

The efficacy of “catch-up programmes” in South African high schools: A legal jinx

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The South African State is mandated by Sections 28(2) and 29(1) of the South African Constitution to make provision for the education of a South African child in fulfilment of the child’s constitutional rights. Teacher Unions (TUs) and provincial Departments of Basic Education (DBEs) have often promised South African high school student body, in particular, and society at large, in general, that the compensation of time lost during a teachers’ strike is duly accounted for during the implementation of subsequent compensatory intervention strategy (CIS) “catch-up programmes”. The article argues that, as long as CIS “catch-up programmes” remain voluntary for both educators and learners, without the backing of enforceable mandatory legislative instruments that would hold public schools and DBEs to account, learners will continue losing valuable contact time, thereby jeopardising their chances of doing well in their academic school work and being denied their constitutional right to basic education in the process. The use of postpositivist, legal, rational, qualitative interpretive phenomenological analysis (IPA) was meant to explore how high school principals, teachers and students experienced CIS “catch-up programmes” implementation processes by DBEs (Smith & Osborn, 2008).

Keywords: Catch-up programme, rule of law, child’s best interests, basic education

Introduction

Despite the phenomenal increase in access to funding and in the progress towards redistributing funding to poor schools, the quality of education for many Black South African learners has remained mainly poor. On the whole, efforts to raise the quality of education for poor people have failed (National Planning Commission Report, 2011).

The Report (2011: 261) goes on to infer that “only 1 per cent of African schools are top performers when it comes to high school certificate results compared to 31 per

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cent of formerly privileged schools". Of African schools, 88% are in a poor performing state: "An improvement in the matriculation results in 2010, which brought the pass rate up to 67,8%, is a misleading indicator of success" (National Planning Commission Report, 2011: 261). Because of very low pass requirements, the reality is that, in 2010, only 15% of students who sat the examination achieved an average mark of 40% or more.

Withdrawal of labour by teachers, organised by Teacher Unions (TUs), naturally causes disruptions in teaching and learning in schools. The study sought to capture the views and experiences of high school principals, teachers and pupils on how the Departments of Basic Education (DBEs) in South Africa organise compensatory intervention strategy (CIS) "catch-up programmes" in schools to compensate for the lost time during teachers' strikes.

Theoretical reflections

Legitimation theory has its roots in Weber's concept of legal, rational and political authority, the classic insight into politics as the simultaneous development of individuals and relationships with the community. Weber (1958) believes that community members and leaders of State organs (public schools included) attribute legitimacy to a legal order insofar as its laws have been enacted (this concept of legal authority and its legitimacy should be understood in the light of arguments of natural law and legal positivism) (Weber, 1958: 3). Postpositivists who advocate for a shift of boundaries suggest that leadership must be allowed to think "outside the box" so to speak, by accommodating the plurality of voices. In line with postpositivist theory, several authors such as Heifetz (1994), Ladkin (2010) and Grint (2008) have attempted to reconceptualise organisational leadership, for example, to a postpositivist view (postpositivism is the underlying philosophical paradigm shift associated with "design"). Postpositivist research principles emphasise meaning and the creation of new knowledge, and are able to support committed social movements, that is, movements that aspire to change the world and contribute towards social justice (Richie & Rigano, 2001: 752). Grint (2008) proffers that leadership takes place when commanding (ordering others what needs to be done) and planning (efficient management of resource allocation) not only do not work but may also interfere with effectiveness, especially under very volatile, uncertain, complex, and ambiguous (high VUCA) circumstances (see Figure 1). DBEs' and public schools' bureaucratic operations are conventionally associated with planning strategies that involve human control over natural and social environments by employing rational methods.

Grint (2008) opines that, in complex operations, it takes all three strategies, namely command, management and leadership to win (see Figure 1). Command is associated with speed of decision-making and the *critical* need to either do or not do something, even if the public school manager is not certain whether his/her command is the right one. The sources of power for command are sometimes associated with coercion and compliance. Command is autocratic (hierarchical and

coercive) in that it requires obedience (in its ideal form, execution-without-question) (see Figure 1).

Public school management is associated with deliberate setting of rules, process engineering, and rationally derived resource-allocation decisions to handle *tame* (recurrent) problems that have been solved previously. Key management values are bureaucratic and technocratic (technological). The source of power for public school management in South Africa is regulated by legal-rational rules and procedures (empowering provisions such as the Constitution, the Schools Act, the Child Act, the Policy Act and a plethora of related policies to name but a few) that are underpinned by the rule of law.

Leadership, on the other hand, is associated with *wicked* situations that make command and managerial technical rationality problematic. Whether the situation is diagnosed as critical, tame, or wicked should indicate whether to exercise command, management or leadership (Grint, 2008). The complexity of the situation may demand elements of all three – and it is a skill to blend them appropriately (Paparone, 2010). The key source of power for leadership is democratic (heterarchical) in nature in that it comes from those who, through intuitive processes and emotional responses, choose to follow.

State organs' (public schools included) leadership and management principles and practices are based mostly on the rule of law. Invariably, the rule of law implies that decisions taken by the State organs must comply with the rule of law and, in certain circumstances, the prescripts allow for consultation, accountability, collective decision-making processes, and so on.

Leadership: Intuiting appropriateness

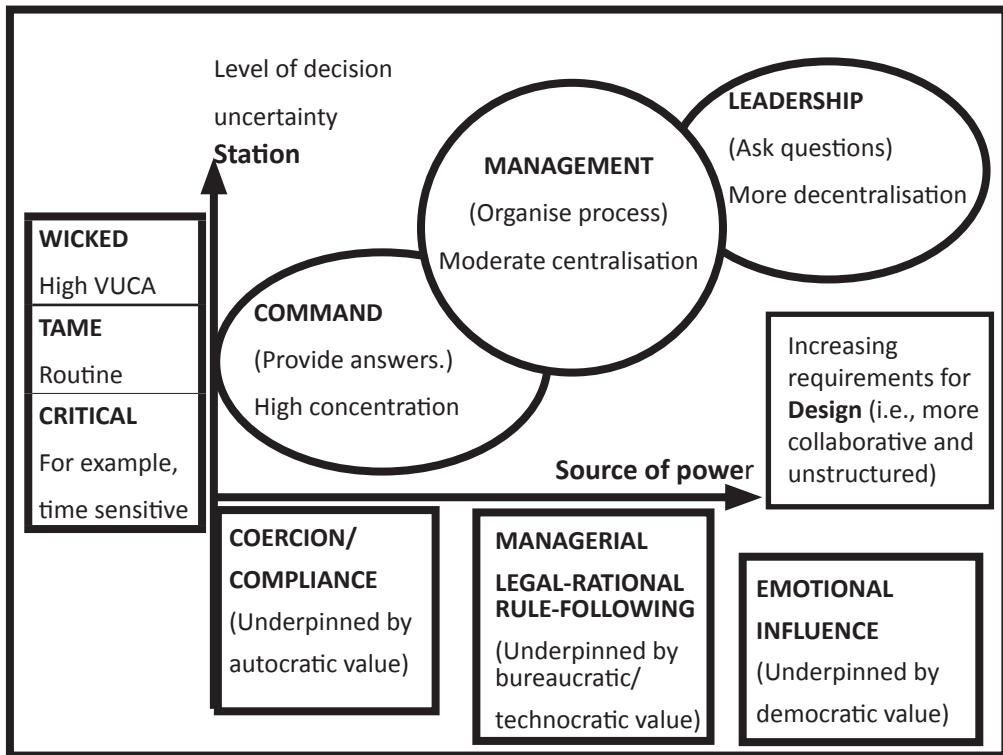


Figure 1: *Command, leadership and management strategies (adapted by Paparone, 2010 from Grint, 2008).*

Figure 1 presents an adaptation of Grint’s model. The situation dictates which strategy (command, leadership or management) should dominate given a situation – hence, the question as to whether to command, manage and/or lead is based on appropriateness (what others have called appreciative judgement). VUCA is the acronym stemming from the adjectives ‘volatile, uncertain, complex, and ambiguous’, which describe the circumstances (high VUCA circumstances).

Taking into cognisance the “best interests of learners”

In compliance with Sections 28(2) and 29(1) of the South African Constitution, provincial DBEs, in order to compensate for lost time during teachers’ strikes, organise CIS “catch-up” programmes, particularly for Grade 12 learners. The national DBE uses the command style (see Figure 1) to order its sister provincial departments to organise comprehensive CISs to help students catch up with lost time. Bloch (2010: 12), however, contends that “[t]here is little evidence that returning teachers are interested in helping pupils, especially Grade 12 classes, catch up on their lessons after the strike, which has been only temporarily suspended”. Bloch (2010: 10) goes

on to posit that the majority of the teachers returning to the classroom will be “more concerned with getting paid for the days they were on strike or extra wages for catch-up camps”. TUs are quick to add that any extra tuition outside working hours must be remunerated – a way of recovering money lost by striking members as a result of the implementation of the no-work-no-pay rule.

This article endeavours to argue that, despite the concerted effort by the DBEs to comply with Sections 28(2) and 29(1) of the South African Constitution by organising CISs, the study results indicate that such efforts are generally inadequate. The Convention on the Rights of the Child (1989) acknowledges education as a right of every child.

Literature review on teacher absenteeism

The National Bureau of Economic Research (2009) carried out a study on how teacher absences impact on student achievement. They concluded that rates of teacher absenteeism and the effects on production are currently contemporary topics of conversation in many organisations worldwide. High rates of absenteeism may signal poor labour-management relationship. Research findings indicate that “each 10 days of teacher absence reduces learner’s mathematics achievement by 3.3% of a standard deviation” (The National Bureau of Economic Research 2009: 28). The effect would be unimagineable, should students miss 50 days or more.

In Africa, an observation by Bradley (2002: 1), following a 17-day teachers’ strike in Cairo, Egypt, concluded that the time lost was never made up, and instead of Education officials extending the school year, they closed the school term “as scheduled on May 29”. This decision cost approximately US\$400.000 in state grants, “because it did not offer enough days to qualify for the money” (Bradley, 2002: 237). Significantly, protracted industrial teachers’ strikes anywhere in the world take a huge toll on tax payers’ money, particularly in developing countries such as South Africa.

In South Africa, the so-called CIS targets Grade 12 learners and hardly any mention is made of the other high school grades or even primary school learners. Protracted industrial strikes affect both primary and high school learners. Inadequacies in the preparation of Grade 1 learners might translate into poorly prepared learners up to Grade 12 (Chisholm, 2005). Conclusions drawn from Chisholm, Hoadley, Wa Kivulu, Brooks, Prinsloo, Kgobe, Mosia, Narsee & Rule’s (2005) analysis of the time diary filled in by a nationally representative sample of 3.909 educators revealed that, whereas educators spent less time overall on their activities than the total number of hours specified by policy; whereas policy expected 1 720 hours (translated into 43 hours per week or 8.6 hours per day in a 5-day week) to be spent on all activities, educators on average spent 1 599 hours per year, 41 hours per week and 8.2 hours per day on all their school-related activities.

In essence, educators also spent less time teaching or instructing than was specified in the policy. Whereas policy expected educators to spend between 64%

and 79% of the 35-hour week on teaching, the average time that teachers spent on teaching is 46% of the 35-hour week, or 41% of their total school-related time, an average of 3.2 hours a day. On average, more than half of the teachers' working week was taken up with administration and non-administration-related activities.

Christie (2006: 221) points out that there is no doubt that resistance has always been present in South African township and rural Black schools. She chronicles the history of the resistance from the time of the early Dutch settlers through the years culminating in the June 1976 South Western Townships (SOWETO) uprisings and beyond. On strikes, Christie (2006: 228) posits that "[f]rom January 1973 to June 1974 there were more than 300 strikes". If this trend is anything to go by, then it would appear that a strike culture has been embedded in South African society, in general, and labour organisations, in particular, even attaining political power post-1994.

Teachers' right to strike

The Education Labour Relations Council (ELRC), in line with South Africa's Constitution, confirms that, "every employee has the right to strike and every employer has recourse to lock-out ..." (Section 64(1)). Teachers can be absent legally if they are affiliated union members and take part in a union-organised strike (protected strike). The right to strike is not absolute, but limitations can be instituted in terms of the law (Section 36(1)) of the Constitution of the Republic of South Africa. By the same token, learning in schools has to take place within stipulated time frames in line with notional hours. The school timetable is the key to ensuring the uninterrupted flow of teaching and learning. One might concur that strikes interrupt this flow.

The subject guidelines provides an idea of how many lessons per week or cycle the School Management Team (SMT) in South African schools will allocate for the different subjects on the timetable for the school's instructional programmes. This is done to ensure that the learners get enough contact time to complete the syllabus and to have enough contact/engaged time to be able to pass at the end-of-year examinations and proceed to the next grade (Turner, 2007).

The Democratic Alliance (DA), one of South Africa's opposition parties, is lobbying for the government to declare education an essential service and to ban strikes in this sector. Essential service means that industrial action may not take place during working hours, but it can proceed on condition that provisions are made for learners to be adequately attended to by a skeletal staff or that it takes place outside working hours. The removal of the teachers' right to strike will entail restricting teachers to schools and do the jobs for which they are employed, and hold them to account. However, the dichotomy in South Africa seems to be how to maintain educators' rights without compromising the learners' rights. The study revealed that teachers and their unions were not, "keen to lose the only weapon that would make the employer understand", as they indicated. Students also supported the teachers' position.

Critical consciousness of the rule of law

Skapska (1990: 700) defines rule of law as “the legal control of anyone who wields power – the strict observance of formal law by the authorities”. South Africa, as a constitutional democracy, needs to conceptualise and promote a regime and culture based on the rule of law. Lawlessness is an important social and political problem in contemporary South Africa, one serious enough to threaten the stability of the regime (Gibson & Gouws, 1997). The rule of law implies that:

1. law is sovereign over all authority, therefore it is government under the law;
2. law must be clear and certain in its content and accessible and predictable for the subject;
3. law must be general in its application;
4. there exists an independent judiciary charged with the interpretation and application of the law to which every aggrieved citizen must have a right to access;
5. the law must have procedural and ethical content (Mohammed, 1989: 23).

For the rule of law to prevail, there must be, “the subordination of all state organs and state officials to the law, setting limitations to their power, guaranteeing civil rights and liberties and principles of due process” Skapska: 700). It was noted from the study that principals and teachers were not conversant with the tenets of the law. They admitted that they relied mostly on circulars from DBEs and information from their unions.

Research-specific objective

The study collected views and experiences of public high school principals, teachers and students on the implementation of CIS “catch-up programmes” in Tembisa, Gauteng, South Africa.

Research methodology

The qualitative method focused on statements, experiences, narratives, ideas and stories provided by the participants (Seymour, 2006). The study used interpretive phenomenological analysis (IPA) to explore, in depth, how participants experienced and ascribed meaning to CIS “catch-up programmes” (Smith & Osborn 2008). Finlay and Ballinger (2006) highlight how phenomenology is both a philosophy and an approach to research, which allows in-depth exploration of how phenomenon appeared in one’s consciousness and of the nature and meaning of such CIS phenomenon.

The study included ten principals, twenty teachers and fifty Grade 12 learners in Tembisa, Ekurhuleni North region in Gauteng province, drawn from ten high schools. During the three sessions of focus groups, semi-structured interviews and observations made, I focused on the language used, cues and gestures as well as stories about how CIS was implemented in their respective schools (Van Manen, 1990).

In-depth semi-structured interviews were conducted with public school teachers and principals who were contracted to teach students during the CIS “catch-up programme” episodes, as well as CIS participating learners. Five cycles of focus group discourses on the efficacy of the CIS “catch-up programmes” in schools included high school teachers, representatives of high school learners (RCL). Interviews were conducted until data saturation.

Methodological rigour and ethical considerations

Ethics is integral to the way we think about rigour and is intertwined in our approach to research, in the way in which we ask questions, how we respond to answers, and the way in which we reflect on the material (Creswell, 2007). Representativeness of samples is a critical issue in exploratory research. To the extent that one’s sample size is not representative of a population, generalisability of results is limited.

Sampling

The purposive sampling method targeted ten principals of public high schools, twenty teachers (educators) and fifty RCL matriculation learners in Ekurhuleni North District, Gauteng Province, since they were directly affected by the CIS “catch-up programmes”.

Summary of findings, discussion and recommendations

The discussion of the results is framed within the context of teachers’ right to strike versus the best interests of learners (Section 28(2) of the South African Constitution). Findings indicate that CIS “catch-up programmes” are singularly organised by the DBEs without consulting stakeholder partners such as principals and parents through School Governing Bodies (SGBs). As a result, CIS “catch-up programmes” do not attract a vast number of potential needy learners and there is no law regulating such activities. Section 3(1) of the Schools Act states that every parent must cause every learner, for whom s/he is responsible, to attend school. If parents are omitted from CIS arrangements, it becomes difficult for them to encourage learners to attend.

Principals

The majority of the principals argued that CIS “catch-up programmes” are organised by DBEs through various structures in the education fraternity, but exclude the

school system and parents. Despite the fact that public schools fall under the DBE administration structure, there was one common thread of statement on a number of occasions:

These CIS “catch-up programmes” are not our responsibility but that of DBEs. We are only instructed to either make our facilities available or instruct our learners to go to designated venues.

Logistics and other arrangements were only communicated to schools as directives. There is no accountability in terms of monitoring and implementation of the process, quality assurance and appropriateness of material, as some principals argued: “Departments of education work with teacher unions. The information is relayed through circulars for us to implement”.

Students

The majority of the students argued that “catch up programmes” were simply a waste of time and money: “We are packed into buses and moved to venues that are not familiar to us. Teachers are strangers to us. Halls are always full and they are like a rally! Sometimes buses are not even available.”

Reasons put forward were that classes were too large and individual attention was compromised. What they experienced was mass teaching. What came out strongly was that students came from different institutions and their degree of attainment was at different levels. Programmes catered only for matriculants; the remainder of the student body was left out: “We come from different schools and it takes time to know each other well and group work is difficult to do!”

Most students emphasised the point that it would appear that the most affected students come from the townships, while those from former Model C (former white schools) are conspicuously absent from such programmes. The reason put forward was that former Model C schools usually remain functional during teachers’ strikes.

Teachers

Accounting, Mathematics, Sciences, Business Studies, English, Economics, and Agricultural Sciences were addressed daily. The majority of the teachers indicated the following:

Classes are really too big and unmanageable. How can one control a class that is bigger than 100? The money is small that I cannot afford to buy petrol to the venue. The whole exercise is futile and it must be done in all schools rather than move leaners. Even if the allowances are improved classes are still too big!

Attendance by students was poor, in some instances; remuneration was not commensurate with work done and it was never paid on time. Some teachers’ comments were: “Working conditions are bad and logistically arrangements often

leave a lot to be desired. We sometimes receive insufficient teaching materials or at times delivered late."

The period involved did not compensate fully for the time lost during the industrial action since learners received two hours per subject per session. However, the majority of the teachers conceded that it is their moral responsibility and duty to compensate for lost time in their respective schools without being encouraged to do so.

Discussion

Ad hoc CISs are inadequate and violate the learners' rights to basic education; first, learners are removed from their natural learning environments and accommodated in foreign spaces; secondly, learners who attend for a limited period of time need to adjust socially, emotionally and psychologically. The period of adjustment takes time, thus unsettling them; thirdly, environments do not foster productive and constructive engagements, or familiarisation with the new teachers and other students. Students go through adjustment modes in order to accommodate new teachers and environments. Mass lectures precede all the activities at those venues. Learner-centeredness is completely compromised, peer-to-peer support systems are missing and the levels at which individual learners operate, are ignored. Teachers' rights dominate the discourse of teaching; learners fear teachers' rights because of the consequences of teachers embarking on a strike when their rights are compromised.

Grint (2008) opines that, in complex operations, it takes all three strategies, namely command, leadership and management to win (see Figure 1). Grint's (2008) theory suggests that leadership at DBEs and school levels must adhere to the rule of law by adopting the three strategies in order to effectively implement CIS programmes at school level. The CIS "catch-up programmes" should, in all intents and purposes, be regulated to ensure clear consequential mandatory outcomes. CIS "catch-up programmes" must not be left as voluntary options for both educators and learners, without the backing of enforceable mandatory legislative instruments such as policy that would hold schools and DBEs to account. At present, there is no legislation and/or policy that regulate CISs in public schools in South Africa.

Recommendations

Monyooe (2009: 47) believes that South Africa needs radical changes in order to save its education system: "Planning, organising and monitoring of the teaching and learning environment is paramount to achieving this ideal". It needs a professionally qualified body to monitor school performance in terms of teacher/learner performance and achievement and the overall leadership and management of schools, otherwise accountability will remain elusive and that has a huge impact on education in South Africa. There is a need for commitment by all stakeholders (teachers, government and the public (parents)) to the rule of law and allow the National Monitoring and

Evaluation Unit to do support supervision and quality assurance at school level and give all responsible teachers and principals the opportunity to account. An amendment to an existing South African Schools Act (SASA) legislation designed to curb teacher abuse and to hold them to account is long overdue and should include ALL learners, irrespective of their current school grades. The state should embark on empowerment programmes that are designed to educate SGBs, in particular, and society, in general, on their right to demand quality teaching and learning in public schools. Learners need to receive their full teaching time and, should there be in the event of any disruptions, legislation should be in place to ensure that learners' lost time is fully compensated. All parties involved with the education of the South African learner must uphold the rule of law and all the decisions taken must serve to advance the interests of all children without prejudice. A great deal of attention is paid to teachers' rights, but very little to their responsibilities. Teachers' rights are easier when teachers are performing; rights will be respected when responsibilities are looked after.

Conclusion

Section 28(2) of the South African Constitution states that "[a] child's best interests are of paramount importance in every matter concerning the child" and Section 29(1) affirms that "[e]veryone has the right – (a) to a basic education". The study findings indicate that CIS "catch-up programmes" are organised by the DBEs without the consultation between itself, the public schools and the parents. Public school principals are merely instructed to facilitate processes and are reluctant to take responsibility and to account. More often than not, if teachers, TUs included, do not demonstrate responsibility, learners' rights are compromised. The use of Grant's (2008) theory by the leadership at DBEs, community (School Governing Bodies) and school level in my opinion will align decision-making processes with the rule of law.

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