that include or transition between mother tongue and English, or programs completely in the mother tongue if the SGB so opts.

### 5a) Basic Infrastructure

The current education system in South Africa is frequently criticized from a variety of sides and seems to be widely understood as a broken system. However, it is not for lack of effort in funding, and this should be noted and underlined. In contrast to the recommended financial priorities recommended to South Africa by the World Bank, spending on education has increased markedly since 1995 – growing by 35% up to 1998 (Chisholm & Petersen, 1999), with education's share of the budget growing from 21.9% in 1988/89 to about 28% in both 1998 and 1999. This also represents a relatively high proportion when compared internationally (*Reconstruct*, 1999; *The Mercury* 1998).

The legacy of apartheid and Bantu Education (which specified that money should be spent in schools according to the position of one's race, Africans being considered a servant

class and receiving very little funding) left a great deal of material deficiencies, the result of years of major educational inequalities between racial groups. In 1988/89, for example, while 656 rand per capita was spent on African children, 1221 Rand per capita was spent on coloured children, 2077 Rand was spent on Indian children, and 2882 Rand were spent on white children. (Christie & Collins 1982)

As a result of this history, compounded with limited resources and a variety of additional urgent problems to confront in the country, the material components (infrastructural, informational resources available) within the system will take an exceptionally long time to build and repair. It has been calculated that it would require an increase in the education budget of 144% to raise the level of spending on all schools to that of the previously white schools. The net result is enormous disparities between schools in terms of access to resources with many schools having, for example, no electricity, clean water or inside toilets while others have audio-visual centres and state-of-the-art computers. (Harber, 2001, p. 14)

In the Western Cape, officials developed a formula based on socio-economic and physical variables to distribute funding and came up with eleven categories of school, each containing 9% of the province's learners. The system, however, certainly did not lack imperfections. A senior education official was asked how it was possible for a primary school in a particular area to be classified as B (acute socio-economic need and inadequate physical facilities) whereas the high school in the same area was classified as F (the norm or centre of the range). It appears that there were sufficient formerly white schools to fill the three most affluent categories, so disadvantaged schools were used at random to top those categories up. (Harber 2001, p. 16)

There were intentions following the shift into democracy for ensuring access to education in the initial stages of the post-apartheid era. Yet, South Africa has now reached a

point where access is largely available, but as noted above, improvements in quality have yet to catch up. As Crouch (2005) points out, there are clear ties from the history of apartheid to the present state of school quality – in terms of infrastructure, faculty, student access to familial support in education, and the availability of material resources integral to learning and retaining knowledge. (Crouch 2005) Although the budget allocation to education increased, few significant shifts took place in approximately 2001. According to Wildeman, the real gains received by schools in South Africa were not substantial during this period. (Wildeman 2008, p. 161)

Thus, the lingering effects of apartheid have continued to perpetuate segregation, and more importantly, in the segregated schools with a higher density poor (black) population, there have been outright failures to make meaningful shifts in the quality of education offered. The lack of resources available to majority black schools created additional obstacles for students who, in addition, cope with inadequate human resources and a lack of material resources available at home and in the community. Although it is impossible to make a direct correlation between a lack of resources and performance, performance during this period were notably poor. As stated by Crouch (2005),

“Yet, even as late as the 1990s, only 60% of each cohort was making it to grade 12, and only 50% of these were passing the all-important “matric” (secondary school leaving) national exams, which means that only about 30% of each cohort were achieving twelve grades and entering life with a “pass” to offer the labor market (Crouch & Mabogoane, 1997a). Also, only 10% to 15% were passing with “exemption” or “endorsement,” which allows access to higher education.” (Crouch 2005)

Some literature suggests that the need for improved material resources is less

important than it might be perceived to be. More specifically, Crouch argues:

“...the correlation between some of the variables that exercise the public imagination about inequality (because they are so visible and so clearly deficient, such as physical infrastructure) appear relatively uncorrelated with achievement. But other resources do definitely appear to matter, such as equipment, pedagogical process inputs, and teacher education. (One should note that access to decent infrastructure is a matter of dignity and justice rather than a critical determinant of

output.) Furthermore, to the degree that resources can make up for parental poverty (e.g., by allowing schools to devote more teacher attention to children whose parents cannot help with homework), resources do matter because poverty itself matters.” (Crouch 2005)

This may mean that when approaching quality in education, careful attention should be paid to what material and non-material factors are significant if educational standards are to be improved. Further, this emphasizes the impact of a lack of access to resources at home as well as the impact of disadvantages as a result of structural inequality in history and on a continuous basis.

### **5b) Human Resources – Teacher qualifications and Training**

Under apartheid, in line with the ambition to separate people based on constructed racial categories, the Bantu Education Act set a precedent for teacher education which trained future teachers differently based on race.

“The consequent duplication and fragmentation of teacher education institutions led to a lack of overall coherence in the system and a multiplicity of curricula and qualifications. Thus until 1998, there was no national system of registration for teacher education programmes in South Africa and, by implication, no quality assurance of programmes.” (Giliomee 2003, p. 336)

After apartheid and the country’s shift to democracy, the former educational system, which was raced based, hierarchical, and marked students for a particular place in society, needed immediate attention and changes had to be made. (Sayed 2004, p. 247) Adjustments to education and teaching aimed to allow for increased inclusiveness and to redress past structural inequalities built into education. It was in this context and at this time that teacher retrenchments took place, dislocating approximately 12,000 teachers – incentives were given to teachers who volunteered to receive severance rather than continuing in the system. Largely, white teachers took advantage of these packages and the shift was meant to encourage the development of job opportunities in education for black South Africans.

(Soudien & Gilmour 2006, p. 336) An effort which was meant to aid African employment and teaching may have deprived the system of teaching talent which was much needed.

“...there has been a stripping of expertise from the system, both at the managerial level and at the level of classroom specialization. This was because there is no restriction on the eligibility of those who may wish to leave. A further irony is that the Minister is now contemplating hiring Cuban teachers in areas of skills shortage, namely mathematics and science (*Mail & Guardian*, March 7-13, 1997), at the same time as volunteer teachers from Ghana, Sri Lanka and India in these subjects are being expelled from rural Eastern Cape schools (*Weekend Argus*, 1/2 March, 1997a).” (Soudien & Gilmour 2006, p. 336)

This amounted to a particularly serious problem in the Western Cape where a huge shedding of teachers took place coincided with an enormous influx of families (and students) coming into the province. (Soudien & Gilmour 2006, p. 337)

The results of retrenchments were significant. Even if these were not causal “results” as such, a correlating period of increasingly poor results followed, illustrated particularly worryingly in matriculation rates amongst grade 12 students. “From 1994 to 1999, the results showed a marked decline from a 58 percent to a 49 percent pass rate, with only 12 percent of candidates qualifying for university entrance in 1999.” (Soudien & Gilmour 2006, p. 336)

Teachers have also had to adapt to major shifts in curriculum and demands for training. New forms of evaluation accompanied expectations for new methods and outcomes of teaching. (Soudien & Gilmour 2006, p. 365) Problematically, the baseline of teacher education during apartheid was already poor, so the need for additional training with post-apartheid policies also came simultaneously with a curriculum that demands a more educated teaching force. In the past, teacher certification could take place in colleges as well as universities, and the ultimately moving of teacher education strictly into universities significantly shifted the requirements necessary to become a teacher. Entrance into universities and their means of training and evaluating presented obstacles to poor black

students specifically. (Sayed 2004, p. 248) This may be an additional barrier/deterrent to teacher education.

Comparatively, on a world scale, South Africa does not fare well. Although U.S. eighth graders' achievement was higher than the international average, the SES (Socio-Economic Status) based achievement gap was larger than in many other countries. Morocco showed the smallest achievement gap (19) and South Africa showed the largest (140). These numbers represent the differences in mean mathematics scores between high-SES students and low-SES students. (Akiba, LeTendre, & Scribner 2007)

The international average as assessed by this research showed 91.2% of students were taught by teachers who were fully certified, in comparison to 49.7% in South Africa. (Akiba, LeTendre, & Scribner 2007) In spite of known differences in the quality of education provided to students of varying socio-economic groups in the United States, the percentage gap in students' access to teachers stood at 1.8, with no significant difference apparent in access to certified teachers. In South Africa, the difference was the highest of the eleven countries assessed at 17.5 – a major difference in access to qualified teachers. (Akiba, LeTendre, & Scribner 2007, pp. 375-378)

Harber points out the lack of training amongst South African teachers and underlines issues previously mentioned:

“The first problem is that teachers can be quite unaware of policy developments in the first place. One study, for example, found that on average only 19% of material leaving the national Department of Education actually found its way into the hands of staff and governing bodies (Cited in Harley et al, 2000). A second problem is that a commitment to teaching as a profession may not be a part of all teachers' personal identity. The National Teacher Education Audit discussed earlier stressed that many students in teacher education colleges did not have a genuine desire to teach and similarly, in a study of teacher voice which included interviews from a sample of 68 South African teachers, more than half attributed purely instrumental reasons related to salary, status, the desire to urbanise and the attainment of qualifications to their choice of teaching as a career. For these teachers, ‘the teacher was a person whom socio-economic circumstances had conspired to choose’” (Harber 2001 p. 81)

### 5c). Language Proficiency: Why it Matters

Language policies and practices are of central importance to, as language is our primary tool for information transfer in schools whether conveyed verbally, or in text. In South Africa, specifically the history of language and education in South Africa is acutely political and, I would argue, languages in South Africa continue to exercise social and economic power that should not be underestimated. This context complicates the issue of language in education. In fact, in the preliminary drafts of this work, language was not to be explicitly addressed due to the sensitivity around language, and the hotly contested nature of ongoing debate on the subject. Further, it may be useful to acknowledge that it is possible that my position is biased toward the English language and its utility due to my US citizenship.

Ultimately, however, in literature on South African education, but much more in life and in my experience of ethnography in a secondary school setting in an urban township school in the Western Cape, it became clear that language is an issue which simply cannot ignore (and specifically English), not only in my opinion, but in those of the many individuals with whom I've interacted who are South African, and do not speak English as a first language. My position, however, in no way negates the utility of using home language in education as well.

The use of home language, historically also referred to as 'mother tongue', or 'vernacular' (strictly when in reference to African languages), have historically been marked differently in name and in understood value. This is in contrast to languages spoken by the minority that were marked by name and given the merits of a 'legitimate' language. (Mda 2000, p. 156)

The (low) status assigned to African languages during apartheid was significant in that it was deemed suitable for the purposes of educating African students who were thought to be taking part in learning how to operate in their own African 'nation', which was meant to

be understood as separate and dislocated from other black South Africans (Mda 2000, p. 157). More than that, these languages were popularly conceived to be archaic and useless and certainly had no place in the middle or upper echelons of political or economic spheres. These policies were met with dissatisfaction amongst African parents who, according to Mda, so vehemently despised the National Party and its Afrikaner roots, ties, and pushes into their schools and the second medium of learning (again to create a servant class). Again, Mda asserts that English was primarily seen as the best alternative to Afrikaans, which was extremely unwelcome, but further, Mda states that “English was also preferred as it is an international language, which provides a cultural bridge to the rest of the world (Harsch 1980).” (Mda 2000, pp.158-159)

As mentioned in the historical section of this document, the 1976 student uprisings, students challenged the inequity of apartheid. This took place particularly powerfully in Soweto, but which would take place across South Africa in schools (and continues to date). At the time of the Soweto uprising, however, the issue at hand was language, and specifically, the rejection of Afrikaans as a medium of instruction for half a student’s courses. According to Probyn, “...these protests against Afrikaans and in favour of English as a medium of instruction, together with the use of English as the lingua franca for resistance politics by educated African elite, served to establish English as the language of political liberation as has been the case in other parts of Anglophone Africa.” (Probyn 2005, p. 154)

In 1997 the Language-in-Education Policy was set into place, and indicated that African learners were expected to use mother tongue in schools, until they reached Grade 4 when they would switch to English. Differently, coloured and white learners has a consistent education in their home language—either English or Afrikaans. (Probyn 2005, p. 154)

The potential merits and limitations of African language instruction are highly debatable. Mda sets out that one major perceived drawback to African mother tongue

instruction could be the language's capacity to cope with some higher level academic concepts, particularly those that are scientific, technological, and higher level maths.

Specifically,

“This view may have some validity because African languages were only taught as subjects and were not used as languages of learning across the curriculum – especially beyond the foundational phase – and were not developed to have more functions and roles. English and Afrikaans, on the other hand, were developed for specialised purposes... However, most of the arguments against the use of African languages for such purposes – especially when propagated by African language speakers – are evidence of self-depreciation and dependence, resulting from years of colonialism and oppression (Mda 1997b).” (Mda 2000, p. 165)

Mda illustrates the problem in the idea of limiting a language to being non-academic.

Yet English has historically, and remains (now by choice) a major method of instruction in high schools in South Africa. This is significant because communities (SGB's) govern the language choice in schools, and the preferred language remains English. Largely, the idea of using this language is pragmatic. However, the homogeneous nature of many African schools (in terms of home language) may mean that instruction takes place in mother tongue, in spite of ongoing pushes for English promotion.

“English is the official language of teaching and learning (LoTL) from at least the beginning of the 4<sup>th</sup> grade – the start of the Intermediate Phase in Curriculum 2005. This is despite the fact that there are very limited opportunities for learners to acquire English outside the classroom.” (Probyn 2005 p. 157)

Home language, particularly in urban areas, remains largely mother tongue, or the popular African language in the area. Yet, particularly in these urban spaces, no language is spoken strictly, even the home language, which is often mixed with some English and perhaps Afrikaans. The version of African home languages generally spoken in larger urban spaces is frequently not correct, or at least not so in comparison to how the language is spoken by older generations and rural adults and even youth. Further, Probyn notes:

“Demographics limit opportunities with mother tongue speakers of English and although learners may have some exposure to oral English through television and popular music, indications are that there are few reading materials at home. In a national survey of

Grade 4 learners (where the average performance by learners on the literacy task was only 48%) only 10% of parents indicated that they bought newspapers and magazines and more than 50% indicated that they had access to fewer than 10 books (Strauss 1999, p. 25). There is also a shortage of reading material in schools, as 83% of schools have no libraries (Bot & Shindler 1997, pp. 80-81) and there are chronic shortages of textbooks.” (Probyn 2005, p. 157)

The quality of English teaching which currently exists in South Africa is notably problematic. There are issues with comprehension on the part of learners, which has to do with their home language practices of students, as well as teachers, who are unable to sufficiently aid students in a language with which they are unfamiliar as well. The lack of English exposure for teachers and students creates a classroom atmosphere where the home language is easier to use and often is used in spite of a school being officially English speaking. (Probyn 2005, p. 162)

This has an impact on classroom behaviours and practices. As is well documented in literature on language and education in South Africa, what is often referred to as the “chorus method” is employed frequently in the classroom. This has been related to a lack of vocabulary on the part of the teacher and the students: a mode of teaching by engaging with students calls for a more developed vocabulary than a “listen and repeat” method or answering questions from the chalkboard in unison. (Brock-Utne 2005, pp.182-183) When instruction does take place Brock-Utne notes, “Where there are gaps, the teacher/student will often switch into the language which is most familiar, and the gaps are never filled.” (Brock-Utne 2005, p. 185)

Illustrated by findings in the Third International Mathematics and Science Study-Repeat (TIMSS-R) most learners in South Africa are unable to access a full vocabulary and

express their answers appropriately to mathematic and scientific questions. Although a student may take the first or second-language test in their home language, the additional exam areas “non-language exams” (maths, science, life orientation, etc) remain in English and Afrikaans. “In particular, pupils who study mathematics and science in their second language tend to have difficulty articulating their answers to open ended questions and apparently had trouble comprehending several of the questions.” (Probyn 2005, p. 158) “Yet it is proficiency in reading and writing in English, where it is the medium of teaching and learning, that is a necessary condition for learners’ academic success. In a number of research studies teachers referred to the language medium as posing a problem for learners’ understanding and academic successes.” (NCCRD, 2000; Probyn, 1995, 2001; Strauss, 1999; Probyn, 2005, p. 157)

The Language-in-Education Policy (LiEP) (1997) was intended to respond to a variety of language philosophies. The philosophies competing for attention included a market-based approach which took issue with inadequate communication skills in English and sought to promote this language as a means to participate in less restrictive economic spheres within the country and beyond. Additionally, there was a call to maintain, hold esteem for, and promote the use of indigenous languages as well as English. (Probyn 2005, p. 158)

Throughout the period of apartheid (and arguably to date) English and Afrikaans remain the languages of politics and the ‘skilled’, or ‘professional’ economy in South Africa. As a result, very few first language English or Afrikaans speakers learn an African language, while alternatively, and increasingly, access to these languages are being presented and studied in African communities. (Mda 2000, p. 163) Africans were/are expected to communicate in English or Afrikaans and not vice versa. (Mda 2000, pp. 163-164) Probyn weighs in on this issue as well,

“The reality is that, as in many parts of Anglophone Africa, ‘english has become the language of power and prestige...thus acting as a crucial gatekeeper to social and economic progress’ (Pennycook 1994). Thus a strongly expressed view was the need for learners to acquire English for instrumental purposes: for access to the formal economy. In the words of a teacher, ‘English puts bread on the table’ (Probyn *et al.*, 2002). In addition, the perception is that English is a lingua franca within the country and internationally, with the assumption that the onus is on non-English learners to learn English rather than for English speakers to learn other languages.” (Probyn 2005 p. 164)

Teachers need resources to deal with gaps in their knowledge of English, at it remains, if not the main language of learning, a significant part of the learning process and usually at least 50% (in theory) of courses are in English. Without urgent attention to teachers and better training, this will continue to create problems for African schools. (Probyn 2005, p. 167)

#### 5d) Math and Science Proficiency

The failures of South African students are evident in testing, particularly when the country is compared on an international scale. Problems for students and teachers especially in maths seem to be accepted as common knowledge. Media has drawn attention to the problems in math education, and the lack of proficiency amongst students, and also (more worryingly) amongst teachers.

In spite of reported higher pass rates amongst matriculants in general, those who took the math exam and passed decreased. (“Fewer Matrics Taking Passing Maths” 2011) A drop of 14% in students taking the math exam is noteworthy. This is likely to be related to maths literacy being touted as a way to have higher levels of pass rates, this course is largely offered, not because students are incapable of successfully learning and passing a maths exam, but they do not have the materials or teachers educated well enough to have a strong chance of doing so. Further, the number of students scoring at 40% or higher (necessary for university entrance) dropped 10.2% from the year before as well. Fewer grade twelve

students are taking maths, and fewer still passing. ("Fewer Matrics Taking Passing Maths" 2011)

Statistics on student performance in maths are not surprising given the information included in another article from the Mail and Guardian, which discussed a lack of knowledge amongst teachers, even concerning very basic mathematical concepts. The Mail and Guardian discusses some work by Professor van den Berg which addresses these issues and flags the urgency of coping with this problem. "What is evident is that maths performance is not very good in the broader context of what one expects from primary level. Teachers are really struggling with issues such as calculating percentages." (Van der Berg 2011, p1) Again, van den Berg goes on to note:

"More than half of the teachers thought if the height of a fence is raised from 60cm to 75cm, it was a 15% increase," he said. More importantly, Van den Berg added that the functionality of a school and the professionalism of teachers is even more important than content knowledge in terms of student performance. (Van der Berg 2011, p1)

#### **5f) Informational Resources**

The need in Africa for an increase in informational resources, specifically libraries, has been championed by an NGO called Equal Education. This work suggests that textbooks are the most vital resource followed by library books and services and computers. Although, in my research efforts, I have found little existing academic information which exists on the availability of textbooks to students in South Africa, but I will return to ethnographic data on the subject. Equal education (in one part of a large scale internationally recognized effort to promote school libraries in South Africa, have documented some poignant statistics on the lack of libraries available to South African students. For instance, "Only 7.23% of public ordinary schools in South Africa have functional libraries. These are almost entirely situated in former Model-C schools which are able to stock and staff these facilities through their own

resources... Since 1997, six consecutive drafts for a national policy on school libraries have fallen short of adoption and implementation.” (Conyngham et al. 2010, p. 1)

As mentioned in this work, the performances of South African students remain skewed, largely based on being previously disadvantaged, which Equal Education’s work “We Can’t Afford Not To” draws out and relates to the lack of reading materials available to students, “In 2005, 42.1% of grade 6 learners in the Western Cape could read and write at the appropriate level. However, in schools previously classified as ‘white’, 86.9% met the standard in comparison to just 4.7% in formerly ‘black’ schools. (Conyngham et al. 2010, pp. 5-6)

Equal Education’s work on school libraries also addresses the township where my ethnography takes place. They describe the space as “a case in point,” in regard to library availability.

“With only 5 school libraries in 54 schools, and 5 public libraries serving a community of over 700,000 residents, local learners queue for long hours, have nowhere to do their homework, and often spend weekends travelling into the city centre to use the central library. The 54% Khayelitsha matric pass rate in 2008, which was 10% below the national average, suggests that these underprivileged learners are being failed by the system itself. (Conyngham et al. 2010, p. 45)

In spite of a lack of valid data regarding the number of textbooks issued to schools in each province, the number that end up being delivered, and a detailed comparative study assessing this issue seems evasive, my recommendations to elevate textbooks to the highest material priority comes from observation in the field and some research on developing nations and the significance of access to textbooks.

It would be unfair to say that there were no books available at Xolani High School when I attended school, especially with Nombeko. I did not notice some classes making use of something like a course book. The fact remained, however, no classes had what could be considered a proper textbook, in that it included information a student could use to

consolidate, reconsider, or have a new explanation of what is covered in class. Usually a book with an editor but multiple significant excerpts and relevant authoritative writing on the subject considered. What was most common, in my experience with my informants, was that no course materials were available, or at best, a thin workbook which included some exercises, often organized by the teacher.

In my discussions with teachers at Xolani High School, this was a major stress. According to Teacher 3 "If we had materials [we were discussing textbooks in particular], it would make teaching easier. So much has changed and materials can help teachers and students understand the direction we are meant to take." She went on to explain "I spend so much time running back and forth, trying to find materials for my classes. Sometimes we don't have enough money to make enough copies for students of the exercises we are practicing as a class. Sometimes it makes me late for classes. Sometimes I miss a class because I am trying to get materials copied for another class. I've ordered textbooks, every year I order books, but they never come. This year, I ordered a set I thought was older and less expensive. Still nothing." It is to the detriment of both teachers and students that these resources are not available, as further evidenced by data concerning informational resources in developing countries.

Crossley and Murby draw attention to an issue that arose frequently in my field observations, which is the increased need for textbooks, given that many teachers in developing countries, are insufficiently qualified or trained. They point out, further, that given this need a lack of textbooks in developing countries is particularly worrying. (Crossly & Murby 1999, pp. 100-102) The needs for material inputs, but more specifically for the provision of reading and writing materials are more crucial in developing countries than for students in wealthier states. (Crossly & Murby 1999, p. 102) Fuller emphasizes the same point in his work. As he states, although material inputs have little significance for student

performance in the U.S. or Britain, the importance of material resources remain high in developing countries. He states, "For instance, of the 24 multivariate studies that have looked at the number of textbooks available in classrooms, 16 have found significant achievement effects (again, controlling for the influence of pupils' social class)." (Fuller 1987, p. 256)

Fuller draws out a very interesting thought – that textbooks are not only useful in supplementing the teaching capacity of an under-trained or unqualified teacher – that they can actually "make up for" the lack of abilities in an incompetent teacher, specifically, he states,

"Interestingly, textbook use did not interact with the teacher's training level; in fact, textbooks could be substituted for training, and the effect size for textbooks was considerably greater. Textbook use also was colinear with curriculum content. In general, teachers reporting more frequent use of math textbooks also reported that they covered more math concepts during the academic year. (Fuller 1987, p. 278)

Additionally, according to the literature discussed by Crossley and Murby,

"More recently, work by researchers such as Altbach (1987), Fuller (1987), Altbach & Kelly (1988a) and Farrell & Heyneman (1989) has underlined the potential of textbook projects as key vehicles for the cost-effective improvement of the quality of education. To cite Altbach & Kelly (1988b, p. 3): Textbooks stand at the heart of the educational enterprise. Teachers rely on them to set the parameters of instruction and to impart basic educational content. Students' school work often begins (and in some schools ends) with the textbook." (Crossly & Murby 1999, p. 101)

The availability of textbooks can also aid in overcoming a lack of additional material resources, reading materials at home or in the community. As mentioned, in my observation at Xolani High School, the difficulties posed by a lack of information at home and in the community amounted to serious obstacles in learning for the informants.

Provision of textbooks has been a priority of the World Bank for over thirty years. (Crossly & Murby, 1999 p. 103) In fact, according to Crossley and Murby:

"The World Bank has stated quite unequivocally that 'the safest investment in educational quality ... is to secure adequate books and supplies' (World Bank 1988, p. 45).

Policy recommendations made by the World Bank for developing countries in the 1990s thus emphasise both the increased provision of school textbooks-aiming at a "student-textbook ratio of at least 2:1 for each subject taught" (Crossly & Murby 1999, p. 103) Particularly in regard to promoting a basic quality education, the World Bank suggests that textbooks are one of the most cost effective ways to make improvements in student performance. (Crossly & Murby 1999 p. 103)

Fuller's work reviews literature that examines the factors which have the most significant impact on student performance in developing countries. Significantly, Fuller did an extensive overview of studies in which there was a control for student's economic class. (Fuller 1987, p. 256) Fuller draws out the relative value of textbooks, specifically when compared to reducing class size, and paraphrases Jamison (1982), who's study approximated that making textbooks available to student was as valuable as reducing class size averages from 40 students per teacher to ten. (Fuller 1987, p. 276) The relatively strong positive impact of textbooks, according to Fuller, has been illustrated in a variety of studies – specifically, he observes 24 analyses and statistically significant effects were evident in sixteen. (Fuller 1987, p. 276) Increases in the number of textbooks available in Uganda had a meaningful impact on improved student performance: "In Uganda, for instance, textbook availability strongly influenced achievement in English, dwarfing the effects of the child's social class (based on 1,907 students in 61 primary schools)." (Fuller 1987, p. 277)

The importance of the availability of textbooks, beginning in primary school is echoed by additional statistics provided by Fuller in rural Brazil. This work focused solely on children whose parents received no schooling, and found that amongst those students in particular, students with access to two or more books performed far better (a 67% graduation rate), compared to a control group of learners (with a 24% graduation rate) and were in fact three times more likely to pass primary school. The impact of the availability of books was

less pronounced but still noteworthy amongst students whose parents completed elementary school. (Fuller 1987, p. 277) An additional study in the Philippines observed similar patterns amongst students with parents who had not attended school. These students, again, improved considerably in a controlled setting where new textbooks were introduced. (Fuller 1987, p. 277)

Additionally, libraries and the availability of library books have had similar strong statistic correlations with improvements, particularly amongst students in developing nations. According to Fuller, "Heyneman and Loxley (1983) reported that the simple presence of a school library was related to the school's average achievement level in El Salvador, Botswana, and Uganda." (Fuller 1987, p. 278) A study reviewed by Fuller, conducted in Botswana amongst students in Grade Seven found improvements which were statistically significant, and were found to be as important in achievement as their socio-economic background regarding performance in both reading and maths. (Fuller 1987, p. 279)

## 6) Conclusion

For those of us eager to see change in the South African educational system, it has been very significant to have the right to a basic education examined by the Constitutional Court. It seems reasonable to consider international, and particularly US litigation that addresses the issue of adequacy, as it seems that after establishing access, adequacy necessarily follows. To refresh what was currently mentioned in the section on US adequacy cases, both inputs and outputs are mentioned, including:

"(1) sufficient ability to read, write and speak the English language and sufficient knowledge of fundamental mathematics and physical science to enable them to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to make informed choices with regard to issues that affect them personally or affect their communities, states and nation; (3) sufficient intellectual tools to evaluate complex

issues and sufficient social and communication skills to work well with others and communicate ideas to a group; and (4) sufficient academic and vocational skills to enable them to compete on an equal basis with others in further formal education or gainful employment in contemporary society.” (Rebell & Wolff 2006)

As well as inputs:

The essential resources students need to acquire this knowledge and these skills are (1) qualified teachers, principals and other personnel; (2) appropriate class sizes; (3) high-quality early childhood and preschool services; (4) adequate school facilities; (5) supplemental programs and services for students from high-poverty backgrounds including summer and after school programs; (6) appropriate programs and services for English language learners and students with disabilities; (7) instrumentalities of learning including, but not limited to, textbooks, libraries, laboratories and computers; and (8) a safe, orderly learning environment.” (Rebell & Wolff 2006)

The outline set up by my work is far less descriptive and demanding and allows for great flexibility, and the protection of the separation of powers. Based on ethnographic research and some review of literature, I’d advise the following inputs and outputs to be prioritized, as previously mentioned, and encourage further development and discussion of the content of the right to basic education. We must define an education to be more than a period of time in a classroom. My suggestions are the most central based on my experience, but depending on context additional needs may be added.

## BASELINE INPUTS

1. Qualified Teachers (available progressively) and ongoing teacher training, (use of human and material resources to secure teacher’s ability to cope with the material as well as the OBE framework which they are expected to use, especially for teachers in previously disadvantaged schools, and especially for under qualified teachers)
2. Teacher proficiency in:
  - a. Maths
  - b. Physical Science
  - c. Language(s) with heavy encouragement placed on bilingualism
3. Material resources – baseline for successful schools:
  - a. Basic infrastructure (can be read broadly, but it seems quite obvious. The school needs to be a solid, secure space with bathrooms available and protection from the elements)
4. Informational resources
  - a. Textbooks
  - b. Library Books (available progressively)
  - c. Computers (“ “)

## BASELINE OUTPUTS

5. Student (learner) proficiency in:
  - a. Maths
  - b. Physical Science
  - c. Language(s) with an emphasis on the availability of English for pragmatic reasons, but without proposing to relinquish programs that include or transition between mother tongue and English, or programs completely in the mother tongue if the SGB so opts.

## APPENDIX A

“Anthropologists must do everything in their power to protect the physical, social, and psychological welfare and to honour the dignity and privacy of those studied.”

- **Informants have been valued participants throughout the study, and every possible effort has been made to protect the participant’s wellbeing above all else.**

“Where research involves the acquisition of material and information transferred on the assumption of trust between persons, it is axiomatic that the rights, interests, and sensitivities of those studied must be safeguarded.”

- **Information received from informants in confidence has been honoured as private and closed. Limits to disclosure due to the protection of privacy, particularly information of a sensitive nature (for example, having to do with family or personal affairs that the participant shared with trust in my digression) have been safeguarded.**

“The aims of the investigation should be communicated as well as possible to the informant.”

- **From the beginning of the study, participants were informed that my work was ethnographic and that all of our time together was up for observation (using my discretion on what would be appropriate, useful information and would not breach the privacy of the young women). The aims of the study, what the study would demand from them, and the intended outcome of the study were all explained in detail.**

“Informants have a right to remain anonymous. This right should be respected both where it has been promised explicitly and where no clear understanding to the contrary has been reached. These strictures apply to the collection of data by means of cameras, tape recorders, and other data-gathering devices, as well as to data collected in face-to-face interviews or in participant observation. Those being studied should understand the capacities of such devices; they should be free to reject them if they wish; and if they accept them, the results obtained should be consonant with the informant’s right to welfare, dignity and privacy.”

- **All informants will remain anonymous.**

“(1) Despite every effort being made to preserve anonymity, it should be made clear to informants that such anonymity may be compromised unintentionally.”

- **Informants are aware of this possibility.**

“(2) When professionals or others have used pseudonyms to maintain anonymity, others should respect this decision and the reasons for it by not revealing indiscriminately the true identity of such committees, persons or other data.”

- **No one else has the specific information, and my information is kept on a locked computer.**

“d. There should be no exploitation of individual informants for personal gain. Fair return should be given them for all services.”

- **Informants were treated with the utmost respect and shown appreciation appropriately.**

“e. There is an obligation to reflect on the foreseeable repercussions of research and publication on the general population being studied.”

- **Out of consideration for the anonymity of the schools discussed in this work, the names of the schools are also changed. The high school primarily discussed in this work exists in an area where approximately 54 additional high schools, making it difficult to locate and criticize the school. Further, the only repercussions seem to be positive.**

“f. The anticipated consequences of research should be communicated as fully as possible to the individuals and groups likely to be affected.”

- **Informants were told that anonymity would be maintained to the best of my ability.**

“g. In accordance with the Association's general position on clandestine and secret research, no reports should be provided to sponsors that are not also available to the general public and, where practicable, to the population studied.”

- N/A

“h. Every effort should be exerted to cooperate with members of the host society in the planning and execution of research projects.”

- **The informants' schedules were always first priority when managing time together.**

“i. All of the above points should be acted upon in full recognition of the social and cultural pluralism of host societies and the consequent plurality of values, interests and demands in those societies. This diversity complicates choice making in research, but ignoring it leads to irresponsible decisions.”

- **I appreciated each of participants specifically, and humans more generally, as worthy of respect. I did my best to approach this work and remain open to alternative ways of thinking and understanding.**

<http://www.aaanet.org/stmts/ethstmnt.htm> **ETHNOGRAPHY – AND THE SHAPING OF THIS WORK STATEMENTS ON ETHICS**, Principles of Professional Responsibility, Adopted by the Council of the American Anthropological Association, May 1971 (*As amended November 1986*)

#### INFORMED CONSENT AND ETHICS OF ETHNOGRAPHY: ETHNOGRAPHY – AND THE SHAPING OF THIS WORK STATEMENTS ON ETHICS

##### Principles of Professional Responsibility

Adopted by the Council of the American Anthropological Association

May 1971

(*As amended through November 1986*)

**Note:** *This statement of principles is not intended to supersede previous statements and resolutions of the Association. Its intent is to clarify professional responsibilities in the chief areas of professional concern to anthropologists.*

##### Preamble

Social anthropologists aim to address social issues and social history all over the world, and do so by forming relationships with the peoples and situations they study. Their professional situation is, therefore, uniquely varied and complex. They are involved with their discipline, their colleagues, their students, their sponsors, their subjects, their own and host governments, the particular individuals and groups with whom they do their fieldwork, other populations and interest groups in the nations within which they work, and the study of processes and issues affecting general human welfare. In a field of such complex involvements, misunderstandings, conflicts, and the necessity to make choices among conflicting values are bound to arise and to generate ethical dilemmas. It is a prime responsibility of anthropologists to anticipate these and to plan to resolve them in such a way as to do damage neither to those whom they study nor, insofar as possible, to their scholarly community. Where these conditions cannot be met, the anthropologist would be well-advised not to pursue the particular piece of research.

The following principles are deemed fundamental to the anthropologist's responsible, ethical pursuit of the profession.

##### 1. Relations with those studied

In research, anthropologists' paramount responsibility is to those they study. When there is a conflict of interest, these individuals must come first. Anthropologists must do everything in their power to protect the physical, social, and psychological welfare and to honor the dignity and privacy of those studied.

a. Where research involves the acquisition of material and information transferred on the assumption of trust between persons, it is axiomatic that the rights, interests, and sensitivities of those studied must be safeguarded.

b. The aims of the investigation should be communicated as well as possible to the informant.

c. Informants have a right to remain anonymous. This right should be respected both where it has been promised explicitly and where no clear understanding to the contrary has been reached. These strictures apply to the collection of data by means of cameras, tape recorders, and other data-gathering devices, as well as to data collected in face-to-face interviews or in participant observation. Those being studied should understand the

capacities of such devices; they should be free to reject them if they wish; and if they accept them, the results obtained should be consonant with the informant's right to welfare, dignity and privacy.

(1) Despite every effort being made to preserve anonymity, it should be made clear to informants that such anonymity may be compromised unintentionally.

(2) When professionals or others have used pseudonyms to maintain anonymity, others should respect this decision and the reasons for it by not revealing indiscriminately the true identity of such committees, persons or other data.

d. There should be no exploitation of individual informants for personal gain. Fair return should be given them for all services.

e. There is an obligation to reflect on the foreseeable repercussions of research and publication on the general population being studied.

f. The anticipated consequences of research should be communicated as fully as possible to the individuals and groups likely to be affected.

g. In accordance with the Association's general position on clandestine and secret research, no reports should be provided to sponsors that are not also available to the general public and, where practicable, to the population studied.

h. Every effort should be exerted to cooperate with members of the host society in the planning and execution of research projects.

i. All of the above points should be acted upon in full recognition of the social and cultural pluralism of host societies and the consequent plurality of values, interests and demands in those societies. This diversity complicates choice making in research, but ignoring it leads to irresponsible decisions.

## 2. Responsibility to the public

Anthropologists are also responsible to the public--all presumed consumers of their professional efforts. To them they owe a commitment to candor and to truth in the dissemination of their research results and in the statement of their opinions as students of humanity.

a. Anthropologists should not communicate findings secretly to some and withhold them from others.

b. Anthropologists should not knowingly falsify or color their findings.

c. In providing professional opinions, anthropologists are responsible not only for their content but also for integrity in explaining both these opinions and their bases.

d. As people who devote their professional lives to understanding people, anthropologists bear a positive responsibility to speak out publicly, both individually and collectively, on what they know and what they believe as a result of their professional expertise gained in the study of human beings. That is, they bear a professional responsibility to contribute to an "adequate definition of reality" upon which public opinion and public policy may be based.

e. In public discourse, anthropologists should be honest about their qualifications and cognizant of the limitations of anthropological expertise.

<http://www.aaanet.org/stmts/ethstmnt.htm>

### Briefing Paper on Informed Consent

#### AAA Committee on Ethics

Prepared by Lauren Clark and Ann Kingsolver

*Preface:* In November 2000 the Committee on Ethics was asked to address the question, "What constitutes valid and informed consent in anthropological research?" Members on the Committee on Ethics have prepared this briefing paper in response.

*Official Sources of Guidelines:* The Committee on Ethics recognizes that scientific investigations are regulated through a process of internal review for the protection of human subjects (or, collaborators). In particular, the U. S. Department of Health and Human Services operates the Office for Human Research Protection, charged with monitoring compliance of research supported by HHS to standards outlined for the protection of human subjects (<http://www.hhs.gov/ohrp/>). Universities and affiliated institutions also establish and monitor protection of human subjects in research through a program of internal review. Finally, investigators are held to codes of ethical conduct adopted by professional and scientific organizations. One of these is the American Anthropological Association Code of Ethics (<http://www.aaanet.org/committees/ethics/ethics.htm>). International documents which should be consulted include the 1995 Annex to the UN Declaration on

Discrimination Against Indigenous Peoples, Principle 9 (<http://www.cwis.org/fwdp/International/heritage.txt>) and the 1994 International

Covenant on the Rights of Indigenous Nations (<http://www.cwis.org/icrin-94.html>). The Committee on Ethics recommends that anthropologists and anthropology students conducting research with human subjects become familiar with all applicable guidelines and codes of ethical conduct and adhere to them in obtaining informed consent for these collaborators' participation in research.

*Background Information on Informed Consent:* The AAA Code of Ethics states the following about informed consent: "Anthropological researchers should obtain in advance the informed consent of persons being studied, providing information, owning or controlling access to material being studied, or otherwise identified as having interests which might be impacted by the research. It is understood that the degree and breadth of informed consent required will depend on the nature of the project and may be affected by requirements of other codes, laws, and ethics of the country or community in which the research is pursued. Further, it is understood that the informed consent process is dynamic and continuous; the process should be initiated in the project design and continue through implementation by way of dialogue and negotiation with those studied. Researchers are responsible for identifying and complying with the various informed consent codes, laws and regulations affecting their projects. Informed consent, for the purposes of this code, does not necessarily imply or require a particular written or signed form. It is the quality of the consent, not the format, that is relevant."

*What Constitutes Valid and Informed Consent in Anthropological Research?* The following characteristics are indicative of valid and informed consent. Researchers seeking valid and informed consent will

- Engage in an ongoing and dynamic discussion with collaborators (or human subjects, in the language of some codes) about the nature of study participation, its risks and potential benefits; this means actively soliciting advice from research participants at all stages, including planning and documentation.
- Engage in a dialogue with human subjects who have previously or continuously been involved in a particular study about the nature of ongoing participation or resuming participation in a study. This dialogue should include the nature of their participation, risks and potential benefits at this particular time.
- Discuss with potential research subjects the ways study participation may affect them when research data are disseminated. For example, if photographs documenting their participation in a particular event or situation at a certain time could prove incriminating if viewed by a wide audience, this eventuality should be discussed.
- Demonstrate, in the appropriate language, all research equipment and documentation techniques prior to obtaining consent so that research collaborators, or participants, may be said to be adequately informed about the research process.
- Inform potential subjects of the anonymity, confidentiality, and security measures taken for all types of study data, including digitized, visual, and material data.
- Seek to answer all questions and concerns about study participation that potential subjects may have about their involvement in the research process.
- Provide a long-term mechanism for study subjects to contact the researcher or the researcher's institution to express concerns at a later date and/or to withdraw their data from the research process.
- Provide, if possible, alternative contact information in case a potential research subject or collaborator does not want to participate but does not feel able to communicate that directly to the researcher.
- Obtain official consent from the human subject to participate in the study prior to the collection of any data to be included in the research process. The form and format of official consent can vary, depending on the appropriateness of written, audiotaped, or videotaped consent to the research situation. Those granting the permission should be involved actively in determining the appropriate form of documenting consent.
- Write and submit forms pertaining to informed consent, and obtain approval by the appropriate committees and/or review boards prior to recruiting subjects, obtaining informed consent, or collecting data.

## Bibliography

### BOOKS

Harber, C.2001, *State of Transition - Post Apartheid Education Reform in South Africa*. Symposium Books, Oxford.

Hlatshwayo, S.A 2000,. *Education and Independence: Education in South Africa 1658-1988*. Greenwood Press, Westport Connecticut.

Kallaway P 2002. *Bantu Education: Apartheid Ideology and Labour Reproduction*. Ravan Press, Johannesburg.

Molteno, F 1984, *The Historical Foundations of the Schooling of Black South Africans*. Johannesburg: Ravan Press,

### JOURNAL ARTICLES (ELECTRONIC DATABASE)

Brodkey, L 1987. 'Writing Critical Ethnographic Narratives', *Anthropology and Education Quarterly*, Vol. 18, No. 2 . pp 67-76. Available from: JSTOR [25 May 2010]

Christopher, A 1995. 'Regionalisation and Ethnicity in South Africa 1990-1994' *Area*, Vol. 27, No. 1. pp. 1-11. Available from: JSTOR [30 June 2010]

Giliomee, H 2003. 'The Making of the Apartheid Plan, 1929-1948', *Journal of Southern African Studies*, Vol. 29, No.2 , pp. 373-392. Available from: JSTOR [12 Jan 2010]

Hawthorne, A 2005. 'Education Law: The Opportunity in Adequacy Litigation: Recognizing the Legitimacy and Value of Pursuing Educational Reform Through the Courts', *South Carolina Law Review*. Available from: LexisNexis [25 May 2010]

Hillard, A 1978. 'Equal Education Opportunity and Quality Education', *Anthropology and Education Quarterly*, Vol. 9, No. 2 .pp. 110-126. Available from: JSTOR [Feb 13 2010]

Hyde, A 1987. 'Theory Used in Ethnographic Educational Evaluations: Negotiating Values'; *Anthropology & Education Quarterly*, Vol. 18, No. 3 , pp. 131-148. Available from: JSTOR [12 Jan 2010]

Baxen J, C. S. 1997. 'Transformation and Outcomes-Based Education in South Africa: Opportunities and Challenges', *Journal of Negro Education*, Vol 66 No. 4. pp. 449-459. Available from: JSTOR [March 22 2010]

Johnson, W 1982. 'Education: Keystone of Apartheid', *Anthropology & Education Quarterly*, Vol. 13, No. 3 , 214-237. Available from: JSTOR [31 November 2009]

- Kerfoot, C 1993. 'Participatory Education in a South African Context: Contradictions and Challenges Source', *TESOL Quarterly*, Vol. 27, No. 3 , 431-447. Available from: ERIC [Feb 12 2010]
- Kramer, L 2002. 'Achieving Equitable Education Through the Courts: A Comparative Analysis of Three States', *Journal of Law & Education*. Available from: LexisNexis [Jan 13 2010]
- Kutz, E 1990. 'Authority and Voice in Student Ethnographic Writing'. *Anthropology & Education Quarterly*, Vol. 21, No. 4 , 340-357. Available from: JSTOR [Feb 25 2010]
- Motoko Akiba, G. K. (2007). *Teacher Quality, Opportunity Gap, and National Achievement in 46 Countries*. American Educational Research Association. *Educational Researcher*, Vol. 36, No. 7 .pp. 369-387. Available from: JSTOR [March,31 2010]
- Naz Rasool, V. E., C.B. 2006. 'Language and Development in Multilingual Settings: A Case Study of Knowledge Exchange and Teacher Education in South Africa', *International Review of Education*. Vol. 54 No. 6. pp 491-530. Available from: JSTOR [April 15 2010]
- Nkhoma 2002. 'What Successful Black South African Students Consider as Factors of Their Success', *Educational Studies in Mathematics*, Vol. 50, No. 1 , 103-113. Available from: JSTOR [May 14 2010]
- Nussbaum, M 2006. 'Education and Democratic Citizenship: Capabilities and Quality Education' *Journal of Human Development* Vol. 7, No. 3 .pp. 385-395. Available from: Taylor & Francis Online [April 30 2010]
- Pam Christie, C. C. 1982. 'Bantu Education: Apartheid Ideology or Labour Reproduction', *Comparative Education*, Vol. 18, No. 1 . pp. 59-75. Available from: JSTOR [Feb 23 2010]
- Pirie, G. H. 1984. 'Ethno-Linguistic Zoning in South African Black Townships'. *Area*, vol. 16, No. 4 , 291-298. Available from: JSTOR [Jan 20 2010]
- Reagan, T 1987. 'The Politics of Linguistic Apartheid: Language Policies in Black Education in South Africa', *The Journal of Negro Education*, Vol. 56, No. 3 , 299-312. Available from: JSTOR [Feb 23 2010]
- Rose, B 1965. 'Bantu Education as a Facet of South African Policy', *Comparative Education Review*, Vol. 9, No. 2 . pp 208-212. Available from: JSTOR [April 12 2010]
- Roithmayr, D 2003. 'Access, adequacy and Equality: The Constitutionality of School Fee Financing in Public Education.' *South African Journal on Human Rights*. Vol. 19 No. 3. pp 382-429 Available from: Sabinet [30 April 2012]
- Thro, W 1990. 'The Third Way: The Impact of the Montana, Kentucky, and Texas Decisions on the Future of Public School Finance Reform Litigation', *Journal of Law and Education*. Vol. 19 No.2 pp. 219-250. Available from ERIC {16 Feb 2010}
- Walker, M. 2003. 'Framing Social Justice in Education: What Does the 'Capabilities' Approach Offer?' *British Journal of Educational Studies*. Vol. 51, No. 2. pp 168-187. Available from JSTOR [14 March 2010]

## CHAPTERS IN A BOOK

**Bhorat, H 2004. 'The Development Challenge in post-apartheid South African education', In Changing Class: Education and Social Change in Post-Apartheid South Africa, ed. L Chisholm. HSRC Press, Cape Town.**

**Brock-Utne, B 2005. 'Language-in-Education Policies and Practics in Africa with a Special Focus on Tanzania and South Africa - Insights from Research in Progress.' In P. M. Angel Lin, Decolonization, Globalization: Language-in-Education. Multilingual Matters LTD, Clevedon, Buffalo, Toronto.**

**Ladd, E. F 2004. 'Balancing Public and Private Resources for Basic Education: School fees in post-apartheid South Africa'. , In Changing Class: Education and Social Change in Post-Apartheid South Africa, ed. L Chisholm. HSRC Press, Cape Town.**

**Mda, T. (2004). Multilingualism and education. In Changing Class: Education and Social Change in Post-Apartheid South Africa, ed. L Chisholm. HSRC Press, Cape Town.**

**Mda, T. (2000). In M. M. T.V. Mda, Critical Issues in South African Education. Kenwyn South Africa: Juta & Co.**

**Muller, J. (2004). Assessment, Qualifications and the NQF in South African Schooling. , In Changing Class: Education and Social Change in Post-Apartheid South Africa, ed. L Chisholm. HSRC Press, Cape Town.**

**Probyn. (2005). Language and the Struggle to Learn: The Intersection of Classroom Realities, Language Policy, and Neocolonial and Globalisation Discourses in South Africa school. In P. M. Angel Lin, Decolonization, Globalization: Language-in-Education. Multilingual Matters LTD, Clevedon, Buffalo, Toronto.**

**Sayed, Y. (2004). The Case of Teacher Education in South Africa: Politics and Priorities. , In Changing Class: Education and Social Change in Post-Apartheid South Africa, ed. L Chisholm. HSRC Press, Cape Town.**

**Soudien, G. (2006). In M. A. Kas Masurek, Schooling Around the World - Debates, Challenges and Practices. Pearson Education Inc.**

#### **ONLINE RESOURCES**

**Conyngham, Isaacs, Makofane, Erhiawarien, Hess, Mohamed 2010. We Can't Afford Not To: Costing the Provision of functional school libraries in South African public schools. Equal Education, Cape Town South Africa. Available from: <<http://www.equaleducation.org.za/sites/default/files/Equal%20Education%20Costing%20Booklet.pdf>> [Feb 23 2010]**

**Crouch, L 2005. South Africa Equity and Quality Reforms: Possible Lessons', Journal of Education for International Development . Available from: <<http://www.equip123.net/JEID/articles/1/1-2.pdf>> [March 5 2010]**

**Fiske, L, H. I. 2003. Balancing Public and Private Resources for Basic Education: School Fees in Post-Apartheid South Africa, Terry Sanford Institute, Duke. Available from: <<http://www.sanford.duke.edu/research/papers/SAN03-03.pdf>> {Jan 25 2010}**

**Isaacs, D 2007, Interpreting, Litigating and Realizing the Right to Education in South Africa: Lessons from America. University of Cape Town. Available from: <[www.publiclaw.uct.ac.za/usr/public\\_law/Kessler/Kessler\\_Essay.doc](http://www.publiclaw.uct.ac.za/usr/public_law/Kessler/Kessler_Essay.doc)> [Nov 27 2009]**

**Kerstin M, M. S. 2006. Conference Report Education for Sustainable Development Towards Responsible Global Citizenship. Vienna: University of Innsbruck. Available from:**  
 <[http://www.bmukk.gv.at/medienpool/13948/bine\\_report.pdf](http://www.bmukk.gv.at/medienpool/13948/bine_report.pdf)> [24 June 2010]

**Rebell M, J. R. 2006. Litigation and Education Reform: the History and the Promise of the Education Adequacy Movement. Columbia University: The National Access Network: The Campaign for Educational Equity Policy Paper No. 1. Available from:**  
 <[http://www.schoolfunding.info/resource\\_center/adequacy-history.pdf](http://www.schoolfunding.info/resource_center/adequacy-history.pdf)> [14 Feb 2010]

**Rebell, M 2000. Education Adequacy, Democracy and the Courts. National Academy of Sciences and the National Research Council, Forthcoming. Available from:**  
 <[www.schoolfunding.info/resource.../research/adequacychapter.pdf](http://www.schoolfunding.info/resource.../research/adequacychapter.pdf)> [13 May 2010]

**Robinson, M 2003. Teacher Education Policy in South Africa: the Voice of Teacher Educators. Cape Town, South Africa: Cape Peninsula University of Technology Education Papers and Reports. Available from:**  
 <[http://dk.cput.ac.za/cgi/viewcontent.cgi?article=1013&context=ed\\_papers&...%3A%20cape%20penninsula%20university%20technology%20education%20papers%20reports.%22](http://dk.cput.ac.za/cgi/viewcontent.cgi?article=1013&context=ed_papers&...%3A%20cape%20penninsula%20university%20technology%20education%20papers%20reports.%22)> [14 June 2010]

**The Council of the American Anthropological Association, 1986. Principles of Professional Responsibility. American Anthropological Association. Available from:**  
 <<http://www.aaanet.org/stmts/ethstmnt.htm>> [17 Nov 2009]

**Van Der Berg, S 2008, Teachers' Maths Problems Just Don't Add Up. Mail & Guardian. Available from:** <<http://mg.co.za/article/2011-04-08-sa-education-the-poorest-choice>> [Feb 29 2010]

**Veriava, F 2010, The Resourcing of Public Schools: An Analysis of Compliance with, and Measurement of the State's Constitutional Obligations. Studies in Poverty and Inequality Institute. Available from:**  
 <<http://www.spii.org.za/agentfiles/434/file/Review%20of%20Education%20Policy.pdf>> [April 24 2012)

## CASES

**Rose v. Council for Better Education, 790 S.W.2d 186, 60 Ed. Law Rep. 1289 (1989)**

**Governing Body of the Juma Musjid Primary School & Others v Ahmed Asruff Essay N.O. and Others (2011) CCT 29:10**

**GRADUATE SCHOOL IN HUMANITIES**

**MEMORANDUM**

**FROM :** Karen Hendricks  
Ext 2693

**TO :** Carolyn Coombe  
Acquisitions, Jagger Library, Upper Campus

**DATE** 25 May 2012

---

**DISSERTATION**

Please find enclosed one copy and one CD of the dissertation of the student whose details appear below:

**Candidate:** Kopkowski, K (KPKKAT001)  
**Degree:** MPhil in Justice and Transformation  
**Title:** The right to a basic education in South Africa: Providing content to the right to achieve adequacy in schools  
**Supervisor:** Professor R Calland

Ms Kopkowski is due to graduate in June 2012