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REPORT OF

THE COMMITTEE TO REVIEW THE ORGANISATION, GOVERNANCE AND FUNDING OF SCHOOLS

DEPARTMENT OF EDUCATION
PRETORIA

31 AUGUST 1995

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G.P.-S.

REMARKS BY THE MINISTER OF EDUCATION, PROFESSOR SME BENGU, ON THE OCCASION OF THE HANDING OVER OF THE REPORT OF THE COMMITTEE TO REVIEW THE ORGANISATION, GOVERNANCE AND FUNDING OF SCHOOLS,

This speech was delivered in the auditorium of the Human Sciences Research Council, Pretorius Street, Pretoria, on Thursday 31 August 1995. It has been shortened for publication.

The completion of the work of the Committee to Review School Organisation, Governance and Funding is a major milestone in the democratic transformation of our education system, and of our country.

I want to emphasise one or two points of fundamental importance to this occasion.

Firstly, the establishment of the Review Committee was a decision backed 100 per cent by the Government of National Unity. The proposal to appoint this committee was first made almost a year ago in my Ministry's draft white paper, and it received overwhelming support by education stakeholders and the public who commented on the draft. The proposal was refined and the Cabinet endorsed it in February this year when it approved the white paper.

I am more than ever convinced of the wisdom of our decision. This committee was a national necessity. It was essential for us to have the benefit of the collective wisdom of a sober, dispassionate, professional, representative enquiry team, and that is what we have got.

Secondly, this Review Committee worked to a clear brief: to propose

> a national framework of school organisation and ownership, and norms and standards on school governance and funding which, in the view of the committee, are likely to command the widest possible public support, accord with the requirements of the Constitution, improve the quality and effectiveness of schools, and be financially sustainable from public funds.

Backing up the terms of reference was a statement of principles which had been widely canvassed in the draft white paper and improved and adopted by the Government of National Unity.

Make no mistake about it--the Review Committee was asked to advise us how unity and equity and democracy and quality were to be achieved in an education system which must be the most fractured and inequitable on the face of the earth.

With emphasis I say that the committee was not asked to tell us how to maintain the indefensible and unjust status quo. No: The committee was asked to advise on how democratic organisational change can be responsibly managed in our national school system.

Thirdly, I want the South African public to know that this is an honest, professional, principled and deeply patriotic report, by a representative committee which has embodied all the significant educational traditions we have inherited. I asked them to work toward consensus. They did so. I asked them to be creative. Creative they have been.

This report deserves the most respectful attention. Its data, analysis, findings and recommendations are backed up by first-hand observation in schools, and discussions with schools people, stakeholders and specialists in every province of the land.

However, neither I nor the Government have pre-judged the findings of the committee. This report must have a full and fair public airing before policy decisions are taken.

Finally, it is my great pleasure to thank Professor Hunter and his committee for accomplishing an outstandingly successful mission. No enquiry team in South Africa's educational history has had a more demanding and important assignment. I thank them all for the excellent public service they have rendered. I thank the Chairperson, Professor Peter Hunter, for his outstanding leadership, professionalism, wisdom and diplomacy.

THE DEPARTMENT OF EDUCATION INVITES COMMENT ON THIS REPORT FROM MEMBERS OF THE PUBLIC.

PLEASE SEND YOUR WRITTEN SUBMISSIONS TO:

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NOTES

1. Dr H T van Deventer has signed this report subject to this record of the fact that, while approving the report as a whole, he dissents from those paragraphs which entail a limit placed upon the powers of public school governing bodies and therefore of the parents represented in them. While recognising the responsibilities of the State, he believes that the rights of parents in education are over-riding, and that they would be violated by the limits upon them proposed here in such matters as the appointment of teachers and the determination of school-fees, language of instruction, religion and other admission criteria, which should be vested as original powers in the school as a legal persona within the parameters of the Constitution. He further believes that a governing body with the necessary capacity should be allowed a management model in which State involvement is limited, and parent involvement is at the highest level. He therefore dissents from those paragraphs which are in conflict with this position.

2. Mrs Naomi Peagam did not sign this Report. When it was completed she was overseas and did not see it in its final form.

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SUMMARY AND PRINCIPAL RECOMMENDATIONS

Summary

S1. The Review Committee's brief was to recommend to the Minister of Education "a national framework of school organisation and funding and ownership, and norms and standards on school governance and funding which, in the view of the Committee, are likely to command the widest possible public support, accord with the requirements of the Constitution, improve the effectiveness of schools, and be financially sustainable from public funds".

S2. In the course of its five-month period of work, the Committee

(a) held twenty-one days of meetings;

(b) examined existing research relevant to its brief;

(c) commissioned studies on aspects of its work;

(d) received briefings from the Minister and the Deputy-Minister of Education, from the Director-General of Education, from specialists in law and school finance, from representatives of organised agriculture and of organised farm labour, and from a political party spokesperson on education;

(e) visited schools and held discussions with stakeholders in the nine provinces;

(f) studied the nearly two hundred written submissions received in response to newspaper invitations to the public to communicate their views;

(g) participated in four conferences on topics related to its brief.

S3. The Committee prepared a summary of the present position on the organisation, governance and funding of the school system.

S4. With appropriate professional advice, the Committee prepared a statement on the implications of the present Constitution for matters related to the Committee's brief.

S5. In its approach to the design of a new structure for the school system, the Review Committee has taken note of the imperatives and of the complexities articulated in the White Paper on Education and Training. It recognises the need to provide quality learning opportunities to all learners in South Africa on an equitable basis.

S6. That part of the Report which proposes a framework for the new system is divided into two sections. The first of these deals with the suggested framework of school categories, governance and funding (Chapters 5, 6 and 7). The second is concerned with the process of development towards that framework, specifically the dimensions of negotiated change and of capacity-building (Chapters 8 and 9).

S7. The Report records the considerations and the principles which have guided its approach to a new framework. It suggests two categories of schools: public schools and independent schools. The powers of public school governing bodies (beyond the common, basic powers) would be related to their respective management capacities, and, where they so wished, could be increased in accordance with development in such capacity. A programme for capacity development would be set in place.

S8. Where this can be seen to be in the public interest, provision should be made for agreements involving public schools on land owned by religious or industrial organisations.

S9. Independent schools would operate under conditions laid down for their registration, and under certain circumstances would be eligible for subsidy.

S10. An indication is provided of the relationship between existing school models and the proposed categories and processes.

S11. The composition, role and operation of public school governing bodies are set out in the context of a discussion of the various levels of educational governance, including that at district level.

S12. The problems of education budget reform are considered, and three approaches are explored, referred to respectively as the minimalist-gradualist, the equitable school-based formula, and the partnership funding approaches. The last-named is recommended at this stage, with a review after five years.

S13. There are discussions of the financial implications of providing for certain distinctive groups of learners, e.g. rural children (travel and accommodation bursaries) and pupils with special educational needs.

S14. Provision for a formula-based subsidy for independent schools is supported, subject to certain conditions.

S15. An approach is suggested to implementing the broad policy framework proposed. Following a discussion of the culture of negotiation and stakeholder participation which has emerged in South Africa during this decade, suggestions are made concerning negotiations in terms of section 247 of the Constitution, those relating to the transfer of the ownership of assets, those dealing with public schools on private farms and on community-owned land, those concerning state-aided ordinary schools, those concerning a change in a school's category, and those dealing with

the allocation to a governing body of "negotiable" powers and functions. Initial steps are suggested for implementing the new framework.

S16. In relation to the needs of school managements, school governing bodies and district education offices, there is a discussion of building the "capacity" of these structures, capacity being interpreted in this context as both the material and the human resources (knowledge, skills and attitudes) needed for effective participation in management and governance functions.

S17. While recognising the urgency of material provision (e.g., school refurbishment) in many contexts, the discussion of capacity-building here is concerned mainly with the development of the governance and management skills and knowledge in the three types of structure listed above. Recommendations are made about the development of a capacity-building programme and the establishment of an Education Management Information System and a management training institute.

Principal Recommendations

R1. There should be two categories of schools: public schools and independent schools. A public school is one which is funded totally or largely from state resources, and whose admission policy reflects its sharing of the State's responsibilities for the provision of education. An independent school is one which is privately owned and whose teachers are appointed by the school. The difference between the two categories lies in their relationship to their respective provincial departments of education.

R2. Each public school should have a governing body comprising the principal and representatives of the parents (to be numerically the strongest representation on the body), the teachers, the learners (in secondary schools only), the non-teaching staff (should they desire) and the local community. In the types of school relevant to such categories, there should also be representation of owners, tribal authorities, and sponsoring bodies. If necessary, additional members should be nominated to ensure a gender balance.

R3. All public school governing bodies should have the same basic powers. These include decision-making on school times, codes of behaviour, subject choices, community use of school facilities, school-community relations, ethos of the school and fund-raising.

R4. On the appointment of teachers the final decision should rest with the provincial authorities, who should be the teachers' employer. However, the school's governing body should have a strong influence on the appointment of the staff of its school. Each appointment should follow the recommendation of the governing body. Should the recommendation not be acceptable to the provincial authority, the provincial department should be required to provide reasons and, before making a final decision on the

appointment, enter into negotiations on the matter, if the governing body so wishes.

R5. Beyond the basic powers referred to above, governing bodies which so desire may be accorded, by the provincial department, additional "negotiable" powers if there is evidence that they have the relevant management capacity in respect of each such power or group of powers. Examples of such powers are: the maintenance of buildings, the purchase of textbooks and materials, and the purchase of equipment. Those functions in respect of which powers were *not* accorded to a governing body would be exercised on its behalf by the education authority. These negotiable powers would not constitute a hierarchy: none of them would need to be given before any of the others.

R6. District-level management and governance structures should provide professional support to schools, monitor their development and facilitate the most effective use of resources.

R7. A public school may exist on privately owned land (such as church or mine property) under agreements which, in matters such as admissions, satisfy both the public interest and the organisation which owns the property.

R8. Independent schools must satisfy conditions of registration laid down by provincial authorities, and may under certain circumstances be given a state subsidy. The latter should be based on a clear formula, and consideration should be given to a single subsidy level.

R9. In public schools a partnership funding approach is recommended, balancing the demands of the four key principles: attaining equity, redressing past imbalances, advancing quality, and improving efficiency. Its main features are the following:

(a) It is recognised that the provision of quality education for all at no direct cost to parents and communities is not affordable from the resources currently allocated by the state for education. (The problem is particularly acute during the transition when equitable funding allocations will have to be phased in at the same time as additional expenditure will be required to redress the effects of past discrimination and neglect.)

(b) Provincial budgets should be structured in the following steps:

(i) an allocation to provinces for capital development on the basis of an index of need;

(ii) an amount for an Education Redress Fund which would channel resources for reconstruction and quality improvement to schools disadvantaged by past policies;

(iii) funds for the provincial authorities to provide core services such as administration, quality assurance and monitoring, teacher support and planning;

(iv) an amount for salaries (the largest portion), with teaching posts based on a standard staffing scale within nationally established norms; further, in parallel with phased implementation of an equal staffing formula, steps to reduce the disparity in average teacher costs between schools (it was not within the Committee's brief to develop specific learner:teacher ratios since this is a planning exercise which should involve employers and other stakeholders); and

(v) an amount to cover the operating costs of schools, with a per capita-linked formula taking into account local factors such as upkeep costs, the funds to be supplemented by obligatory fees raised from parents, as explained below;

(c) Given the unlikelihood of an increase in the near future in funds currently available for education from the State, or from any additional taxes at any level of government, both voluntary and obligatory parental contributions are suggested, on the understanding that

(i) no child can be excluded from compulsory education because of the non-payment of obligatory fees;

(ii) the obligatory fee should be set on a sliding scale, with parents at the lower end of the scale paying nothing.

(d) The state's contribution to operating costs in a particular school would be in inverse relation to the assessed fee income from the parents, and the payment of obligatory fees would be a legal requirement for those who could afford it.

(e) In special circumstances a school could apply to the provincial department for permission to charge fees beyond the upper limit set by the State.

(f) All schools should have the right to raise supplementary funds through voluntary contributions or other fund-raising strategies.

R10. For the post-compulsory phase of schooling the approach in R9 should be applied with adaptations to allow obligatory fees to be used to meet other costs as well as operating costs, and with particular attention to fundraising in relation to the private sector.

R11. At the end of five years, the funding approach should be reviewed, with due attention to questions of affordability, and with a view to determining whether the implementation of a system based on the equitable funding formula approach would by then have become feasible.

R12. Serious attention should be given to providing subsidies for transport and accommodation for rural learners.

R13. The distinctive costs of education for learners with special needs should be recognised in capital, staffing and operating budgets.

R14. The Department of Education should facilitate negiotiations which would involve provincial authorities, key stakeholders and the general public to reach agreement on the implementation of the recommendations in this Report.

R15. These negotiations should include any discussions between governing bodies and provincial departments required by section 247 of the Constitution, where governing bodies are dissatisfied with the proposed changes to their powers and functions.

R16. Where implementation of the framework requires transfer of ownership and assets, negotiations between the affected parties should take place to facilitate such transfer.

R17. Where former state-aided schools on private land opt to convert to independent school status, negotiations will have to take place concerning compensation in respect of assets provided by the state. Where such schools opt for public school status, negotiations should take place to secure the state's interests in the land and assets.

R18. Public schools on private farms will need to be integrated into the district development plan, which will require rationalising provision. Farmers, farm workers and community development agencies should participate in district level forums with the education stakeholders and authorities to develop such plans for schooling.

R19. In the case of public schools on community-owned land, negotiations will have to be conducted with the key stakeholders to secure the state's interests in the land, possibly through the granting of usufructuary rights.

R20. Specific conditions should apply in the case of independent schools seeking to be declared public schools, or vice versa.

R21. A well co-ordinated capacity-building programme should be developed and implemented that provides schools, governing bodies and district education offices with the knowledge, skills, information and material resources necessary to sustain governance functions.

R22. An Education Management Information System and an Education Management Training Institute should be established to provide management information and training to relevant personnel.

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ABBREVIATIONS

ANC	African National Congress
APT	Association of Professional Teachers
CATU	Cape Association of Teachers' Unions
CED	Cape Education Department
CEPD	Centre for Education Policy Development
COSAS	Congress of South African Students
CTPA	Cape Teachers' Professional Association
CVO	Christelike Volkseie Onderwys
DET	Department of Education and Training
DRU	Disability Rights Unit
ECTO	Eastern Cape Teachers' Association
EMIS	Education Management Information System
EMTI	Education Management Training Institute
FRRP	Farm Workers Research & Resource Project
GDP	Gross Domestic Product
HOA	House of Assembly
HOD	House of Delegates
HOR	House of Representatives
IKOO	Interkerklike Kommissie vir Opleiding en Onderwys
IPSMC	Interim Provincial Strategic Planning and Management Committee
LSEN	Learners with Special Educational Needs
MEC	Member of the Executive Council
MIS	Management Information System
NACL	Network Against Child Labour
NAPTOSA	National Professional Teachers' Organisation of South Africa
NECC	National Education Co-ordinating Committee
NQF	National Qualification Framework
OVSOV	Oranje Vrystaatse Onderwysersvereniging
PASO	Pan African Students' Organisation
PTA	Parents and Teachers Association
PTSA	Parent Teacher and Student Association
REF	Rural Education Forum
SADTU	South African Democratic Teachers' Union
SAFSAS	South African Federation of State-Aided Schools
SALDRU	South African Labour Development Research Unit
SAOU	Suid-Afrikaanse Onderwysersunie

SAPPI	South African Pulp and Paper Industry
SAAPAWU	South African Agriculture, Plantation and Allied Workers Union
SACC	South African Council of Churches
SATA	South African Teachers' Association
SRC	Student Representative Council
TED	Transvaal Education Department
TUATA	Transvaal United African Teachers' Association
ZCC	Zion Christian Church

DEFINITIONS

EDUCATION: The process of planned and organised teaching and learning.

EDUCATOR: One whose work is the education of others, in any type of educational or training context.

FRAMEWORK: A structure of organisation or ideas, indicating the bases, limits and relationships of a planned activity.

LEARNERS WITH SPECIAL EDUCATION NEEDS (LSEN): Children who, for whatever reason, cannot benefit from learning opportunities in ordinary school programmes.

NORMS: Values to be agreed and embodied in specified planned activities.

PARENT: A biological parent or one who, for the purposes of education, is acting as guardian.

SCHOOL FOR SPECIAL NEEDS EDUCATION: a school providing education primarily for learners with special education needs.

SPECIAL NEEDS EDUCATION: Differentiated educational interventions for creating better opportunities for learners with special education needs, in a mainstream or special school context. (As well as teaching, the definition embraces guidance, medical services, residential care, transport, etc.)

TEACHER: An educator working in a school.

CHAPTER ONE: THE BACKGROUND AND THE BRIEF

Introduction

1.1 In its historical segregation, its skewed funding, its curricula and its undemocratic governance, South Africa's school system has been deeply affected by the all-pervasive apartheid. The Report presented here deals with this particular facet of the overall social transformation required in this country. Instead of a fragmented series of educational systems there must be developed as rapidly as possible a single, integrated school system infused with democratic values.

1.2 On 15 March 1995 there took place an event which was the culmination of a substantial process of consultation, and provided the basis for the further development of policy and its implementation in a variety of fields of education in this country. This event was the publication of the White Paper entitled *Education and Training in a Democratic South Africa: First Steps to Develop a New System* (hereafter referred to as White Paper).

> *"For the first time in South Africa's history, a government has the mandate to plan the development of the education and training system for the benefit of the country as a whole and all its people. The challenge the government faces is to create a system that will fulfil the vision to 'open the doors of learning and culture to all.' The paramount task is to build a just and equitable system which provides good quality education and training to learners young and old throughout the country."* (White Paper, p 17, para 1).

1.3 The White Paper had been prepared during the complex reorganisation of the national education system which had been in process since the establishment of the new Government in 1994, and of course is still in process. The final version took into account viewpoints expressed in the many written submissions which followed the publication of the Draft White Paper.

1.4 The major themes pursued in the White Paper include the reconstruction and development of the education and training programme, the constitutional and organisational basis of the new system, the latter's funding, and reconstruction and development in the school system.

1.5 As regards the last of the above topics, the school system inherited at the time of political transition was characterised by gross inequities and inconsistencies. It was obvious that among the imperatives for the new education system was a review of the structure of the school system, the governance of schools and their funding. As the White Paper puts it:

> *"In adopting a Constitution based on democracy, equal citizenship, and the protection of fundamental human rights and freedoms, South Africans have created a completely new basis for state policy towards the provision of schooling in the future. Unavoidably, because inequality is so deep-rooted in our educational history and dominates the present provision of schooling, a new policy for school*

> *provision must be a policy for increasing access and retention of Black students,achieving equity in public funding, eliminating illegal discrimination, creating democratic governance, rehabilitating schools and raising the quality of performance*." (White Paper, p 67, para 1).

1.6 In order to investigate and recommend a new pattern of school organisation, governance and funding, the Minister of Education proceeded to appoint a committee of specialists from a wide variety of backgrounds of relevant experience. Nominations were sought from the provincial governments and from a range of national organisations concerned with education. In the request for nominations, the Minister made it clear that, while members appointed to the Committee would be expected to serve in their personal capacities, and were to be selected individually on the basis of expertise, experience, knowledge and judgement, the overall composition of the Committee would reflect the principle of representativity.

The first paragraph of his request read as follows:

> *"There is wide agreement that a new national policy framework for school organisation, governance and funding is essential. The Ministry of Education is committed to an inclusive process of negotiated change to achieve such a framework. No other approach can do justice to the complexity and sensitivity of the issues, and the obligations imposed on the national and provincial governments by the Constitution."*

Terms of Reference

1.7 The terms of reference of the Review Committee are:

(a) To analyse and describe the current pattern of school organisation, governance and funding in terms of existing laws and regulations.

(b) On the basis of legal opinion, to advise on the implications of the 1993 Constitution in respect of school organisation, ownership, governance and funding.

(c) To commission such research as it requires, and to take submissions, in writing or orally, from whomsoever it wishes, on the current and future pattern of school organisation, governance and funding.

(d) In the light of the Committee's findings at (a) and (b), the information and advice assembled by the Committee, the accompanying Statement of Principles, and the policy of the government as expressed in the White Paper, to make recommendations to the Minister of Education on a proposed national framework of school organisation and ownership, and norms and standards on school governance and funding which, in the view of the Committee, are likely to

(i) command the widest possible public support;
(ii) accord with the requirements of the Constitution;
(iii) improve the quality and effectiveness of schools; and
(iv) be financially sustainable from public funds.

(e) At its discretion, to advise the Minister on any other matter of importance associated with the objectives and terms of reference of the Committee which may have come to the Committee's notice in the course of its investigation.

Principles

1.8 As a basis for a policy framework for school ownership, governance and finance, the White Paper sets out a series of principles concerning these matters. These appear in Chapter 12, sections 27 to 34 of the White Paper. For the purposes of this Report, the objectives set for this Review Committee have been underlined:

"27 A new national policy framework for school organisation is essential to provide a firm basis for action by the provincial Ministries of Education in the full exercise of their legislative competence. The framework must clarify the legal status of different categories of schools, and establish national norms and standards for school governance and finance.

28 The framework must be developed on the basis of principles which are in full accord with the Constitution, consistent with the best South African experience, easily understood, and likely to raise the quality and effectiveness of schooling where it is most needed.

29 The Ministry of Education proposes the following principles as the basis of the new policy framework for school ownership, governance and finance:

(1) Legal categories of schools

(a) The categories of schools recognised in law should be as few as possible.
(b) The categories should be based on clear criteria such as ownership, funding, and relationship to departments of education.
(c) The categories should be uniform across the country
(d) The categories should assist the elimination of inequitable and outmoded divisions between the inherited categories of schools.
(e) The categories should include, but need not be confined to: state, state-aided, and independent schools.
(f) The circumstances of special schools should be given particular attention.
(g) The categories should accommodate the constitutional provisions affecting school ownership.
(h) There should be clearly stated conditions under which a school or group of schools might be permitted to change their category.

(2) Governance

(a) The term 'governing body' should be used as the general term to describe school governance structures in all categories of schools.

(b) *The principle of an articulated provincial system of schools needs to be upheld. Therefore, the relationships of school governing bodies to education governance structures within provincial education systems, need to be defined.*

(c) *School governing bodies should be representative of the main stakeholders in the school. Parents have the most at stake in the education of their children, and this should be reflected in the composition of governing bodies, where this is practicably possible. The head or principal of a school should be a member of the governing body ex officio.*

(d) *In primary schools, the main stakeholders for purposes of governance comprise the parents and teachers.*

(e) *In secondary schools, the main stakeholders for purposes of governance comprise parents, teachers, and students. It is recognised that these stakeholders can play different roles with respect to different elements of school governance.*

(f) *The composition of governing bodies should be sensitive to racial and gender representation, and (in the case of special schools especially) to citizens who can best represent special education needs.*

(g) *State involvement in school governance should be at the minimum required for legal accountability, and should in any case be based on participative management.*

(h) *The decision-making powers of governing bodies should reflect their capacity-building to render effective service.*

(i) *A capacity-building-building programme should go hand-in-hand with the assignment of powers to governing bodies. This should be supplemented by management programmes for principals and inspectors, to ensure a smooth transition to the new school governance system.*

(3) *Finance*

(a) *The basis of financial allocations to different categories of state and state-aided schools must be equitable and transparent, aimed at eliminating historical disparities based on race and region and ensuring an acceptable quality of education.*

(b) *In particular, an equitable staff provision scale or scales, must be phased in at state and state-aided schools as rapidly as possible, in full consultation with the representative organisations of the teaching profession.*

(c) *The phasing in of an equitable staff provision scale or scales should be based on acceptable educational planning principles, with attention to the requirements of the curriculum, the quality and effectiveness of educational delivery, financial capacity-building, the physical size of classrooms, the number of students per class, the number of children with special educational needs, and personnel implications.*

(d) *The question of the eligibility of independent schools for state subsidies must be determined using clear and equitable criteria based on the public interest, and the observance of constitutional guarantees.*

(e) *Appropriate periods of notice must be built in to any significant changes in funding patterns.*

30 *These principles involve extremely complex legal, financial, administrative, educational and political issues. With the advice and support of the Council of Education Ministers, and in consultation with the National Education and Training Forum and national organisations of teachers, students, parents and school governing bodies, the Minister of Education will without delay appoint a Committee to Review School Organisation, Governance and Funding.*

31 *The Review Committee will be asked to analyse the current situation of school organisation, governance and funding in terms of existing legislation, the 1993 Constitution, to undertake suitable research, including research on relevant international conventions and comparative experience, to receive oral and written submissions in all provinces, and on the basis of its findings, and the Ministry of Education's Statement of Principles above, to recommend to the Minister:*

a proposed national framework of school organisation and ownership, and norms and standards on school governance and funding which, in the view of the committee, are likely to command the widest possible public support, accord with the requirements of the Constitution, improve the quality and effectiveness of schools, and be financially sustainable from public funds.

The Review Committee will be asked specifically to advise on the process by which these matters should be negotiated, in terms of section 247 of the Constitution.

32 *The Minister will appoint to the committee specialists nominated by stakeholders on the basis of their knowledge of the school system, expertise, experience and wise judgement. Members will serve in their personal capacities. The overall composition of the committee will reflect the principle of representativity, and be such as to command the confidence of the widest possible cross-section of the public. The reporting date of the committee will balance the need for early decisions with the undoubted complexity of the issues and the need for widely acceptable, educationally progressive and constitutionally sound solutions.*

33 *The Ministry of Education is aware that a transformation of this magnitude, which evokes expectations, uncertainties and fears, can be facilitated by techniques and processes of change management. The Department of Education will consult with the Heads of Education Departments Committee to establish how best to assist education managers at all levels to respond professionally and with creativity to the new environment. Their leadership is an essential factor in success."*

Constitutional Provisions

1.9 The White Paper also sets out (in paras 4 to 12, pp 67-68) those provisions of the Constitution which affect school ownership, governance and finance:

> *"4 In the first place, provincial governments have constitutional responsibility for establishing, running, regulating and financing schools, but they will do so within the framework of national policy on matters such as the legal status of different types of school, and the norms and standards by which they should be governed and financed.*
>
> *5 Secondly, the provisions on fundamental rights which guarantee equality, non-discrimination (except for purposes of redress), and equal access to educational institutions, set the standards which all levels of government are bound to observe in legislation and administrative action relating to school ownership, governance and finance.*
>
> *6 Thirdly, the fundamental rights chapter explicitly protects cultural, language and religious rights, both in terms of personal observance, and as a basis for school ownership. The latter is the only constitutional provision directly relating to school ownership. It gives every person the right*
>
> *`to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race' (section 32(c))*
>
> *This right applies also to legal persons (for example, trust, and governing bodies established by law), and it affords protection to the owners of schools of this kind which may already be in operation, so long as they do not discriminate racially.*
>
> *7 Fourthly, the Constitution includes some 'special provisions' about the governance of educational institutions. These provisions apply specifically to the rights, powers and functions which the governing bodies or similar structures of departmental, community-managed or state-aided schools possess under laws existing immediately before the Constitution came into effect. (Identical provisions apply also to universities and technikons.)*
>
> *8 The national and provincial governments are required to reach agreement `by bona fide negotiations' with the respective governing bodies, and give reasonable notice, before altering the rights, powers and functions of such bodies. If agreement is not reached by negotiation, a government may nevertheless proceed to make the alterations it wishes. If it does so, however, the Constitution gives `interested persons or bodies' a specific entitlement to mount a legal challenge to the validity of such alterations in terms of the Constitution.*

9 *Fifthly, another `special provision' requires the `responsible government', national or provincial, to provide funds to departmental, community-managed and state-aided schools on an equitable basis, in order to ensure an acceptable quality of education. (section 247)*

10 *The complexity of the provisions relating to school ownership, governance and finance indicates the sensitivity of the interests which the Constitution has accommodated. Both the governments and the governing bodies of the schools concerned, are required to act with a high degree of responsibility in fulfilling their obligations in these matters.*

11 *All governments are bound to uphold all the constitutional guarantees, and (within their competence) to require schools to do the same. This includes upholding the rights to personal equality, equal access to schools, protection of cultural, linguistic and religious rights, prohibition of all unfair discrimination, and protection of the right of redress, which may include differential treatment if this is required in the interest of the child and to uphold equity.*

12 *School governing bodies which have discriminated unfairly on whatever grounds in the past are required in terms of the Constitution to change their practices. If a governing body is challenged in court on the basis of prima facie evidence of discrimination, the onus of proof of non-discrimination rests with the governing body. (section 8)"*

A Clarification

1.10 It should be noted that the Review Committee's brief was restricted to matters relating to a framework of school categories, and to norms and standards of school governance and funding. The Committee was not asked to consider matters such as curricula, nor the spatial distribution of school provision, nor to conduct a planning exercise, nor to produce a budget.

Membership of the Review Committee

1.11 The Committee has seventeen members. There are education professionals from state, state-aided and independent schools, from teachers' organisations, and from organisations of state-aided and of independent schools. There are people from parents' organisations, from universities, RDP structures and education policy units. There is a member of a provincial subject-advisory service, a specialist in farm schools, and one in the education of children with special educational needs. The members come from a number of different schooling traditions and perspectives. The Chairperson has been a full-time member; while the others have worked on average two days a week.

The members of the Committee are as follows:

Professor Peter Hunter (Chairperson), Professor Emeritus in the Faculty of Education, University of the Witwatersrand

Mr Eliam Biyela, Professional Secretary, Natal African Teachers' Union

Mr R (Reg) Brijraj, Head of Mathematics, Daleview Secondary School, Mt Edgecombe and Vice-President of the South African Democratic Teachers' Union (SADTU)

Mr Peter Buckland, Director, Education Policy and System Change Unit (EDUPOL), National Business Initiative

Mr Jonathan Godden, Education Policy Analyst, Centre for Education Policy Development

Dr Adele Gordon, Co-ordinator, Rural Education Facilitators Project, Centre for Continuing Education, University of the Witwatersrand

Mr Mark Henning, National Director, Independent Schools Council

Dr Neil McGurk, Programme Manager: Culture of Learning Presidential Lead Programme of the Reconstruction and Development Programme and Headmaster of Sacred Heart College, Johannesburg

Mrs Gugulethu Mtombeni, Biology Adviser, Department of Education, KwaZulu-Natal

Dr Anbanithi Muthukrishna, Lecturer, School of Education, University of Natal, Durban Campus

Mr John Pampallis, Director, Education Policy Unit, University of Natal, Durban Campus

Professor Thomas Park, Professor of Didactics, University of Stellenbosch

Mrs Naomi Peagam, Vice-Chairperson, Western Cape Parents and Schools Association

Ms Angelina Ramorola, Director, Capacity-building Building, Reconstruction and Development Programme

Mr Zolile Siswana, Assistant Project Manager in the Culture of Learning, Presidential Lead Programme of the Reconstruction and Development Programme (at the time of his appointment National Organiser to the National Education Co-ordinating Committee)

Professor Jacobus Steyn, Director, Co-ordination and Planning, Transvaalse Onderwysersvereniging

Dr H T (Hennie) van Deventer, Chairperson, Federation of Parents Associations of South Africa and Chairperson, South African Federation of State-aided Schools.

Acknowledgements

1.12 The Review Committee was very fortunate in the high level of co-operation which it received. The Committee wishes to express its gratitude to the many who made oral contributions to its meetings, to those who provided the fruits of their studies, to those who arranged and participated in the discussions held in the various provinces, to those who organised and contributed to the workshops and conferences from which the Committee gained such insights, to those who made written submissions, and to the Departmental officials who supported and assisted the project generously in a variety of ways. The Committee is very grateful to Carol Coombe for her meticulous proofreading of its Report. A special word of appreciation is due to the Committee's Secretariat, comprising of Udo Boesenberg, Magda Hesek, Annatjie Moolman and to Ben Els, the Committee Secretary, whose constant professionalism, commitment and good humour were vital to the Committee's progress.

Structure of the Remainder of This Report

1.13 Chapter Two sets out the process of the Review Committee's enquiries and deliberations. This is followed by a description of the current pattern of school organisation, governance and funding, and then by a discussion of the implications, for the Committee's brief, of the relevant provisions of the 1993 Constitution.

The remainder of the main text falls into two parts.

The first of these sets out the considerations which have led to the proposed new system of schools, and the central features of that proposal. It does so in respect of a framework of school categories and ownership (Chapter 5), norms and standards of governance (Chapter 6) and norms and standards of school funding (Chapter 7).

The White Paper recognises that (a) a new system must be achieved within the shortest practicable time, and (b) that such achievement, if it is to be a real achievement, will require an effective process of managed development.

That process has two main dimensions. In the White Paper the first of these is referred to in the following terms:

> *"25 The issue is not whether the organisation, governance and funding of the education system will change. Change is inevitable and cannot be delayed. The issue is whether a new and just dispensation in the schools*

will be brought about in the new South African way, by negotiating peacefully, according to the spirit and letter of the Constitution, in the service of both national unity and cultural diversity....

26 *...The Ministry of Education is...committed to an inclusive process of negotiated change."* (White Paper, p 69, paras 25 and 26).

The second dimension relates to the development of the capacities of those structures which will be taking up new or changed roles in governance and management structures at school and intermediate (sub-provincial) level in our provincial education system. It is noteworthy that even in national school systems where democratic governance and management structures have been operating effectively for many years, the need for skills development in these spheres is widely recognised. Where a substantially new system is being put in place, this need is obviously greater and more urgent. And at this juncture in South Africa, the development of the capacity-building of structures refers not only to the skills of their members but also in many aspects to the provision of material infrastructures.

Strategies concerning the two dimensions of managed change referred to in the preceding two paragraphs will be discussed and recommended in, respectively, chapters 8 and 9 of this Report.

Chapter 10 provides the conclusion to the Report. Appendices A and B list, respectively, the people and the documents consulted by the Review Committee in the course of its work.

CHAPTER TWO: THE COMMITTEE'S PROCESS

2.1 The Review Committee met for the first time on 6 April 1995. Including that occasion, the Committee held one three-day and nine two-day meetings, the last on 24 and 25 August 1995. All the Committee meetings were held at the head office of the national Department of Education, Pretoria. At a considerable number of other venues across the country, teams of Committee members (in some cases the full Committee) participated in different types of discussion relevant to the Committee's brief. These opportunities will be described later in this chapter.

The Committee benefited from the availability of a number of substantial pieces of research relevant to its assignment, and one of its first tasks was the study of this material. (The titles are included in the list of documents in Appendix B.)

Briefings

2.2 At its first meeting the Committee was provided with briefings by Professor Sibusiso Bengu, the Minister of Education, Mr Renier Schoeman, the Deputy-Minister of Education, and by the Director-General of Education, Dr Chabani Mangayi.

Subsequent meetings included briefings and similar external contributions on

(a) constitutional provisions on schooling, by Adv Matthew Chaskalson and by Professor E F J Malherbe, professor in Public Law at the Randse Afrikaanse Universiteit;
(b) labour law in education, by Mr Tinus Maree;
(c) school funding, by Dr Gert Steyn, Chief Director: Education and Training Resources, national Department of Education, and Professor Anthony Melck, of the University of South Africa, Vice-Chairperson of the Financial and Fiscal Commission; and
(d) perspectives on farm schools, by five leaders of the South African Agricultural Union (SAAU) and its provincial affiliates, led by Mr M van Niekerk and a group consisting of representatives of the following organisations: National Union of Farmworkers, Network Against Child Labour (NACL), Farmworker Research and Resource Project (FRRP), Rural Education Forum (REF), and the South African Agriculture and Plantation Allied Workers Union (SAAPAWU).

2.3 The Committee invited the education spokespersons of the principal political parties to communicate their perspectives on the brief. This invitation elicited one oral presentation.

Commissioned Research

2.4 Because of the insufficiency of information on the topics below the Committee commissioned the following studies by appropriately qualified and experienced researchers:

(a) The governance and funding of schools in the former homelands and in informal settlements (Heather Jacklin, University of Cape Town);
(b) The involvement of learners in the governance of schools (Sibusiso Sithole, University of Natal Education Policy Unit).

Visits to Provinces

2.5 In teams of three, members of the Review Committee visited all the provinces, holding discussions with MECs and senior officials of the Education Departments, staff and governing body members at a variety of schools, and stakeholder representatives.

These visits were undertaken in order to deepen the Committee's understanding of

(a) the range of conditions under which schooling occurs;
(b) the variety of perceptions held concerning suitable arrangements for the ownership, governance and funding of schools; and
(c) other factors needing to be taken into consideration in developing the framework, the norms and the standards called for in the Committee's brief.

2.6 In order that, over the country as a whole, a reasonably representative sample of schools would be seen, the planning of school categories to be visited in each province was co-ordinated beforehand, on an inter-team basis, in terms of context and category: rural, community, farm, "resettlement", informal settlement, township, suburban; primary, secondary, state, state-aided (including model C), private, "relinquishing department", farm school, general, vocational, schools for learners with special educational needs and other relevant institutions.

The visits to provinces were undertaken with the co-operation of the respective provincial Departments of Education. These visits contributed very substantially to the Committee's understanding of the situation in schools, particularly as regards rural areas.

Written Submissions

2.7 Following an invitation advertised in newspapers and by circular to a wide range of educational organisations and institutions, the Committee received 200 written submissions. The largest group of respondents comprised Model C schools, which provided 62 submissions. Other respondents included schools in other categories, parents' associations, teachers' associations, universities, professional research and development organisations, religious organisations, and individual parents and teachers.

A great deal of effort was devoted to analysing the views of those who had prepared the submissions.

Conferences

2.8 Committee members participated in a number of conferences concerned with matters within its brief:

(a) On 25 and 26 April the Committee participated in a conference in Durban on Towards a new framework for school organisation. This was held under the auspices of the national Department of Education and the Education Policy Units of the Universities of Natal and the Witwatersrand. The scope of the conference corresponded to that of the Review Committee's assignment, and the participants represented a variety of educational institutions and structures, governmental and non-governmental. Among the themes were features of the current situation as regards school organisation, the implications of the Constitution, the redistribution of human and material resources, and the views of teachers' and students' organisations.

(b) On 29 and 30 May, in association with the University of the Western Cape Faculty of Education, the Committee held an International workshop on school organisation, governance and funding. Financial sponsorship by a number of foreign governments enabled the Committee to bring to Cape Town a number of specialists with experience, in different contexts, of aspects of educational policy and management related to the Committee's concerns. At the workshop, visitors from seven countries described and commented upon practice in their respective countries, and there was also a contribution from the International Institute for Educational Planning. The South African participants included a number of political and official role-players in education.

(c) On 16 and 17 June, the Committee's chairperson and two other members attended the Afrikaanse Onderwyskongres in Bloemfontein. The organising committee of this event, which was attended by nearly 600 delegates from Afrikaans-speaking organisations, is recorded as embarking upon a "mission to empower the Afrikaans-speaking people in South Africa to ensure Christian and mother-tongue education and training of high quality." The Congress made a submission to the Review Committee.

(d) On 28 and 29 June the Committee participated in a National Colloquium on Local/District Governance in Education organised in Vanderbijlpark by the Centre for Education Policy Development in association with the national Department of Education. The approximately sixty South African participants (the largest group being from the provincial Departments of Education) benefited from the contributions on this theme from specialists from seven foreign countries.

From all these conferences insights were derived which were built into the new framework of school organisation proposed in the Report.

2.9 Members of the Committee came to this assignment from a variety of perspectives and backgrounds of educational experience. The enquiries and discussions were conducted in a good spirit throughout, and members often exhibiting different emphases in their interpretations, showed a willingness to compromise.

CHAPTER THREE: THE CURRENT PATTERN OF SCHOOL ORGANISATION, GOVERNANCE AND FUNDING

Introduction

3.1 Until 1994, South Africa had fifteen different Ministries of Education: four in the "independent" homelands, six in the self-governing territories (i.e. "the non-independent" homelands), one responsible for the Department of Education and Training (catering for Africans outside the homelands), one in each of the three tricameral houses of parliament (catering for whites, coloureds and Indians respectively) and one for the Department of National Education (DNE) which was responsible for co-ordination and establishing countrywide norms and standards.

3.2 These ethnic administrative divisions were reinforced by the inequalities between the resources available to (and subsequently the quality of education offered by) departments catering to different race groups. The schools catering for whites were at the top of the quality scale, followed by those catering for Indians, coloureds and Africans. Per capita expenditure on whites was approximately four times that for Africans (Table A).

Table A

Per Capita Expenditure by Former Departments, 1994

Former Departments	R
HOA	5 403
HOD	4 687
HOR	3 691
QwaQwa	2 241
DET	2 184
Ciskei	2 056
Venda	1 792
Gazankulu	1 699
KwaNdebele	1 595
Bophuthatswana	1 580
Lebowa	1 549
KaNgwane	1 480
KwaZulu	1 459
Transkei	1 053
Average	2 222

Source: Department of Education, Provisional 1994 C/S data, DoE 1994/5 budget estimates.

3.3 Each of the fourteen old education ministries which controlled schools (the DNE did not operate any schools) had its own configuration of models of school ownership, governance and funding. At the time of writing these models continue to exist. They

are often categorised as state and state-aided schools. However, these categories are not particularly useful as they conceal more than they reveal.

3.4 For example, the well-resourced Model C schools (about 96% of the former white state schools) are placed in the same state-aided category as the severely under-funded community schools in many of the former homeland departments and the even worse-off farm schools. The category of state schools includes some of the most prestigious and expensive schools in the country, and also struggling inner-city schools sometimes referred to as "street academies", "city colleges" or "fly-by-nights". Some of the schools categorised as private schools, including a number of the wealthiest schools, receive financial assistance from the State, while others receive none. Some of the state schools charge school fees while others do not. State schools also vary widely in quality depending partly on the department that controlled them.

The Inherited Models of School Ownership, Governance and Funding

3.5 We will now examine the major inherited school models in a little more detail.

State Schools

3.6 An examination of existing models of school ownership and funding in South Africa shows that although the State provides the bulk of the money for schooling, most schools are not state (or public) schools. "State schools" are those schools that are owned and funded by the State; they often charge school fees, but these are not legally enforceable and the schools do not depend on them for necessities such as teachers' salaries, textbooks, stationery, chalk or cleaning materials, or for library and laboratory facilities where these exist.

3.7 Table B on page 17 shows the number of schools of different types which existed in the former education departments together with their enrolments. The table has its limitations since not all the figures are for the same year and are thus not directly comparable. Nonetheless, it does give a good overview of the pattern of school ownership we have inherited in South Africa, demonstrating the relative strengths of the different types of school in existence in the former departments.

3.8 The table shows that in only five of the fourteen former departments which controlled schools, did state schools outnumber non-state schools (Transkei, Ciskei, QwaQwa and the departments of the Houses of Representatives and Delegates). In South Africa as a whole, the number of state schools is approximately one-third of the total number of primary and secondary schools in the country; about 40% of the state schools are in the former Transkei system and the overwhelming majority of these (probably well over 90%) are former community schools whose designation was changed but whose conditions remain similar to those of the community schools (see below) rather than to those of state schools.

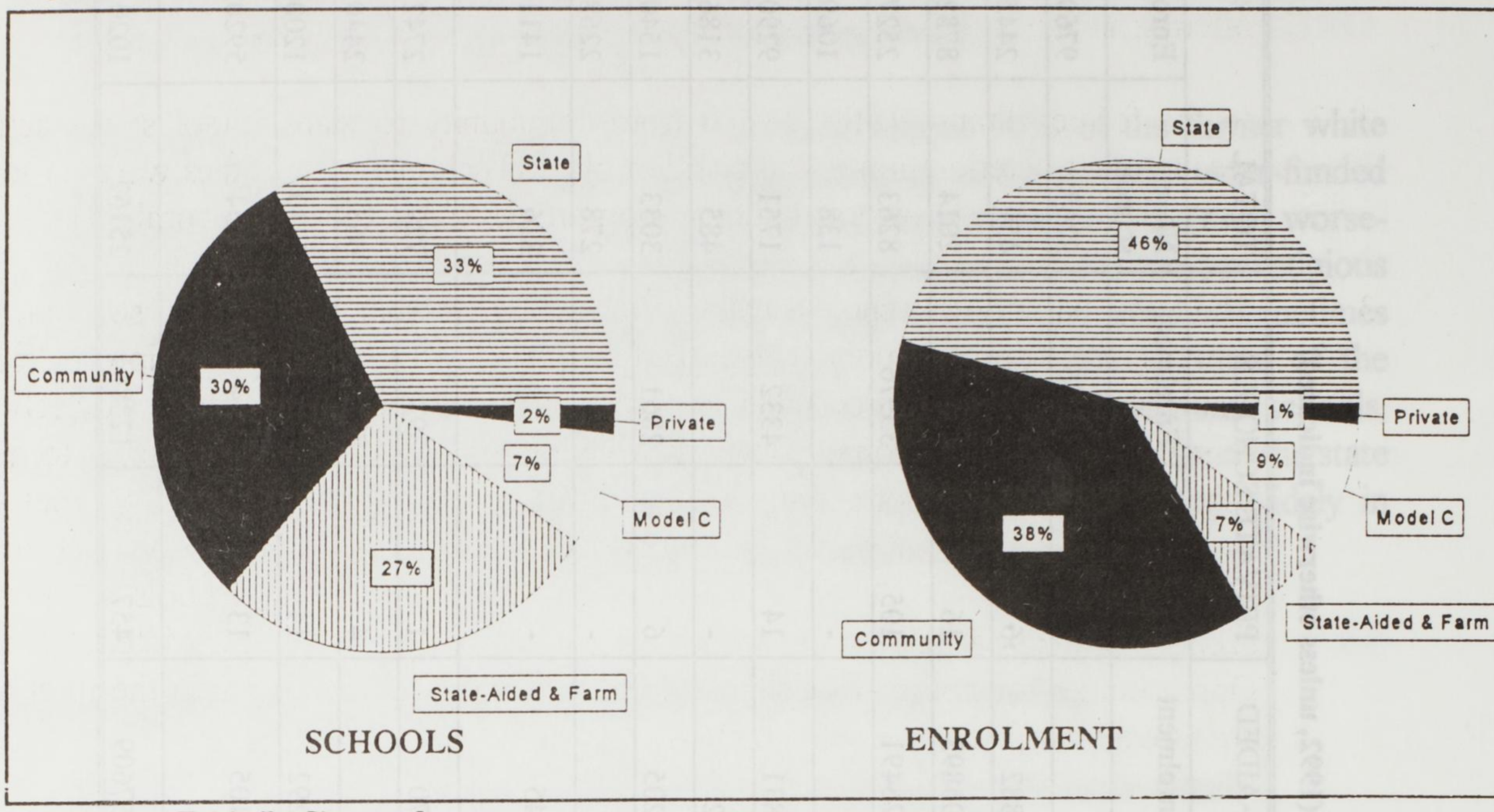
Table B: NUMBER OF SCHOOLS AND ENROLMENT IN THE FORMER EDUCATION DEPARTMENTS (1992, unless otherwise indicated)

	STATE SCHOOLS		COMMUNITY SCHOOLS		MODEL C SCHOOLS		OTHER STATE-AIDED SCHOOLS		PRIVATE SCHOOLS		TOTAL	
	No. of schools	Enrolment	No. of schools	Enrolment	No. of schools	Enrolment	No. of schools	Enrolment	No. of schools	Enrolment	No. of schools	Enrolment
HOA	129	45630	-		1860	866900	-		278	64446	2267	976976
HOD	415	233923	-		-		38	8882	6	1756	459	244561
HOR	1104	769216	-		-		894	105893	16	3132	2014	878241
DET	2307	1965376	-		-		5851	526491	105	35976	8263	2527843
QwaQwa[1]	137	105966	1	1030			-		-		138	106996
Lebowa[1]	8	8301	1717	909580			12	6831	14	4332	1751	929044
Gazankulu[1]	48	38412	436	280213			1	42	-		485	318667
KwaZulu[1]	21	11063	2994	1525742			12	1205	6	2861	3033	1540871
KaNgwane[1]	55	59024	223	167785			-		-		278	226809
KwaNde-bele[1]	3	1905	212	138976			1	245	-		216	141126
Ciskei[1]	519	201613	204	71763			5	470	1	393	729	274239
Venda[1]	125	61533	536	181659			-		4	837	665	244029
Transkei[1]	3351	1184781	2	323			43	9292	14	5617	3410	1200013
Bophutha-tswana[1]	64	34889	1374	551525			3	1105	13	4514	1454	592033
TOTAL	8278	4694975	7669	3828596	1860	866900	6884	667609	457	123864	25162	10201448

[1] 1990 Figures

Sources: HSRC; Edusource; Personal communication with individual departments.

Figure 1: Schools by Category 1992



Source: Table B, Chapter 3

3.9 The levels of funding for state schools varies considerably, from the poor schools of the rural Transkei to the relatively well-resourced schools of the former Houses of Assembly, Delegates and Representatives.

3.10 All the former departments provided for statutory governance structures in the state schools, but these have tended to be purely advisory and consultative, with no substantive powers. In all the former state departments, except that of the House of Delegates (HOD), the official governance structures were composed of parents and (usually *ex officio*) the school principal. In the former HOD schools, teachers' representatives were also included.

Community schools

3.11 These schools are the dominant type in the former homelands. In the rural areas, community schools are built and maintained by communities. The community *may* receive a subsidy on completion of building, depending on the availability of funds; in recent years these funds have been extremely limited, and many schools are built by some of the country's poorest communities with no state subsidy at all. In the urban areas, i.e. in townships, community schools are generally built by the State.

3.12 As far as operating expenses are concerned, the government has generally paid only for teachers' salaries, textbooks and stationery. All other expenses (those of building maintenance, cleaning materials and equipment, educational resources, sports equipment, etc.) have had to be borne by the school community. Given the prevailing poverty in most of these communities, it is hardly surprising to find most schools in a

wretched state, experiencing difficulty in attracting qualified teachers and consequently offering an education of inferior quality.

3.13 In the former Transkei, the switch from community to state-school status actually resulted in a deterioration in the position of rural schools as subsidies were no longer available, and state classroom building programmes did not reach the rural areas.

3.14 The vast majority of schools in the rural areas, whether community, state or farm schools, are extremely poorly resourced in terms of the buildings, equipment, books and other learning resources, and in access to basic infrastructure such as electricity, running water and telecommunications. Children usually walk long distances to get to school, and class sizes of seventy learners or more are not uncommon. Drop-out rates are high and a large but as yet unestimated number of children (probably well over a million) do not attend school at all. The vast majority of rural schools are primary schools, and opportunities for secondary education are severely restricted for most. Opportunities for both early childhood educare and adult education in the rural areas are rare although the needs are immense.

3.15 Community schools have statutory governance structures composed of parents and generally known as school committees. These have no real power to influence school policy but do play a role in mobilising community funding in order to pay for new buildings, maintenance costs, and other running expenses. Some rural community schools employ privately (and very poorly) paid teachers to make up for inadequate provision by education departments. Such teachers are often unqualified.

3.16 Traditional leaders have an important influence in the governance of many rural community schools. They are responsible for allocating the land on which a school is built and have generally controlled the collection of community funds for classroom building. Their position of power within the community in general often gives them a decisive power over key school decisions, despite the existence of a school committee with formal powers. The real power of the traditional leaders varies from community to community and from area to area, depending on various historical, social, political and other factors.

3.17 The Review Committee's investigations have shown that most communities in which community schools exist appear to prefer that their schools be converted to fully state-funded schools, but wish to maintain and even extend the rights of governing bodies/school committees. Many schools preferred to maintain the legal capacity-building to collect additional funding from the community and to control the use of these funds.

Farm schools

3.18 These are schools on private farms, catering largely for the children of black farm-workers; they were under the jurisdiction of the former Department of Education and Training. The Bantu Education Act of 1953 originally envisaged that farm schools would be established and maintained for the purpose of educating the children of farm

workers on the respective farm. Until as late as 1994, other children could attend a farm school, only with the assent of the Director-General of the Department of Education and Training. Today it is common for children to attend schools on neighbouring farms and it appears that in recent years the regulation with regard to obtaining the Director General's assent has been honoured more in the breach than in the observance.

3.19 The farm schools belong to the farmers on whose farms they are established, but the farmers receive a subsidy amounting to 100% of building costs and 50% of maintenance costs. The costs of school furniture, teachers' salaries and current expenses such as stationery and textbooks are carried by the State. Despite this, farm schools as a whole are the poorest and worst resourced schools in the country, catering to a population which is among the poorest of the poor.

3.20 The farm school system depends on the willingness of private farmers to maintain schools on their farms. Some farmers have been generous in their contributions, providing transport, water, electricity and other facilities. Nonetheless, the system has resulted in massive underprovision of schooling. Only about one farm in ten has a school, resulting in too few schools and in schools being located far from children's homes. It is estimated that at least 50% of children who live on white-owned commercial farms do not attend school. Approximately 95% of the schools are primary schools. An outcome of the system has indeed been that the majority of farm workers are illiterate.

3.21 The farmers' control over the schools meant that children who lived on farms were available to work for the farmers, who until the Education Laws (Education and Training) Amendment Act of 1988 (Act No 31 of 1988), had the right to remove them from school whenever they wished. (Since 1988 the farmer has not been allowed to remove children from school during school hours.)

3.22 As regards governance, the governing body of a farm school can either be the owner or manager of a farm, or a governing body consisting of the owner or manager and four elected parents. While some farmers do establish governing bodies including parents, they are not obliged to do so, and may abolish them if they wish. Any democratic participation that parents may enjoy is thus not theirs by right. In any case, it appears that very few farmers have established such governance structures.

3.23 The farmer (or the governing body where it exists) has wide-ranging powers over management and professional matters. Among these are the powers to control the admission of learners; to advise the department on the appointment, control and discharge of teachers; to close the school (subject to his registration contract with the department); control the subsidisation of the school (i.e. make representation to the circuit office for upgrading the school and control the process of upgrading); and to control school funds. It appears that a number of farmers find these responsibilities burdensome and would be willing to hand over responsibility for their schools to the State.

Model C schools

3.24 In April 1992, most of the state schools for whites - the best resourced and best staffed schools in the state system - were told by the government of the day that state funding to the schools would be cut. If they wanted to maintain their existing levels of funding, parents would have to take over part of the financial burden; this was to be done by converting the schools to "Model C" status. At the overwhelming majority of the schools, parent bodies chose to convert, and about 94% of the former House of Assembly (HOA) schools are now Model Cs.

3.25 At these schools, the State pays for salaries of teachers according to a fixed learner:teacher ratio. In practice this amounts to 75%-85% of operating costs. All other expenses must be paid for by the governing body elected by the parents. These expenses may include salaries of additional teachers.

3.26 Model C schools have governing bodies elected by the parents, and including the school principal as an *ex officio* member. Model C governing bodies exercise extensive and wide ranging powers on behalf of the school, which is a juristic person and can sue and be sued in its own name. The title deeds of the school have been ceded by the State to the school which is the registered owner of the property. This "ownership" is, however, hedged in with a number of restrictions so as to make it more fictitious than real: the school cannot be sold without the permission of the minister (a role now presumably taken over by the provincial MEC for education); it cannot be used as collateral for a loan; and if it is used for purposes other than education, ownership may revert to the State.

The governing body

(a) determines the general thrust of school policy;
(b) sets financial policy and manages the funds of the school, subject to an independent audit;
(c) determines tuition fees and can sue defaulting parents, but cannot expel or deny children an opportunity to learn simply on account of non-payment of fees;
(d) may generate its own funds and resources;
(e) appoints, promotes and dismisses staff members subject to applicable labour laws;
(f) may appoint staff members additional to those paid for by the State and pay them from the school funds;
(g) decides on additional curriculum programmes as deemed desirable by the parents;
(h) has the responsibility for maintenance of the school's physical facilities, and may undertake additional capital expenditure; and
(i) determines the school's admission policy.

3.27 The introduction of the Model C system appears to have increased parental participation in the affairs of the schools, in some cases unleashing the creative developmental and planning energies of school communities and mobilising substantial additional funds for use by the schools. Most of these funds cannot really be regarded

as a substantial saving for the State as is sometimes claimed, since they are used to improve the facilities or bolster the coffers of the particular school and do not necessarily replace expenditure which would have been undertaken by the State in the normal course of funding education at a state school. At some Model C schools, the school's funds are used to provide bursaries for learners who could not otherwise afford to attend the school.

Private or independent schools

3.28 In addition to the above-mentioned school types, there is also a relatively small number (under 500) of private or independent schools. These range from well-funded schools, charging fees of over R 15 000 rand a year and catering largely (but not exclusively) for an affluent elite, to poorly resourced inner-city schools catering for refugees from the chaotic schooling situation in townships and informal settlements. Between these is a whole range of schools, with a variety of fees, which attempt to meet the religious, linguistic, cultural, methodological or other needs of various groups in society.

3.29 Private schools must register with a state education department and must comply with certain minimum conditions for registration. These conditions include, *inter alia*, a school's compliance with approved curricula; an approved school day, school week, and school calendar; minimum qualifications requirements for teaching staff; approved school buildings and grounds; and a minimum number of learners to be enrolled at all times. In addition, an education department must be satisfied that a private school will make a contribution to the provision of education in the particular area and will not prejudice existing public schools. Private schools must also submit prescribed reports, including an audited financial statement, and be open to inspection by the department.

3.30 Private schools may be subsidised by a state education department and are divided into three categories for this purpose by the responsible minister: a 50% category, a 25% category or a 0% category. The subsidy from which these percentages are calculated is based on an estimate of what recurring costs and expenditure for the renewal and replacement of fixed assets should be. The private schools raise most of their funding through fees.

3.31 Governance of private schools is in the hands of their owners who could be private individuals, companies, trusts or churches.

Alternative governance structures

3.32 From the mid-1980s, and largely associated with the National Education Co-ordinating (formerly Crisis) Committee (NECC), there has been a growth of alternative school-level governance structures known as Parent-Teacher-Student Associations (PTSAs). These were seen from the beginning as part of a campaign to develop a new and democratic system of education which would empower all participants in the education process and provide an institutional framework in which all could participate in overcoming the educational crisis. It was based on a recognition that the crisis could

not be adequately addressed without the participation of all affected parties. In addition, the establishment was seen as an integral part of the liberation movement aimed at establishing a democratic system in South Africa.

3.33 PTSAs were established at many schools, especially at African schools but also at a number of schools for coloureds and Indians. They faced great difficulties in functioning for a number of reasons, including hostility from the authorities, lack of clarity on their role, and inadequate skills and knowledge to fulfil their functions competently. Nonetheless, PTSAs have continued to exist and have played an important role, particularly in crisis management and conflict resolution in the schools during the difficult past decade. Widespread support for the PTSAs under the new conditions has continued and the principle on which they were based (participation of parents, teachers and, at secondary school level, learners, in school governance structures with significant powers) has been accepted as government policy in the White Paper on Education and Training.

Special educational needs: the structure of provision

3.34 Special needs education services in this country have lagged far behind the estimated need. Provision for learners with special educational needs (LSEN) has been racially fragmented by apartheid policies, and this has resulted in inequalities in provision across the system. The current inadequacy of provision for African children with special educational needs is extreme. Furthermore, the issue of special educational needs has been relegated to the periphery of educational concern. Most children with special educational needs have been denied equal and appropriate educational opportunity. In some former departments, low priority has been accorded to the education of these children.

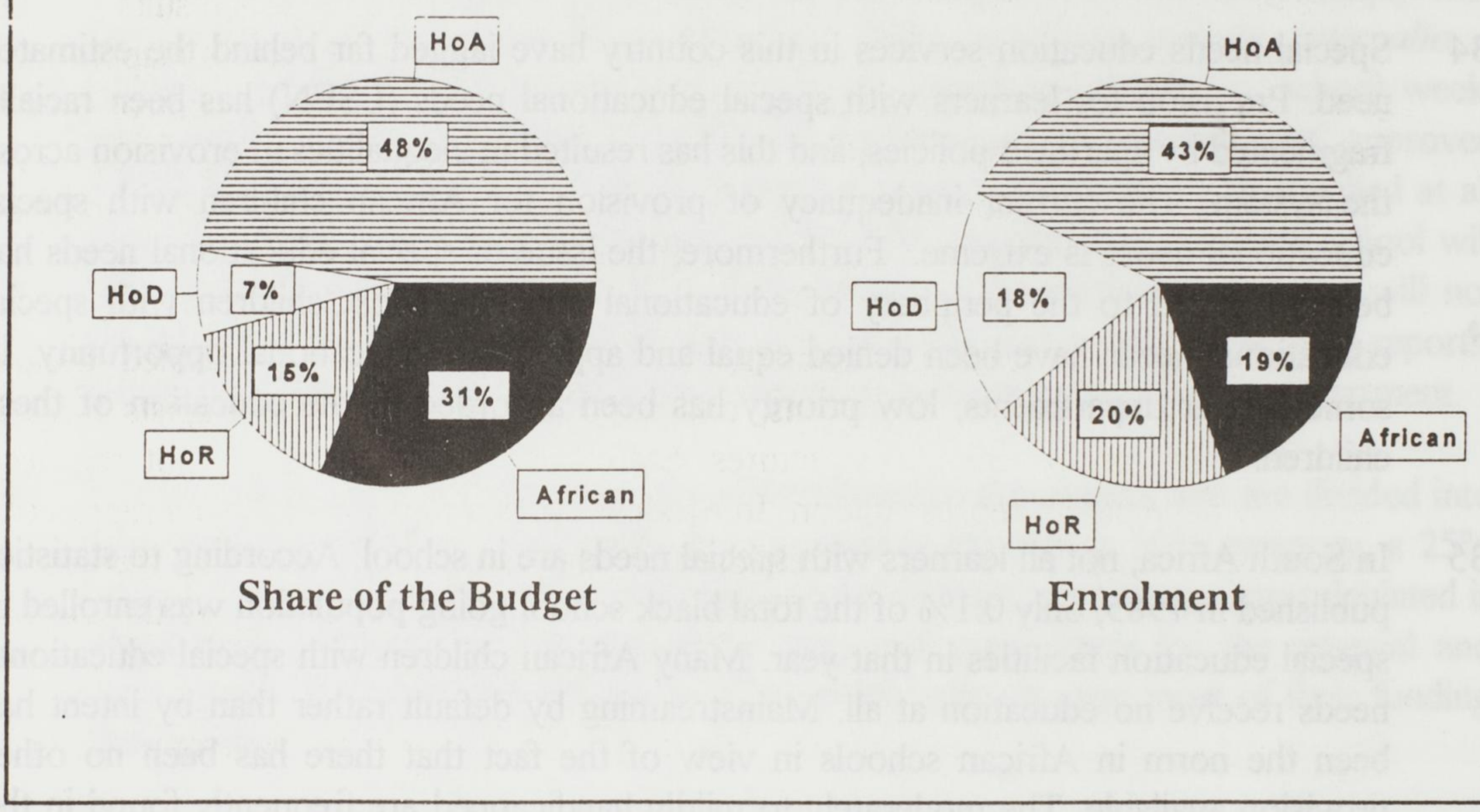
3.35 In South Africa, not all learners with special needs are in school. According to statistics published in 1985, only 0.1% of the total black school going population was enrolled in special education facilities in that year. Many African children with special educational needs receive no education at all. Mainstreaming by default rather than by intent has been the norm in African schools in view of the fact that there has been no other provision available. The moderately to mildly handicapped are frequently found in the mainstream classroom. These children are found in large classes (often with more than seventy learners), especially in rural areas. Their special needs are often not recognised, and such children receive no support whatsoever. Special educational needs are particularly apparent in primary schools where it has been found that these learners often repeat the same standard a number of times, and eventually drop out of school.

3.36 There have been mainstreaming initiatives for children with disabilities in schools under the former House of Delegates, House of Assembly and House of Representatives, but there is limited infrastructure to support such initiatives. In these education departments, there has been provision for children with learning difficulties in the mainstream schools: in self-contained special classes and in remedial classes. These services have been adequate for Indian children under the former House of Delegates and white children under the former House of Assembly, but limited for coloured

children under the former House of Representatives, and almost entirely lacking for African children.

3.37 In urban and semi-urban areas, schools and training institutions are segregated by category of disability: for example, schools for the physically handicapped, cerebral palsied, visually handicapped, hearing impaired. There are gross inequities in physical and human resource provision between these schools. A limited number of hostel places may house children as young as three years of age. Nevertheless, there remain many children, especially those who are socially disadvantaged and those in remote rural areas, whose special educational needs remain unmet. In practice, the well resourced, extremely high-cost schools serve only a small minority of such learners.

Figure 2: Special School Education 1992 -- Expenditure & Enrolment



Source: Buckland F P & J Fielden (1993)

3.38 Special education teachers and other education support services personnel (school health, school social work, psychological, guidance and counselling services, and therapists) are available in schools in the former House of Delegates, House of Assembly and House of Representatives. Historically, in African schools, there has been little commitment to provide services in mainstream classes for children with special needs. Therefore, services are virtually non-existent in schools where the majority of African learners are enrolled, despite the fact that half of all African children who enter school do not pass standard five in seven years.

3.39 The National Education Policy Investigation Report on Support Services drew attention to some of the major inadequacies of current support services, particularly the inequalities and inconsistencies between the racially segregated education departments:

African schools receive minimal, if any, access to services, and rural areas are the most neglected. This severe neglect is of even greater concern when one considers that African children, mainly as a result of apartheid policies, are more vulnerable to poor developmental outcomes, especially those associated with poor living conditions: mal- and undernutrition, disease, breakdown of the family, single parenting, female-headed households, and violence. In many communities across race groups, the unique needs of girls are not taken into consideration despite the fact that they are often discriminated against, abused and neglected.

3.40 The principle of representation and participation in governance structures by parents of learners with special needs teachers, specialised personnel, learners with special needs and the disabled community has been noticeably lacking both in special schools and in mainstream schools. Most schools have boards of management or management committees. In state and registered state-aided schools, criteria for membership on these bodies are laid down by the national Department of Education. In many schools, there are sponsoring bodies. Members of these sponsoring bodies are in the majority on governing bodies, and representatives of the relevant education department comprise the remainder of the membership, with the principal as *ex-officio* member. The inordinate amount of influence of sponsoring bodies in certain schools results in severe problems of governance. Such a composition of a governing body seems inappropriate: the sponsoring bodies often fail to meet funding obligations, yet have control over the total school budget. This situation causes tension between governing bodies, staff, parents and learners. However, there are schools at which sponsoring bodies are active funding partners, and have rendered invaluable service.

3.41 Generally, parents, teachers, learners, the disabled community, disabled people's organisations, parents' organisations, and support staff such as therapists have no representation on governance structures. State-aided schools that are not registered generally have parent representation. In Model C schools, parents are well represented and have extensive power. For children in the mainstream schools, there is no consistent policy for parents of LSEN, learners with special needs, and the disabled community, to have representation on governance structures.

3.42 Currently, arising out of recommendations in the White Paper, the Government is in the process of appointing a National Commission on Special Education and Training. This will, no doubt, examine the issues touched on in this Report in far greater detail.

Central Problems in the Current Pattern

3.43 RACISM. The current pattern of school organisation, governance and funding is the product of our apartheid past, and its philosophy is embedded in it. Certain schools with particular patterns of ownership, governance and funding exist only in areas formerly reserved for particular race groups and still largely occupied by members of those groups. This is true, for example, for both Model C schools and community schools. In the white farming areas, the farm schools have been and continue to be schools meant for the children of farm workers but not for the children of white farmers; the low educational quality that they offer ensures that farmers (who have

means at their disposal that are not available to the farm workers) send their children to Model C or private schools, even where they may have schools on their own farms.

3.44 The resources available to schools are to a large extent determined by the department that controlled them. These departments were organised along racial and ethnic lines and the schools that they ran are still largely attended by children of the same racial or ethnic groups. In short, despite the fact that some African children have been admitted to the schools formerly reserved for whites, coloureds and Indians, in South Africa today, a child's race is still one of the major determinants of the educational opportunities available to him or her.

3.45 INEQUITY. Even if all schools which exist at present were racially integrated, this would not solve the problem of inequity. This is because of the gross inequities in physical and human resource provision, and the funding and governance arrangements for the various existing school types.

3.46 It would thus not be sufficient to change the racial composition of the schools in order to bring about greater equality of educational opportunity; to do the latter it is essential to reorganise the existing school types into a new system which will facilitate the growth of equity across the entire system.

3.47 In the present system, state funding is inequitably spread across the entire system. The exact per capita expenditure figures for the different types of school are not available, even from the Department of Education's statistical services. But differences in per capita expenditure between the departments of the old racially-based system clearly illustrate the inequities that existed.

3.48 It seems especially inequitable that poor rural communities should have to pay for the cost of school buildings and other expenses as is the case with the community schools, while in urban areas the State covers these costs.

3.49 ADMINISTRATIVE INEFFICIENCY. The plethora of school types, developed in the context of multiple education departments in existence until recently, would clearly be difficult to manage under a single provincial education department. Even those schools falling into a single category as described above (for example, state schools or community schools) differ in the details of their governance and funding status, depending on their former department. They would thus have to be treated separately under a single education department if the system were not rationalised. It is thus clearly necessary in the interests of managerial efficiency to develop a new model of school types.

3.50 LACK OF DEMOCRACY. Under the old system, the major stakeholders are not all involved in the governance of schools. In all the statutory governance structures, teachers and learners as well as, in most cases, members of the broader community are not involved in the governing bodies. Student Representative Councils (SRCs) have been established at many schools without the approval of the school managements and are not recognised as official organs of school governance. This is of course not the case at all schools and there are schools where SRCs exist with the recognition and

approval of the school management. Unofficial governance structures such as PTSAs are increasingly being established with the encouragement of provincial education authorities in some provinces, for example, Gauteng, Eastern Transvaal Province and Northern Province.

3.51 One result of the exclusion of teachers and (in secondary schools) learners from governing bodies has been poor communication between different stakeholders, especially when difficulties have arisen. The lack of an institutional infrastructure for dealing with disagreements has often led to conflict and the disruption of schooling.

3.52 POOR QUALITY OF EDUCATION. The racism, inequitable funding arrangements and the lack of democratic structures in the entire education system have all militated against the development of quality schools. The inadequate funding has prevented the provision of the minimum resources necessary for quality schooling in black communities. At the same time, governance practices which excluded communities from any meaningful influence over the way their schools were run, discouraged community efforts to improve the quality of the schools.

3.53 RESTRICTED ACCESS TO SCHOOLS. Former white, coloured and Indian state schools - i.e. the better quality state schools - are geographically located in areas which, for the most part, are not easily accessible to African learners.

3.54 In areas where only Model C schools exist, those children whose parents cannot afford the fees cannot find alternative schools in their area. White children in this position have until this year been able to have their school fees subsidised by the State. Some state subsidies have, in the past year or two, also been extended to some black children. This has included some children of poor parents (e.g. domestic workers) living near to Model C schools, but other poor children have had to commute to township schools or be sent to live with relatives in rural areas. The practice of subsidising fees by providing bursaries in Model C schools has recently been done away with in some provinces.

3.55 WEAKNESS OF GOVERNANCE STRUCTURES. Many of the old statutory governance structures - especially those in African schools - have little legitimacy in their communities and collapsed as functioning structures long before the end of apartheid. Alternative governance structures often have difficulty operating effectively because of a lack of a shared understanding of their role and purpose, the lack of the skills necessary for their proper functioning and, at times, conflict with school and departmental managements. There is, as yet, no common legislation or set of regulations to guide the functioning of governance structures across the former departments, and most of the relinquishing departments have little or no capacity-building-building programmes for those in governance structures or even for school managers.

Developments Since April 1994

3.56 From the above discussion of the problems associated with the current pattern of school organisation, governance and funding, it should be clear that if the country

wants to overcome past divisions, and to create a single education system with one national and nine provincial departments, it is absolutely necessary to create a coherent pattern of school organisation, governance and funding.

3.57 Since April 1994, the various provinces have started to create new administrative, management and governance structures as part of the process of establishing new provincial education departments. In order to overcome the problem of having to manage the education system in accordance with a number of different pieces of legislation passed by the various racial and ethnically based legislative authorities in the past, most of the provinces have prepared legislation on school education.

SCHOOL-COMMUNITY RELATIONS IN RURAL AREAS

Submissions and visits to schools in rural areas revealed tensions between the school personnel on the one hand and the broader community on the other. This manifested itself in the apparent difficulties experienced by teachers and parents in working together. Reasons for this varied across settings but on analysis the tension mainly derived from the living and working conditions of teachers in rural areas.

In the former homelands teachers tend to live in a nearby urban settlement and commute to work rather than live in the village. Why? First, they are not able to access their housing subsidy because the land is Tribal Land. Secondly, the poor service infrastructure makes village life unattractive. Thirdly professional life as a teacher, besides being extremely onerous because of their lack of resources and overcrowding of schools, presents few challenges as long distances prevent teachers from accessing INSET.

These same difficulties face teachers on farms. But they are further disadvantaged as they are dependent on the farmer for accommodation. Living on farms means the teacher may be subject to the living conditions which the farmer places on his workers; their professional status can be undermined by the farm school managers who are able to exert great pressure on the school, even over professional matters. Many principals and teachers reflect their anguish over this state of affairs.

As a result teachers in both settings may be seen as "aliens" by the school community as they do not participate in village or farm life. Planning school committee meetings can be problematic because parents work when teachers are available and teachers are not in the villages during workers' free time.

The success of democratic governance depends on the resolution of this dilemma. In the first instance the organised teaching profession and the education departments must consider ways of improving the living and working conditions for teachers in rural areas. This must cover alternative options to the current housing subsidy and transport costs for teachers who work in rural areas to allow them to access inservice programmes. In addition some incentives are needed to attract experienced teachers to rural areas who can act as mentors to clusters of schools.

CHAPTER FOUR: CONSTITUTIONAL ISSUES RELEVANT TO SCHOOL OWNERSHIP, GOVERNANCE AND FINANCE[1]

This chapter discusses the implications of various provisions of the Interim Constitution for issues of school ownership, governance and finance.

The Effect of the Constitution

4.1 The Constitution sets the basis on which the national and provincial governments can act in the field of school education. It vests the national and provincial governments with general powers to legislate, but then places certain limits on these powers. These limits can be divided into three broad categories: limits imposed by the Bill of Rights, limits relating to the division of powers between national government and provincial government, and limits set by the transitional provisions of the Constitution.

The Bill of Rights

4.2 The Bill of Rights enumerates certain values which must be respected by the State and by any institution which exercises powers conferred by legislation. The governance of schools therefore takes place subject to the Bill of Rights.

4.3 Interpretation of the Bill of Rights takes place within a framework created by section 33, the limitations clause. Section 33 states the following:

> " *Limitation*
>
> *33.(1) The rights entrenched in this Chapter may be limited by laws of general application, provided that such limitation-*
>
> *(a) shall be permissible only to the extent that it is-*
> *(i) reasonable; and*
> *(ii) justifiable in an open and democratic society based on freedom and equality; and*
> *(b) shall not negate the essential content of the right in question....*
>
> *(2) Save as provided for in subsection (1) or any other provision of this Constitution, no law, whether a rule of the common law, customary law or legislation, shall limit any right entrenched in this Chapter."*

The effect of section 33 is that the State cannot infringe a fundamental right protected by Chapter Three unless the infringement can be justified in court as a legitimate limitation of the fundamental right.

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[1] This chapter draws very heavily on a document prepared for the Review Committee by Adv Matthew Chaskalson.

The fundamental rights which have the greatest impact on questions of governance, ownership and finance are the rights to equality, education and freedom of conscience.

Equality

4.4 Section 8 of the Constitution states:

> *"Equality*
>
> *8.(1) Every person shall have the right to equality before the law and to equal protection of the law.*
>
> *(2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.*
>
> *(3)(a) This section shall not preclude measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms....*
>
> *(4) Prima facie proof of discrimination on any of the grounds specified in subsection (2) shall be presumed to be sufficient proof of unfair discrimination as contemplated in that subsection, until the contrary is established."*

4.4.1 Section 8(3)(a) provides clear authority for the implementation of affirmative action measures in schools and exempts such measures from the scope of the equality clause.

4.4.2 Outside of the context of affirmative action the effect of the equality clause is that the powers of governance at schools cannot be exercised in a way which directly or indirectly discriminates unfairly.[2] Discrimination on any of the grounds set out in section 8(2) will be presumed to be unfair discrimination unless the body responsible for the discrimination can satisfy a court that this is not the case.[3]

4.4.3 The prohibition against indirect discrimination is significant. It means that practices of school governance which are on their face neutral, but which have

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[2] Because s 8 prohibits only unfair discrimination the right to equality has its own in-built limitation. There is not much scope for it to be limited further in terms of s 33. It is difficult to envisage a case in which unfair discrimination could be shown to be justifiable in an open and democratic society based on freedom and equality.

[3] In many cases it will not be difficult to satisfy a court that there is a fair basis to the discrimination. An obvious example of a case in which discrimination could be justified would be one involving admission practices at a single-sex school.

an indirect discriminatory effect will be presumed to be unfair discrimination and will have to be justified. Thus a school admissions policy which limited school places to learners living in the immediate vicinity of the school, would usually, given the legacy of the Group Areas Act, amount to indirect discrimination on grounds of race. Such an admissions policy may, however, be constitutionally defensible as an instance of fair discrimination.

The Right to Education

4.5 Section 32 protects a right to education. It states:

"Education

32. Every person shall have the right -

(a) to basic education and to equal access to education institutions;
(b) to instruction in the language of his or her choice where this is reasonably practicable; and
(c) to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race."

4.6 The guarantee in section 32(a) of equal access to educational institutions reinforces the general equality right conferred by section 8 and similar implications for school governance. The right is subject to limitation in terms of section 33(1). So it will not frustrate the implementation of any school admissions policy unless that policy discriminates unfairly.

4.7 The more important element of section 32(a) is that which places a duty on the State to ensure the provision of basic education to all who seek it. The precise meaning of "basic education" is unclear and the extent of the right conferred by section 32(a) will only be certain once the Constitutional Court has defined its conception of "basic education". Nevertheless, it seems safe to assume that the commitment in the White Paper to ten years of free and compulsory education would satisfy the Constitutional requirements of the right to basic education at this stage of our country's development.

4.8 Section 32(b) gives a right to instruction in a language of choice where this is reasonably practicable. Although the section does not expressly confine itself to official languages, a refusal by the State to undertake provision of school education in languages other than official languages would, in most cases, be a justifiable limitation of the right conferred by section 32(b).[4]

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[4] The education of deaf and hearing impaired learners may give rise to a possible exception in this regard. A refusal by the State to offer education in sign language to learners who requested it might constitute unfair discrimination on grounds of disability and thus infringe section 8 as well as section 32(b).

4.8.1 The "reasonably practicable" qualification to this right would allow financial constraints, educational resources, and similar factors to be given appropriate weight in the constitutional assessment of language policies in education.

4.8.2 The qualification also suggests that the right conferred by section 32(b) is not one that can ordinarily be invoked against individual schools. Individual schools cannot reasonably be expected to provide education in all eleven official languages. However, the school education system can be expected to do this. Thus section 32(b) suggests that the State must play a role in co-ordinating the language policies of schools within a particular area if the language needs of all of the learners living in that area are not adequately met by the existing language policies of the schools concerned. An approach which left school language policies to be determined only at the level of individual schools without regard to the language needs of learners in an educational district or region would be in breach of the State's constitutional obligation to those learners who were not accommodated by the individual school language policies so chosen.

4.9 There is considerable uncertainty over the nature of the right conferred by section 32(c).[5] It is possible to read section 32(c) as a positive right or a negative right. On a positive construal, section 32(c) obliges the State to fund schools based on a common language, culture or religion. On a negative construal the right merely prevents the State from interfering with any privately established and privately funded schools which are based on a common language, culture or religion.

4.9.1 Those in favour of a negative interpretation of section 32(c) point to a range of factors in their support:

(a) The language of section 32(c), when compared to that of section 32(a) and section 32(b) suggests that section 32(c) grants no right to claim anything from the State. Sections 32(a) and (b) confer rights to things, namely basic education and instruction in a chosen language; section 32(c), on the other hand, confers a right to do something, to establish particular types of educational institutions.

(b) The proviso to section 32(c) suggests a negative interpretation. If the section related to schools to be established and supported by state funds it would be gratuitous to provide for a prohibition against racial

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[5]See the discussion of s 32(c) in L du Plessis and H Corder 1994 Understanding South Africa's Transitional Bill of Rights Kenwyn: Juta, pp. 188-189. Compare also Basson South Africa's Interim Constitution: Text and Notes (1994), Cachalia et al Fundamental Rights in the New Constitution (1994) and Chaskalson "Constitutional Issues Relating to School Ownership, Governance and Finance" paper presented to the Review Committee conference on school ownership, governance and finance, Durban, May 1995, with Malherbe "Die onderwysbepalings van die 1993 Grondwet" 1995 TSAR 1, Maree Education Under a New Constitution (1994) and Kriel "Education" in Chaskalson et al Constitutional Law of South Africa (1995). The uncertainty over the meaning of section 32(c) was also reflected in the contrasting presentations made to the Review Committee.

discrimination. Section 8 already prohibits racial discrimination at public schools. If, on the other hand, the schools contemplated by section 32(c) are privately established and privately funded schools, the proviso makes sense. Private schools which are not funded by the State are not subject to the bill of rights and would therefore, in the absence of the proviso to section 32(c), be entitled to discriminate on grounds of race.

(c) The interpretation of section 32(c) as a negative right is supported by a reading of section 32(c) with section 14(2). Section 14(2) prohibits compulsory religious education and compulsory prayers at state and state-aided schools and allows no religious observances to be held at public schools unless they are conducted on an equitable basis. This section does not easily accommodate an interpretation of section 32(c) which anticipates the establishment of state and state-aided schools based on a common religion.

(d) A negative reading of section 32(c) would be consistent with the way in which the right to education is understood at public international law. This is particularly important in relation to the interpretation of section 32 because section 35(1) states:

> *"In interpreting the provisions of this Chapter [the Bill of Rights] a court of law shall ... where applicable, have regard to public international law applicable to the protection of the rights entrenched in this Chapter..."*

(e) Because a positive obligation on the State to fund cultural and religious schools is not commonplace in comparative constitutional and public international law, the uncertainty of section 32(c) suggests that no such obligation is placed on the State. In the few constitutions which do oblige the State to fund schools based on a common culture this obligation is expressed in unambiguous terms. The contrast between section 32(c) and section 23 of the Canadian Constitution or Article 30 of the Indian Constitution is striking in this regard.

4.9.2 However, those in favour of a positive reading of section 32(c), are also able to point to wording in section 32(c) which supports their case:

(a) The principal support for a positive reading of section 32(c) appears to be the "where practicable" qualification of the right. This qualification makes more sense if section 32 confers a positive right, because positive rights are more likely to be qualified than negative rights.

(b) Reading section 32(c) positively would lend coherence to section 32 as a whole because it would give the word "practicable" the same function in section 32(b) and section 32(c).

(c) A positive reading of section 32(c) may be consistent with the concern in the Constitution to encourage South Africa's cultural diversity.

4.9.3 For the purposes of this Report it is unnecessary to express a firm view on the meaning of section 32(c). This is because the Review Committee recommends that, as a matter of policy, the State should under certain conditions continue to include in the public school system schools owned by religious organisations, and to subsidise independent schools. This recommendation is consistent with either approach to section 32(c).

A positive reading of section 32(c) does, however, raise questions as to the scope of any positive right which the section may confer. In this regard, it is important to distinguish between, on the one hand, the establishment of cultural and religious schools with state assistance and, on the other, the purported reconstitution of existing public schools into public schools based on a specific religious, cultural or linguistic identity. Whilst the former may be a constitutionally mandated process, the latter is not. The schools affected by that latter process are the best resourced institutions in the public schooling system. They are a public resource which must be deployed for the general good in order to satisfy the generalised requirements of section 32(a). They cannot, in the name of section 32(c) be appropriated to serve the sectional purposes of a historically privileged minority. It is only in cases where affirmative action would be justified that section 32(c) could be invoked to claim an above average level of educational funds and resources.

Freedom of Conscience

"*Religion, belief and opinion*

14.(1) Every person shall have the right to freedom of conscience, religion, thought, belief and opinion....

(2) Without derogating from the generality of subsection (1), religious observances may be conducted at state or state-aided institutions under rules established by an appropriate authority for that purpose, provided that such religious observances are conducted on an equitable basis and attendance at them is free and voluntary..."

4.10.1 Section 14 will apply to public schools and probably also to independent schools which receive a state subsidy. It prohibits compulsory religious instruction and compulsory prayers at these schools. The section goes further and demands that any official religious observances conducted at a school must be conducted on an equitable basis. This would mean, at the very least, that

official religious observances cater adequately for the different religious needs of all learners at a particular school.

4.10.2 Like all provisions of the Bill of Rights, section 14 is subject to the limitations clause. It may, therefore, be possible to justify deviations from the strict principles of freedom of conscience in certain cases. Thus private religious schools which receive state subsidies may not be required to cater for the religious needs of learners who are not adherents of the faith which characterises the school. Whether a court would accept that public schools and state-subsidised independent schools can compel learners to attend religious observances and religious education classes is unclear. Such compulsion may be characterised as an unjustifiable limitation of the rights conferred by section 14(2).

The Relationship Between Provincial Government and National Government

4.11 The Constitution vests both national and provincial governments with the power to legislate in respect of all aspects relating to school education. Because of this concurrent legislative power, there is a possibility that in any province there will be provincial and national laws applicable to issues of school ownership, governance and finance. Where this is the case section 126(5) of the Constitution requires the national and provincial legislation to be interpreted

> *"as being consistent with each other, unless, and only to the extent that, they are, expressly or by necessary implication, inconsistent with each other."*

4.12 Where it is impossible to reconcile provincial legislation with national legislation a court must uphold one law over the other. In these cases section 126(3) provides that the provincial law will take precedence over the national law unless the national law

> *"(a) deals with a matter that cannot be regulated effectively by provincial legislation;*
> *(b) deals with a matter that, to be performed effectively, requires to be regulated or co-ordinated by uniform norms or standards that apply generally throughout the Republic;*
> *(c) is necessary to set minimum standards across the nation for the rendering of public services;*
> *(d) is necessary for the maintenance of economic unity, the protection of the environment, the promotion of interprovincial commerce, the protection of the common market in respect of the mobility of goods, services, capital or labour, or the maintenance of national security; or*
> *(e) interests of another province or the country as a whole, or impedes the implementation of national economic policies."*

The language of section 126(3) ensures that it will not be a formality to show that a national law on school governance, ownership or finance should take precedence

over a provincial law where it is not possible to reconcile the two. While it may be desirable that national legislation on these matters should prevail over provincial legislation, this is not constitutionally required. The national legislation will only prevail if the national government can satisfy the Constitutional Court that the particular subject matter of the legislation cannot be regulated effectively by provincial legislation or requires to be regulated or co-ordinated by uniform norms or standards that apply generally throughout the Republic.

4.13 Moreover, if the national legislation is to prevail over provincial legislation it must satisfy an additional requirement. Section 61 provides that national bills

> *"affecting...the exercise or performance of the powers and functions of the provinces shall be deemed not to be passed by Parliament unless passed separately by both Houses of Parliament."*

A national law which purports to override any provincial law clearly affects "the exercise or performance of the powers and functions of the provinces". It must therefore be passed separately by the Senate which is the representative of provincial interests in the National Parliament.

Transitional Provisions

4.14 Section 247 is designed to protect the management structures of certain educational institutions which existed at the commencement of the Constitution and to regulate the processes of change in education.

4.15 Section 247(1) provides that *bona fide* negotiation must take place before the national government or a provincial government alters the powers of "the governing bodies, management councils or similar authorities of departmental, community-managed or state-aided primary or secondary schools".

4.15.1 *Bona fide* negotiations involve a genuine attempt to reach an agreement but do not preclude a reasonable refusal to compromise. Where a government can justify its refusal to compromise with reasons which have been articulated in the course of negotiations it cannot be accused of bargaining in bad faith.

4.15.2 *Bona fide* negotiations can take place in a centralised bargaining forum. This is a common practice in labour law, and may be necessary for reasons of convenience and consistency. Outside of centralised negotiations it may not be possible for a government to deal with changes which it proposes to implement in respect of all governing bodies.

4.16 If *bona fide* negotiations between the relevant government and the governing bodies of the schools concerned do not produce an agreement, the Constitution allows the government to change the powers of the governing bodies unilaterally but "interested persons and bodies" are entitled to challenge the Constitutional validity of the changes. These challenges will succeed only if the interested

by section 247(1) or if they can show that the disputed changes violate some other constitutional right. Section 247(3) itself does not provide any additional rights which can be relied upon to challenge the changes.

4.17 Section 247(4) states that

> *"in order to ensure an acceptable quality of education, the responsible government shall provide funds to departmental, community-managed or state-aided primary or secondary schools on an equitable basis."*

The section must be read in the light of the general commitment in the Constitution to affirmative action. The allocation of additional funds to schools serving historically disadvantaged communities does not violate section 247(4).

Conclusion

4.18 The implications of the Constitution for issues of school ownership, governance and finance may be summarised as follows:

(a) The State is obliged to allocate sufficient funds to public schools to ensure that every South African learner is provided with basic education.

(b) The governing bodies of all schools funded by the State are prohibited from discriminating unfairly on grounds of race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.

(c) The governing bodies of all schools funded by the State are prohibited from organising compulsory religious education classes and religious observances at those schools. Voluntary religious observances at the schools must be conducted on an equitable basis. Whether private religious schools which are state funded may be able to deviate from these principles is not clear.

(d) The State is given a clear constitutional mandate to pass laws promoting affirmative action in education and to allocate resources in education on an affirmative action basis.

(e) The State is under a duty to co-ordinate school language policies at a district or regional level in order to ensure that the public schooling system adequately addresses the language needs of the learners that it serves.

(f) Private individuals have the right to establish schools based on a common culture, language or religion provided that these schools meet basic educational standards. The State cannot interfere with this right, and it

may be under a duty to fund schools based on a common culture, language or religion.

(g) The State may not change the powers of governing bodies of public schools unless it has conducted *bona fide* negotiations over the proposed changes with the authorities concerned.

(h) If the *bona fide* negotiations do not produce an agreement between the governing authorities and the State, the State may change the powers of the governing authorities without their consent.

(i) Both the provincial governments and the national government have legislative authority over all aspects of school governance, ownership and finance.

(j) If there are irreconcilable conflicts between provincial laws and national laws relating to school governance, ownership or finance, the provincial laws will prevail unless the national law falls within one of the categories enumerated in section 126(3) of the Constitution.

(k) A national law on school ownership, governance or finance cannot prevail over a conflicting provincial law unless the national law has been passed separately by the Senate.

4.19 It must be borne in mind that these conclusions are based on the provisions of the 1993 Constitution. This Constitution is an Interim Constitution and is due to be replaced by a final Constitution. The contents of the final Constitution have not yet been finalised and there is no guarantee that any of the provisions of the Interim Constitution discussed in this chapter will be re-enacted in the final Constitution.

CHAPTER FIVE: THE FRAMEWORK OF THE PROPOSED SYSTEM

This chapter describes how the Review Committee has approached the question of an organisation-structure for the school system, and then sets out its proposed categorisation of schools.

The Approach

5.1 South Africans must be given grounds for confidence that the new system of education which is being developed will be professionally planned and carried out, democratically governed, and effectively managed; that the structures and strategies developed will be such as to enhance quality; and that the resources will be equitably distributed over the population as a whole. It must be clear that the national education system is being effectively integrated.

The White Paper recognises the expectations and apprehensions of many who seek clarity on the direction which national policy will take on the structure of the new school system. Chapter 12 includes the following points (pp 68-69, paras 17 to 20):

> *"17 The Ministry of Education is keenly aware of the need for a clear strategy to defuse the tensions surrounding the issues of school governance and funding. The Ministry is required to send a clear signal to the people of South Africa that the school system is being democratised. The parents, teachers, students, managers and other stakeholders who are seeking an equitable and democratic solution which will best serve the educational needs of all communities, need a lead from the national Ministry of Education which will encourage them in their efforts.*
>
> *18 Many schools already reflect good, accountable management, with high levels of community participation, despite the inequalities and distortions inherent in the apartheid-based organisational and funding structures. The task facing educational leadership is to recognise the best experience from all parts of the system and, where necessary, enable communities to reshape their structures of governance so that they reflect constitutional principles including democracy.*
>
> *19 It is understandable that many parents, school principals, teachers and students are uncertain about what the changes in the system of education will mean for their schools and themselves. Those who are accustomed to stable schools, which have close links with the social, cultural and religious life of their communities, and honoured traditions, may feel that what is precious to them is threatened by unknown changes they may be unable to influence or control. Communities which have been favoured by the past political dispensation, and who know that a democratically elected government, representing an overwhelmingly poor electorate, cannot be expected to fund their privileges, may be particularly apprehensive about what is in store.*

> 20 *Equally, parents, teachers and students who have had to cope with appalling conditions, the result of decades of under-resourcing, instability, wasted potential and low morale, have high expectations from a government they believe rightly is committed to redress."*

5.2 Within the perspective indicated by the above paragraphs, and by the statement of principles contained in the same chapter of the White Paper (and quoted in para 1.8 of this Report), the Review Committee affirms these two propositions as fundamental to the strategy which it will propose:

(a) In the allocation of state resources to education, and in planning for parental contributions to education, account must be taken of the fact that nearly half (45.75%) of the national population is living in poverty, and that most of such people are in the rural areas.

(b) A primary objective is the equitable distribution of education provision over the national population as a whole, through a process which

(i) effectively expedites the development of new and improved facilities in under-resourced areas;
(ii) where overall equity requires it, reduces state funds to relatively well resourced schools; and
(iii) effects any such reduction in a phased and responsible manner, so as to minimise any adverse impact upon the quality of schooling in such institutions.

5.3 In concluding this section of the chapter, a further extract from the White Paper is apposite (p 68, para 24):

> *"24 Change must now be managed by the education departments in a systematic, inclusive and fully participatory way. Education departments must lead but not dictate. If radical change is imposed on schools by top-down direction in the absence of participation by those whose interests and identities are at stake, the result will be predictably disastrous. The Ministry of Education accepts that change will not be an overnight process but continuous over a period of time. In many parts of the country, local organisational capacity-building among stakeholder groups has been poorly developed and in some cases actively discouraged by previous authorities. It will take time for local leadership to emerge and engage with the new Departments of Education. The departments should be prepared to act flexibly while local capacity-building is being built, and to aid and facilitate that process".*

Aspects of the System Being Proposed

5.4 As indicated at the end of Chapter 1, the new system to be proposed has two dimensions: a structure and a process. The structure contains a framework of school

categories and school ownership, and norms and standards of school governance and funding. The categories of schools will be suggested in this chapter; the matters of governance and funding will be treated in the next two chapters respectively.

As regards the dimension of process, the issues of negotiated change and of capacity-building building will be discussed in Chapters 8 and 9 respectively. It is there that the Committee describes the approach proposed to negotiation, where necessary, with relevant school and community authorities and landowners, and the phasing-in of new school-governance structures with powers consonant with capacity-building developed.

Considerations

5.5 The design of a new system presents an enormously complex problem. This complexity lies in a number of factors mentioned below.

(a) SIGNIFICANT DIFFERENCES IN LEVELS OF RESOURCES. There are schools in South Africa which have their own computerised management systems, and there are schools without even a building, let alone electricity, offices or administrative personnel. This factor will seriously affect the kind of decisions and responsibility which can be delegated or devolved to the school level.

(b) DIFFERENCES IN AVAILABILITY OF MANAGEMENT SKILLS. Some schools are able to recruit on to their governing structures individuals who have considerable experience in management, financial administration and other technical skills and experiences. In the case of other schools such expertise would be very difficult to access.

(c) DIFFERENCES IN WILLINGNESS TO PARTICIPATE IN SCHOOL GOVERNANCE. In many areas parents have for generations been denied the opportunity to participate in school level governance, and in some communities there is little interest expressed by parents in performing what they perceive to be the Government's role. In other areas, parents and communities have for many years participated in school governance structures, and have come to regard it as a right.

(d) DIFFERENCES IN ACCESS TO PARENT COMMUNITIES. Schools for specialised education, boarding schools and some ordinary schools have parent bodies which are scattered over a wide geographic area, and their involvement in the governance of the school is thus more of a challenge than in schools where the parent body is easily accessible.

(e) NEED FOR A DEGREE OF UNIFORMITY AND COHERENCE. There is a need for any new governance model to have a degree of uniformity and coherence which will help to move away from the perceived inequities of the past and promote a sense of national unity.

(f) NEED FOR FLEXIBILITY TO ACCOMMODATE WIDELY DIFFERENT CONTEXTS. Any governance model developed by the Committee must be able to accommodate the wide range of contexts.

(g) NEED FOR A NEW-LOOK GOVERNANCE SYSTEM. It is important that the governance system proposed by the Committee is not so flexible that it permits the existing disparate and inequitable dispensation to continue under a new guise. There must be a real sense of something new, more empowering and equitable.

Principles

5.6 Arising from the above, and from the relevant principles in the White Paper, quoted in para 1.8 of this Report the following principles can be suggested as a framework for the proposed approach to negotiated change:

(a) EQUITY. The framework must embed equity into the system of school governance and funding. This concept of equity assumes that equal treatment of the unequal is not necessarily equitable, and requires an approach which takes into account the need to provide a basis for treating people equally in order to ensure equity.

(b) REDRESS. This value draws on the issue of equity and requires that specific unequal treatment be arranged to ensure that those handicapped by the prejudicial policies of the past receive a share of the resources which enable them to make up the backlogs which are a consequence of that past.

(c) QUALITY. One of the fundamental problems of the present system is the very poor quality of provision in many schools. It is simply not sufficient to ensure that resources are distributed more equitably: such movement toward equity must be focused on achieving a visible and measurable improvement in the quality of learning experiences which the learners encounter in the schools, and the quality of the results of that process.

(d) EFFICIENCY. Some redistribution of resources in a more equitable manner will in and of itself promote more efficient resource utilisation, where it is addressing the chronic under-utilisation of resources in the privileged schools. However, the aim of achieving optimum resource utilisation must remain a key consideration in the framework.

(e) LOCAL ETHOS AND NATIONAL COHERENCE. Any allocation of decision-making authority should not reinforce existing divisions inherited from the apartheid education era. The allocation of decision-making power should be designed to balance the need for community influence over the cultural

ethos of the school with the need for national coherence in the system and the promotion of a sense of national common purpose.

(f) RESOURCE-BASED AUTHORITY. The allocation of decision-making authority should be accompanied by the allocation of resources or the right to raise resources which can be managed by that authority.

(g) DEMOCRATIC RIGHTS. The allocation of decision-making authority should not be linked to the ability of a community to raise its own resources.

(h) INCENTIVES. The allocation of local decision-making authority should be based on the principle of incentive-driven change, with incentives offered for shifts in authority which conform to the broader vision of the system, and disincentives for those which do not.

Parental Rights in Context

5.7 Chapter 4 of the White Paper is entitled "Values and principles of education and training policy". One of its paragraphs is the following:

> *"3 Parents or guardians have the primary responsibility for the education of their children, and have the right to be consulted by the state authorities with respect to the form that education should take and to take part in its governance. Parents have an inalienable right to choose the form of education which is best for their children, particularly in the early years of schooling, whether provided by the state or not, subject to reasonable safeguards which may be required by law. The parents' right to choose includes choices of the language, cultural or religious basis of the child's education, with due regard for the rights of others and the rights of the growing child."*

5.8 The interpretation of that statement must be balanced against that of two others in that chapter:

> *"2 Education and training are basic human rights. The state has an obligation to protect and advance these rights, so that all citizens irrespective of race, class, gender, creed or age, have the opportunity to develop their capacities and potential, and make their full contribution to the society."*

> *"8 The state's resources must be deployed according to the principle of equity, so that they are used to provide essentially the same quality of learning opportunities for all citizens. This is an inescapable duty upon government, in the light of this country's history and its legacy of inequality, and it is a constitutional requirement. There must be purposeful strategies for ensuring that the system protects the rights of teachers and students to equitable treatment. Fair opportunities for training and advancement in the education service, including an affirmative action policy, are essential, in order to ensure an effective leadership cadre which is broadly representative of the population*

they serve. The representation of women in leadership positions must be drastically increased."

5.9 The Committee's recognition of parental rights is reflected in the recommended composition of a public school's governing body (where the parent constituency is to be numerically the strongest) and in the powers of that governing body.

5.10 But parental rights are not absolute or unlimited. They must be exercised within the framework of rights and equity reflected in the White Paper in paras 2 and 8 quoted in 5.8 above, and the State has the responsibility of ensuring that this takes place.

5.11 It must be emphasised that because the overwhelming majority are public schools, the State has the responsibility to formulate policy and manage the system in the interests of the overall populace. This does not prevent public school parents from playing a major role, through the governing bodies. As will appear in Chapter 6, in some areas of decision-making their say will be final; in others, it must be subject to State authority.

5.12 There have in the past been many successful examples, in community schools and state-aided schools, of a spirit of partnership between the State and a local community. The pattern proposed in this Report provides an opportunity for such a spirit to thrive.

Proposed New Categories of Schools

5.13 (a) The existing school models have been described in Chapter 3. All these models have strengths and weaknesses. For example, many Community Schools and Model C Schools have successfully mobilised local loyalties and resources within their respective contexts. The Committee's proposals for new categories are intended to maintain the positive characteristics of all existing models within a strategy reflecting the principles referred to in para 5.6 above.

(b) In developing proposals to integrate the national school system, the Committee has been concerned to avoid unnecessary distinctions among those institutions which are wholly or largely state-funded. Instead of different types of state and state-aided schools, it suggests one category of "public" schools.

(c) It is therefore proposed that there be two basic categories of schools, **public schools** and **independent schools**.

5.14 Of the two, the very much larger category comprises those schools which are funded totally or largely from state resources, and whose admission policies support the State's responsibilities for the provision of education. These constitute the public school system. Each of these schools will represent a partnership between the State and the local community. The teachers will be appointed by the State on the recommendation of the school's governing body. These schools will vary in respect of their legal ownership, the balance of their funding, the nature and extent of the financial and other powers exercised by institutional authorities, and certain aspects of the

composition of their governing bodies. The nature and the implications of these variations will be indicated below.

5.15 Independent schools are those which are privately owned and whose teachers are appointed by the school.

5.16 The difference between the two categories resides in their relationship to their respective provincial departments of education.

Variations Within the Public School Category

5.17 The public school system must maintain coherence in a pattern of partnership between, on the one hand, the State (effectively the province, with, the Committee would propose, a degree of power delegated to the district) and, on the other hand, the institutional community. The State is the senior partner, and retains the responsibility of ensuring that the resources which it holds in trust for the national community are effectively and equitably utilised over the whole system.

5.18 The public school model, while maintaining coherence, should be able to take more than one form. On the one hand, the arrangements should reflect different emphases in the relationship between state and school in matters of governance and finance. On the other hand, in some cases there is a need to accommodate distinctive contexts (e.g., schools on farms) and distinctive forms of partnership (represented in schools which while part of the public system are owned by religious or industrial organisations). In respect of both variations, detailed consideration will be given to governance in Chapter 6 and to funding in Chapter 7. Certain general points concerning these variations will be suggested in the following paragraphs.

5.19 Each school will have a governing body, whose *basic powers* of decision-making (set out in detail in para 6.37) will include, among other things, codes of conduct, school times, and the community use of the school facilities. On the appointment of teachers the governing body will make recommendations to the provincial education department in terms of para 6.13.

5.20 Beyond these basic responsibilities there are a number of practical functions requiring the exercise of authority in respect of individual schools. Examples of these are

(a) the maintenance of buildings;
(b) the purchase of textbooks and materials;
(c) the purchase of equipment; and
(d) responsibility for light and water accounts.

The Committee proposes that such services may either be provided by the State, or (where the school so wishes, and has the appropriate management capacity-building) the school may contract the service privately.

5.21 Governing bodies which so wish should be given the power, by the provincial authority, to handle one or more of the above "negotiable functions" as a juristic person. In respect of each of these functions the power would be given only if the governing body could provide evidence of a capacity-building to manage the functions in question and a will, on the part of the school community, to exercise these functions. However, a governing body seeking to gain such extended powers, but not yet able to demonstrate the relevant capacity-building, would be assisted in developing such capacity-building through the capacity-building-building programme set out in Chapter 9.

5.22 The *negotiable powers* in respect of such functions do not constitute a hierarchy, and different schools may elect to contract into some services and not others. It is also possible that, given reasonable notice, schools can negotiate to contract back into the state-provided service if they deem it to be in the interest of the learners.

5.23 Where the State provides these services it will be in accordance with an established framework of standards of provision. While these responsibilities may be delegated to schools, in the event of unsatisfactory performance the State would reserve the right to intervene to ensure that its policy, principles and priorities were respected. This would be a condition of granting negotiated powers to schools. Schools wishing for a level of provision above what the State could afford would have to provide for this from their own resources.

5.24 During the transition to the new system, schools without governing bodies should be directly governed by state structures until local capacity-building has been sufficiently developed for the respective governing bodies to be established and formally empowered. The establishment of new governing bodies should be effected as rapidly as possible.

5.25 In all variations of the public school model the State will pay the salaries of the teachers according to staff-provision scales. State contributions to other costs will vary according to the relative needs and the relative fund-raising potential of the schools and their respective communities. This should also apply to district-level support systems for schools. (See Chapter 7.)

Special Partnerships Within the Public School System

5.26 The Committee believes that there are circumstances under which the inclusion in the public school system of religious body or industry-owned schools would be appropriate, and we now suggest these. We also indicate the conditions which should be met before the State concludes an agreement entailing such an arrangement.

5.27 The history of education in this country provides many examples of successful partnerships at institutional level between a state education authority (provincial or other) and a religious body owning a school. The State, as senior partner and major funder, has had the final say in the selection of teachers. This pattern has the potential for fruitful co-operation in the future provision of schooling.

5.28 Conditions under which such co-operation would take place might include:

(a) In the case of each school seeking such an arrangement, the enrolment figures would need to be sufficient (i) for the school to be viable, and (ii) for the deployment of substantial state funding to the school in question to be compatible with a rational distribution of public educational resources within the district concerned.

(b) In respect of the admission of learners, the agreement between the province and the governing body or school owner should specify (i) the extent of the right of the school to give preference to adherents of the religious group in question, and (ii) the extent of the obligation of the school to give preference to local applicants irrespective of affiliation.

It is noted that in terms of section 14(2) of the Constitution, religious observances at public institutions must be both equitable and voluntary.

5.29 A similar arrangement is recommended where the State deems it fruitful to enter into partnership with an industrial organisation such as a mine or a plantation, where such an organisation builds a school for the children of its employees.

5.30 In the case of schools on farms, schools on tribally owned land, vocational schools and institutions for children with special educational needs, the position of the governing body will be fundamentally as set out in paras 5.10 to 5.16 above. But, within the proposed patterns of governance and finance, the distinctive situations and needs of these institutions will require recognition and accommodation. These matters are pursued in Chapters 6 and 7.

Independent Schools

5.31 The independent school model appears in two forms.

5.32 There are certain schools which do not seek state subsidies, or, in some cases, seek them but do not meet the criteria for a subsidy. Here the only need is for registration with the State in order to be allowed to operate. The State should be satisfied concerning professional standards of the staff and the material conditions of the school. Registration conditions must be enforced. The public must be protected against fly-by-night and other irresponsible institutions. Every independent school should be registered in accordance with a provincial education Act. Evidence should be provided by the school authority of a reasonable expectation of a minimum enrolment to be determined by the MEC. The school site and facilities should be suitable for a specified maximum number of learners. The provincial education department should be notified of all staff appointments (with details of qualifications and experience) and all teachers should be registered with the South African Council of Educators. The curriculum should include the core curriculum approved by the MEC, and the provincial education

authority should have access to the school's registers of teachers and learners, and any other records required by that authority.

5.33 The question of subsidies to independent schools is pursued in Chapter 7.

5.34 An independent school may seek to become a public school by negotiations involving the matters listed in para 8.38, and, if applicable, those in 5.28 above.

Home Schools

5.35 There remains the question of "home schools." A number of written submissions to the Committee asked for schooling at home to be recognised as fulfilling the requirement of compulsory education. Some also sought financial support for such home-based teaching activities.

5.36 In view of the importance of the social dimension in schooling, the Committee recommends that such recognition occur only when the provincial head of education is satisfied that a child's distinctive medical or personal circumstances justify it, and the teacher is professionally competent. The learners would of course enter nationally recognised examinations at the designated stages of schooling.

5.37 As regards state subsidy for such home schools, the resources available to education in South Africa do not permit their use in so uneconomical a way. Resources which would be used to subsidise home schooling can obviously be vastly more efficiently used where economies of scale can be applied.

Existing School Models and the System Proposed

5.38 Figure 3 on p 50 illustrates how existing schools would be accommodated in the new framework. One of the issues which emerged from the work of the Committee was that there is a very wide range of different powers and functions which are exercised by schools within the same categories under the present dispensation. The diagram reflects this by portraying various school types as "typical", and seeks to indicate in a symbolic way how the existing schools would initially be accommodated within the new framework.

5.39 Schools currently known as "private" or "independent" schools will be accommodated within the new framework as independent schools. As indicated in the diagram and explained in more detail in subsequent chapters, some may receive state subsidies, and some may not. A defining characteristic of these schools is that they will employ their own teaching personnel. It is quite likely that some schools will opt to become public schools; similarly, some privately owned state-aided schools may opt for independent school status. The process which would make such transition possible is outlined in Chapter 8.

5.40 With regard to public schools, it is important to stress that this diagram captures the *initial* location of a typical school of each type. The whole point of the new framework is that it immediately accords to schools the "basic" governing powers detailed in Chapter 6, and provides for the possibility of schools negotiating immediately for additional powers from the list of negotiable powers and functions.

5.41 Each school will therefore enter the new dispensation with its existing powers and functions. Where these powers and functions presently exclude some of those described in this Report as "basic", the additional powers will be immediately available to the school. Where a school wishes to extend its powers and functions, this will be achieved through an application and negotiation process outlined in Chapter 8.

5.42 In the case of powers which are currently held by the school, and which the framework allocates to the state or provincial authority, the provisions of section 247 of the Constitution require that these powers remain intact at the school level until appropriate negotiations are completed. The processes required for this negotiation are outlined in Chapter 8.

5.43 The diagram makes it clear that within a short space of time, the characteristics which defined schools as "farm", "state", "state-aided" or "community" schools will have less and less relevance, and the schools will take their place in the public schooling sector with the combination of powers and functions which best reflects the capacity-building and will of the community, and the policy priorities and accountability of the provincial authorities.

Figure 3: Possible Initial Location of Existing School Types in the New Framework

PROPOSED GOVERNANCE POWERS OF PUBLIC SCHOOLS	All public schools to have Basic Powers plus a negotiated combination of Negotiable Powers				
	Basic Powers (These basic powers will be given to all Public Schools)	**Negotiable Powers** (grouped into clusters from which schools can negotiate for any combination)			
		A	**B**	**C**	**etc.**
TYPICAL GOVERNANCE POWERS OF EXISTING SCHOOL TYPES (indicated in clear boxes, additional powers indicated in shaded boxes)	Community School X				
	Community School Y				
	Farm School X				
	Farm School Y				
	State School X				
	State School Y				
	State-aided (Model C School)				
	State-Aided (e.g Church)				
	State-Aided (e.g. Mine)				
	Other State-Aided Schools				

Typical governance powers of existing school type

Basic powers to be given to all Public Schools

Additional powers awarded on negotiated basis

CHAPTER SIX: NORMS AND STANDARDS OF SCHOOL GOVERNANCE

Introduction

6.1 The White Paper recognises that parents, teachers and the community of citizens represented by the State and in civil society, all have important roles in the education of South Africa's young people. So do the learners themselves. It seeks a framework for the governance of schools characterised by a sharing of educational authority among these four groups in ways that will support the core values of democracy.

6.2 These values require a balance between, on the one hand, an education that enables the child to identify with those attitudes, values and beliefs that enrich the lives of families and communities and, on the other, one which predisposes children to accept ways of life that are consistent with sharing the rights and responsibilities of citizenship.

6.3 If such a balance is to be achieved, schools must recognise the importance of promoting the development of the ability to deliberate rationally and to participate in communal decisions. This essential tolerance should be reflected in school governance structures. Frameworks for governing bodies must be patently non-discriminatory (for example, by removing sexist practices against the involvement of women and the exclusion of individuals with disabilities) and foster deliberative choice.

6.4 The recommendations for the governance of schools in this chapter recognise that education is a shared responsibility of schools, parents, learners (in secondary schools) and members of the community. Parents and guardians have both the right and the responsibility to participate in the education of their children. Other members of the community can offer experience and expertise of great benefit to learners. Students themselves have valuable knowledge of their schools. Teachers bring specialised skills and their sense of vocation.

6.5 Schools should aim at establishing governance structures that will enable elected representatives of the four groups to assume active and responsible roles in the determining and adoption of policies in schools. National and provincial prescriptions should allow for the fact that in many communities patient and sensitive negotiations will be essential before governing bodies are able to demonstrate the capacity-building and the will to exercise the choices envisaged in para 6.37.

6.6 In this chapter comment is made on important questions concerning the difference between governance and management. For perspective a brief account is given of the range of governance structures from the Constitutional requirements to the institutional level. Minimum requirements for the composition and operation of governing bodies are recommended. Their roles and responsibilities are outlined. Evaluation and reporting procedures are suggested.

6.7 As South African education reflects very wide variations in the capacities and needs of different communities as well as in the provision of education, special attention has had to be given to the governance requirements of distinctive contexts such as schools on farms; schools in areas of tribal authority; schools for learners with special educational needs; and independent schools. Recommendations in these areas are made following those on the general framework. With the exception of para 6.51, what follows applies to public schools.

Governance and Management

6.8 Governance and management are interwoven elements in a process that is aimed at enabling schools to provide effective and efficient education. Such provision requires clear policies and the generation, distribution and utilisation of resources in an accountable, equitable and effective manner. Discrete definitions of governance and management are difficult, if not impossible, so close is the relationship between them. While there are certain functions which are clearly governance and some which are patently management, there are yet others which could arguably be assigned to either, according to institutional context. Governance is widely agreed to be concerned with the formulation and adoption of policy and management for the day-to-day delivery of education. Generally, stakeholder groupings should be involved where policy matters are decided, while day-to-day decisions about the administration and organisation and activities supporting teaching and learning in the school should be the domain of the professional staff, although stakeholders should have the right to comment on and make suggestions with regard to such decisions.

6.9 Behind requests for definitions of the terms governance and management are a number of considerations, important among which are:

(a) the widely perceived need to place decisions on the day-to-day teaching and learning in schools almost solely in the hands of teachers and principals (management); and

(b) the understanding that democratic processes at the level of the school require the involvement, in the determination and adoption of school policy, of a number of interested parties, including parents, teachers, learners (in secondary schools), non-teaching staff and people from the community (governance).

6.10 It is possible to determine principles for the democratic governance of education without close definitions of the terms governance and management. Agreement between provincial authorities and schools on the essential differences between the two concepts will allow for negotiated and dynamic practices at the levels of both district and school that will result in an essential diversity within national and provincial policies.

Macro-level Governance

6.11 Policies on school governance are rooted in the Constitution, which lays down that school governance procedures must satisfy fundamental rights of equity, including non-discrimination (unless for the purposes of redress), equal access, and fair administration. There are requirements for the protection of cultural, language and religious rights. There are also requirements for *bona fide* negotiations in change in the transitional stage, and for an equitable basis for funding of schools.

Provincial-level Governance

6.12 Provincial authorities are responsible for school education within national policies. Their governance functions include the employment of staff; the management of the system; supervision; the monitoring of standards; the examination system; and curriculum development.

6.13 The Committee's view is that the employer of all teachers in public schools should be the State. While the province should appoint the teachers, the Committee was unanimous that each governing body should have a deep influence on the appointment of staff to a school. Each appointment should follow the recommendation of the governing body. Should the recommendation not be accepted by the province, it should be required to provide reasons and, before finalising the appointment, enter into negotiations on the matter, if so desired by the governing body.

6.14 Provincial authorities may make regulations on admission policies within national norms.

6.15 Consultative structures must be created at provincial level. Provincial departments must take decisions about the structures within which stakeholders will be represented, and on the nature of the representation.

District-level Governance

6.16 Provincial authorities will also establish district and local governance structures. In these the democratic principles of representativity, non-discrimination and the fostering of human rights are essential.

6.17 District level governance structures must have representation by officials of the provincial department, parents, teachers, learners and members of the community. Representation on such structures must reflect gender balance (if necessary, through the nomination of additional members of the under-represented gender).

6.18 The function of these structures would be to provide professional support, to monitor, and to facilitate the most effective use of resources. They should be

involved not only in education-specific activities but also in wider structures and activities to facilitate inter-sector co-operation and development.

6.19 The district level is of particular importance in the vulnerable rural areas, where the under-resourced schools on farms and in traditional-authority areas merit special attention. (These are dealt with more fully in paras 6.43 to 6.52).

6.20 Suitable evaluation and reporting procedures must be developed.

Governance in Public Schools at the Level of the Institution.

6.21 The term "governing body" should be used uniformly to describe the body that is entrusted with the responsibility and authority to formulate and adopt school policy within the national, provincial and district vision for education.

6.22 Governing bodies should be representative of the main stakeholders. In primary schools, parents and teachers should have significant representation, as should parents, teachers and learners in secondary schools. (See para 6.27).

The Development of Governing Bodies

6.23 Provincial education authorities must direct schools in their jurisdictions to establish governing bodies. They should ensure that a governing body is in place in all schools by January 1997. Communities should either establish entirely new governing bodies or adapt existing structures so that they conform to the norms and standards laid down.

6.24 Schools should have student representative councils, and may have representative structures in addition to the governing body, for example parents' associations. The governing body has specific responsibilities, but is not intended to replace such other bodies, which can make valuable contributions within a school community.

6.25 Staff meetings and learner meetings are important in the successful management of schools and may lead to recommendations on policy to the governing body.

Minimum Requirements for the Composition and Operation of Governing Bodies

6.26 Governing bodies need to be constituted in ways that take account of particular local circumstances. In many areas sensitive negotiations will be required if there is to be general acceptance of their roles. It will often take some years of capacity-building building before governing bodies can become fully effective. For this reason, and because some diversity is desirable, only minimum requirements are suggested below.

Membership of governing bodies

6.27 Members of a governing body should include, but not be limited to:

(a) representation of
  (i) parents and guardians of learners currently enrolled in the school,
  (ii) learners (in secondary schools only),
  (iii) teachers,
  (iv) non-teaching staff;
(b) the principal (*ex officio*); and
(c) members of the community. In certain schools this category of member might accommodate owners, representatives of sponsoring bodies, or of tribal authorities. Representatives of the community could bring in needed expertise in such areas as finance, building, personnel management, law, etc.

6.28 If necessary, additional members should be nominated to ensure a gender balance. Full participation on governing bodies may be particularly difficult for women in communities in which they have been denied authority.

6.29 The parents and guardians should have the largest representation of the constituencies represented on the governing body, the membership of which should reflect such diversity as there is within the relevant school community.

6.30 In view of the position of professional authority held by the principal and teachers in relation to learners, a provincial education authority or an individual governing body may determine that learners should not participate in sensitive discussions about the principal or individual teachers. Where such a determination has been made, learners would not be included in a staff affairs committee of a governing body, nor be present at such times during a full governing body meeting when such staff matters were discussed.

6.31 Governing bodies should not be structures for political party representation.

6.32 Membership of the governing body should be determined by formal election processes.

(a) Parent representatives should be elected by parents and guardians of learners currently enrolled in the school.
(b) Learner representatives should be elected either directly through the student body or through the SRC.
(c) The school principal should be a member *ex officio*.
(d) Teacher representatives should be elected by members of the teaching staff.
(e) Non-teaching staff representatives (if there are to be any) should be elected by the non-teaching staff.
(f) Community representatives should be nominated by parents or guardians and elected by the governing body.

General provisions

6.33 The term of office for elected members should be three years, except for learner members, who should be elected each year. Elected members should be eligible for additional terms of office.

6.34 In order to ensure continuity, elections should be staggered: the term of office of all members should not terminate simultaneously.

6.35 There should be no remuneration or honorarium paid to members of the governing body, although where circumstances warrant transport costs may be paid.

6.36 The chairperson should be elected by the governing body from among its members, but should not be the principal, a teacher or a learner.

Roles and responsibilities of governing bodies

6.37 Governing bodies are bodies that determine and adopt policies within the national and provincial visions for education. They may also advise the teachers where appropriate, without infringing on professional autonomy. Their negotiable powers have been referred to in paras 5.21 and 5.22. Also of relevance are:

(a) the additional functions available to schools with the desire and capacity-building to exercise them; and

(b) the proposed capacity-building-building programme, set out in Chapter 9, which would facilitate the acquisition of such powers by governing bodies desiring them but not yet equipped to exercise them.

6.37.1 Typically, governing body decisions would be made on

(a) the school's mission, goals and objectives;
(b) fund-raising and the control of finances;
(c) school-community communication strategies;
(d) school budget priorities;
(e) codes of behaviour for staff and learners;
(f) school times and timetable;
(g) subject choices and the extra-mural curricula;
(h) services and community partnerships related to social, health, recreational and nutritional programmes;
(i) methods of reporting to the parents;
(j) community use of school facilities;
(k) local co-ordination of services for children and youth;
(l) development, implementation and review of governing body policies; and
(m) appointments of administrative staff.

6.37.2 Governing bodies should recommend to the provincial authority the appointment of teachers. The procedure has been indicated in para 6.13.

6.37.3 The governing body should also make recommendations to either the school management committee or the provincial department on a range of issues, including

(a) school level curriculum choices (within national and provincial frameworks); and
(b) selection of temporary teachers for appointment by the governing body.

6.37.4 The governing body should, in addition

(a) establish its goals, priorities and procedures;
(b) organise information and training sessions to enable members of the governing body to develop their skills;
(c) hold a minimum of four meetings a year.
(d) communicate regularly with parents and other members of the community, to seek their views and preferences with regard to matters being addressed by the governing body, and to report; and
(e) promote the best interests of the school community.

Negotiable powers

6.38 These consist of a set of functions which either the province can provide on contract to the school, or the school can contract privately, where the province gives the school the right to do so. These functions do not constitute a hierarchy, and different schools may elect to contract into some services and not others. It is also possible that, given reasonable notice, schools can negotiate to contract back into the state-provided service if they deem it to be in the interests of the learners. These functions would include the following:

(a) maintenance of buildings,
(b) purchase of textbooks and materials,
(c) purchase of equipment,
(d) responsibility for light and water accounts.

Where the province provides these services it would be in accordance with an established framework of standards of provision. These responsibilities would be delegated to schools, and in the event of unsatisfactory performance the province would reserve the right to intervene to ensure that its policy principles and priorities were respected. This would be a condition of granting negotiated powers to schools. Schools wishing for a level of provision above what the province could afford would have to provide this from their own resources.

Roles and responsibilities of the members of the governing body.

6.39 The chairperson of the governing body should:

(a) call governing body meetings;
(b) prepare the agenda for governing body meetings;
(c) chair governing body meetings;
(d) ensure that minutes are recorded and maintained;
(e) participate in information and training programmes;
(f) communicate with the school principal;
(g) ensure that there is regular communication with the school community; and
(h) consult with senior staff members and other members of the governing body, as required.

6.40 Members of the governing body should :

(a) participate in governing body meetings;
(b) participate in information and training programmes;
(c) act as a link between the governing body and the community;
(d) encourage the participation of parents and of other people within the school community;
(e) address sex and gender concerns throughout the school in respect of curriculum choice, learning activities, cultural, social and sporting activities; and
(f) prevent any form of physical or sexual abuse.

6.41 The school principal should

(a) facilitate the establishment of the governing body and assist in its operation;
(b) support and promote the governing body's activities;
(c) seek input from the governing bodies in areas where it can advise;
(d) act as a resource on laws, regulations, policies and educational matters;
(e) obtain and provide information required by the governing body to enable it to make informed decisions;
(f) communicate with the chairperson and members of the governing body, as required;
(g) ensure that copies of the minutes of governing body meetings are kept at the school;
(h) assist the governing body in communicating with the school community; and
(i) encourage the involvement of parents from all groups and other people within the school community.

Evaluation and reporting

6.42 Governing bodies should develop procedures for evaluating their operation and the implementation of their policies. An annual report on the operation of the governing body should be published each year.

Public Schools in Rural Areas

6.43 Governance structures of schools in rural areas must take account of the distinctive social and educational needs of the communities, the isolation of schools, the lack of facilities and services, and the limited resources available. Decisions should be based on the circumstances in each case and amendments to existing practices should be brought about through negotiated change. District and local level structures will be of particular importance in these areas to support the upgrading, integration and rationalisation of facilities both within the educational sector and across different sectors. School governance policies should be integrated with developmental policies in other spheres like health, community development and public works programmes. The promotion of development and equity in these areas requires the creation of education governance structures that will facilitate the optimal use of resources. It might well be desirable in some cases for clusters of schools to be formed, and for their rationalisation to take place under one governing body. Should community development facilitators be appointed in a district to support the delivery of services over a wide range of functions, they should be empowered to act as advisers to the governance structures.

6.44 With regard to public schools on farms there are particular concerns involving land ownership. These will require negotiations. Nevertheless, the same principles of participation by parents, teachers, community representatives and learners (in secondary schools) should apply. During the process of transition (see Chapter 8) the owner or manager of a farm has rights with regard to his/her ownership of the property. For this reason he/she should have representation on the governing body, either *ex officio* or as an elected member. But at no stage does ownership of the farm bring with it control over the professional aspects of the school, such as the appointment and promotion of teachers, supervision of the school, control of equipment, the administration of school funds, decisions on admissions, or the upgrading of the school.

6.45 Traditional leaders could have *ex officio* representation on district education consultative structures in tribal authority areas. With the tribal authority having representation at the district education consultative level, it is probably not necessary for any *ex officio* representation at institutional level. However, should tribal authority representation be seen as necessary at institutional level, a membership category should be added to the relevant governing bodies.

Privately Owned Schools in the Public Sector

6.46 The public sector includes schools established by private owners, such as churches and mines, in which teachers are employed by provincial authorities and in which the province provides the major portion of the funding. The governance arrangements of such schools should reflect the participation of parents, teachers, members of the community and learners (in secondary schools). The governing body of such a school should also include representatives of the owning body. As public schools these institutions, unless full, should not be able to refuse admission to learners of the right age or, in the case of secondary schools, to learners who have completed primary school. However, as indicated in para 5.28(b) in the case of a religious body school there should be an agreement between the religious and the education authorities specifying an admission formula which would allow the school, in respect of certain places, to give preference to adherents of the religion in question. In the case of a mine or plantation school, a similar negotiated basis for admissions would be required for employees.

Schools for Learners with Specialised Educational Needs (LSEN)

6.47 While it is recognised that there is to be an investigation into the requirements of learners with special education needs, some points concerning governance in relation to such education are made. The education of learners with special educational needs (LSEN) should be provided for within a continuum of integrated services in both ordinary and special schools. In these schools the general governing principles should apply. However, where appropriate either the governing body or especially established sub-committees of the governing body should include

(a) parents or guardians of learners with special educational needs;
(b) the learners themselves where applicable;
(c) parents' organisations representing LSEN;
(d) disabled people's organisations;
(e) a member of the education support services team such as psychologist, school social worker, guidance counsellor;
(f) a member of the sponsoring body, where applicable; and
(g) a member of the disabled community.

6.48 In ordinary schools and in schools for LSEN, the governing body should serve as a participatory mechanism for planning and monitoring educational provision to ensure that the school provides the most enabling environment for LSEN.

6.49 As regards LSEN in ordinary schools, decisions would be made on

(a) establishment of an LSEN sub-committee;
(b) inclusion arrangements for LSEN;
(c) goals and priorities for LSEN provision;
(d) staffing for LSEN provision at the school;

(e) arrangements for special needs education in-service training for staff; and
(f) the type and level of additional support needed from education support services, health and welfare services.

6.50 In schools for LSEN, the governing body should, in addition:

(a) establish ways to ensure participation of parents of LSEN in school governance, especially in schools with residential facilities;
(b) ensure that there is collaboration with mainstream schools and the community to provide the most enabling environments for all learners, and to facilitate the sharing of resources and expertise;
(c) encourage professional development of staff through in-service programmes; and
(d) ensure that there is a sharing of resources and expertise with under-resourced schools.

Independent Schools

6.51 Independent schools have to comply with educational laws and regulations and register with provincial authorities. The independent sector is characterised by a wide diversity of types of school. This diversity should be reflected in the range of governance structures. Many have been formed as educational trusts or as Section 21 Associations not for Gain. In recent times some have been established as Close Corporations. There have also been successful examples of proprietary ownership of independent schools. All independent schools should be required to submit to provincial authorities an application for registration. Their constitutions should be approved by the authorities before registration certificates are issued. They should include procedures for governance of the school.

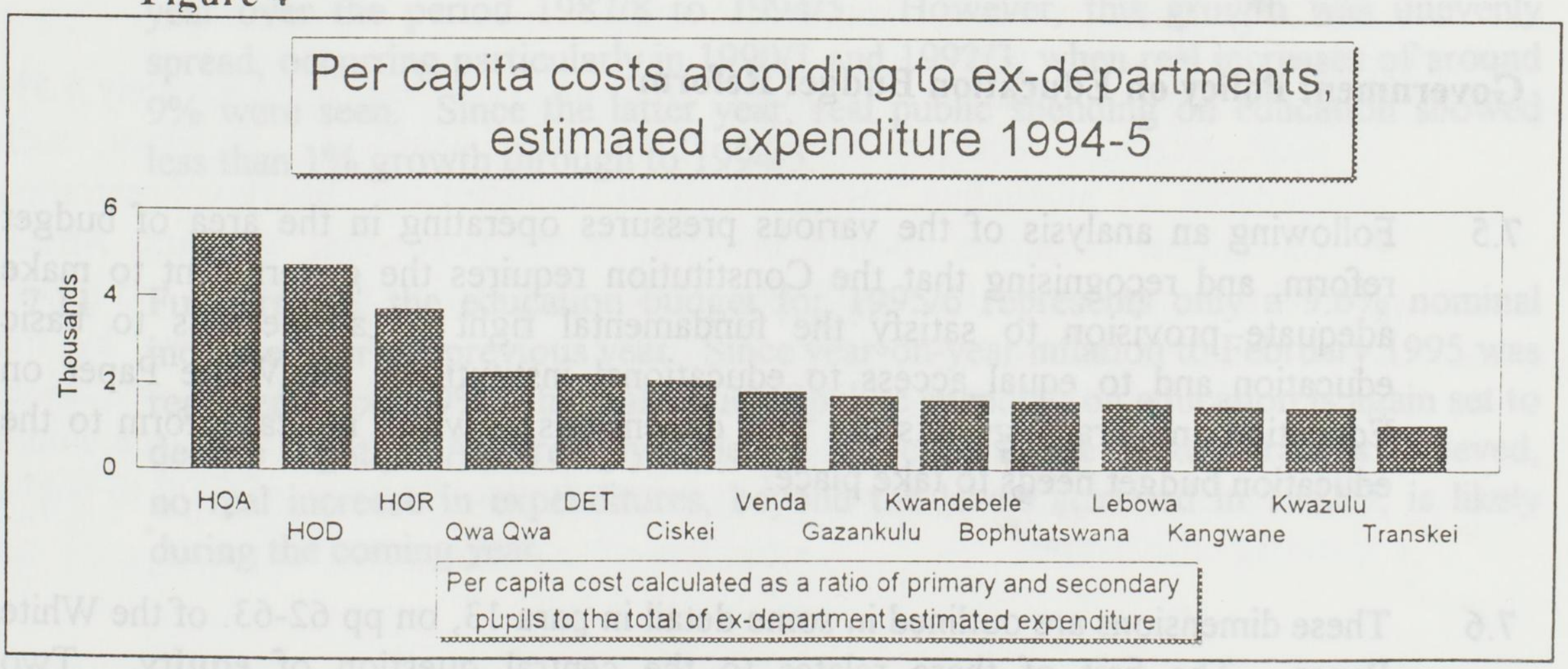
CHAPTER SEVEN: NORMS AND STANDARDS FOR THE FINANCING OF SCHOOLS

Overview of the Current Situation Regarding School Financing

7.1 The White Paper has commented on South Africa's educational legacy. The current financing of the education system is characterized by vast inequalities and imbalances. While the education system includes a well-resourced, well-staffed sector which has created and sustained the country's sophisticated economic and financial infrastructure, it also contains a large poorly resourced sector, in which the majority of students drop out prematurely and only a small minority gain entrance to higher education.

7.2 *"Millions of adult South Africans are functionally illiterate and millions of South African children and youth are learning in school conditions which resemble those in the world's most impoverished states"* (White Paper, Chapter 3, para 8). Gross inequalities in educational attainment, skills, employment opportunity, productivity and income have been laid down over generations of minority rule and ethnically-based economic, labour and social development policies. As late as 1994/95 the budget allocation for primary and secondary schools resulted in estimated expenditure-per-learner ratios of 4:3:2.6:1 for the education departments of (respectively) the former Houses of Assembly, Delegates and Representatives and the Department of Education and Training (see figure 4. below). Personnel costs are currently consuming between 80% and 90% of the recurrent expenditure in provincial departments.

Figure 4

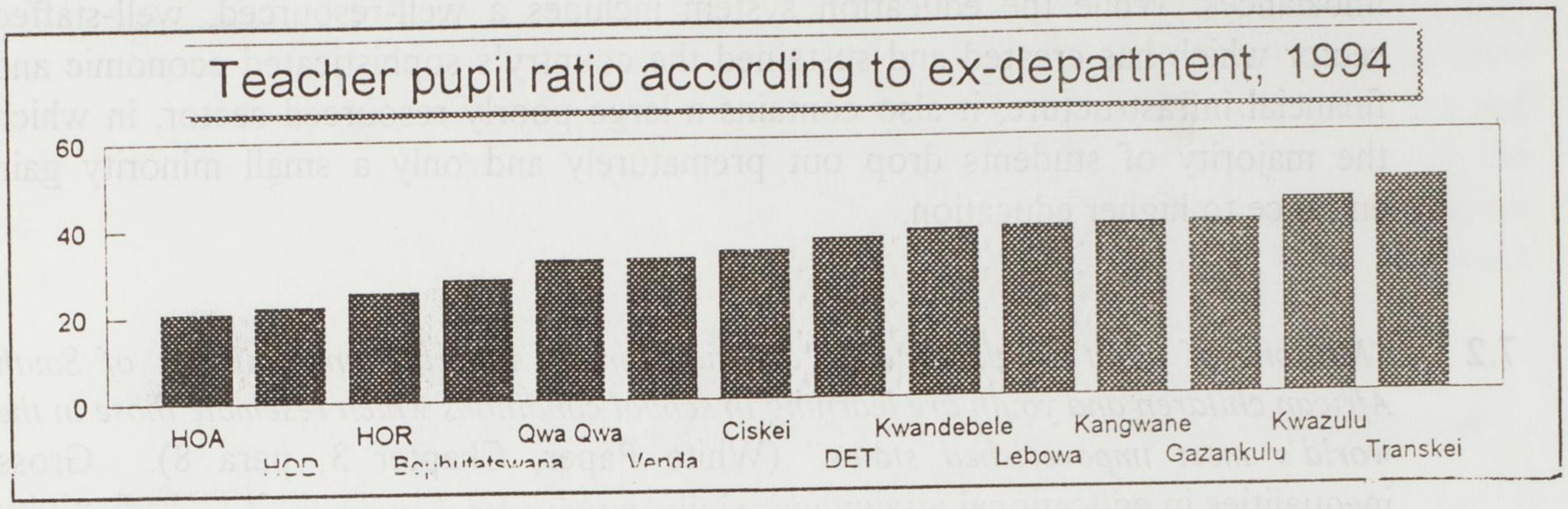


Source: Department of Education, 1994/5 departmental budget estimates

7.3 The inequities in per capita spending between departments are largely due to the skewed distribution of teacher qualifications, inappropriate linking of salary levels

to qualifications, and disparities in learner:teacher ratios (figure 5). While the overall national learner:teacher ratio is below 1:35, the distribution of teachers and the absolute shortage of teachers in the technical fields will need to be addressed. It is currently estimated that there is a teacher shortage of about 40 000 teachers in African schools. The shortage is particularly severe in the provinces of KwaZulu-Natal and the Eastern Cape.

Figure 5



Source: Department of Education, Provisional 1994 College/School Statistics

7.4 In addition to inequities in teacher per capita costs, other staff costs, classrooms, facilities, supplies and materials are inequitably distributed. This has given rise not only to unequal access, but also to inefficiencies within the system and disparities in learning outcomes. Repetition rates and matric pass rates are closely related to per capita expenditure. The African repetition rate in grades 1 and 2 is close to 20%, and the matric pass rate in former African departments is unacceptably low.

Government Policy on Education Budget Reform

7.5 Following an analysis of the various pressures operating in the area of budget reform, and recognising that the Constitution requires the government to make adequate provision to satisfy the fundamental right of all persons to basic education and to equal access to educational institutions, the White Paper on Education and Training sets out four dimensions in which radical reform to the education budget needs to take place.

7.6 These dimensions are outlined in some detail in para 13, on pp 62-63. of the White Paper. The first of these relates to the central question of **equity.** Two approaches to the problem are suggested. The first relates to achieving equity in respect of learner:teacher ratios on which staff provision scales are based, and the second relates to dealing with the skewed distribution of teacher costs, based on the skewed profile of qualifications, itself a legacy of past inequity.

7.7 The second dimension is concerned with wasteful expenditure, and poor yields, and focuses on the **reduction of unit costs** and the **raising of levels of productivity.** It points to the need to implement new learner:teacher ratios and class-size norms, improve space utilization, reduce absenteeism and dropout rates, introduce less labour-intensive strategies, etc.

7.8 On the question of **user charges**, a review of the unsystematic pattern which currently exists is advocated, and a complete redesign of the system is called for. Meeting the commitment to free and compulsory general education is stressed, even if this involves the encouragement of voluntary contributions to supplement state provision. (Compulsory fees are implicitly excluded.) The fourth and last dimension relates to the exploration of opportunities for **establishing new funding partnerships**.

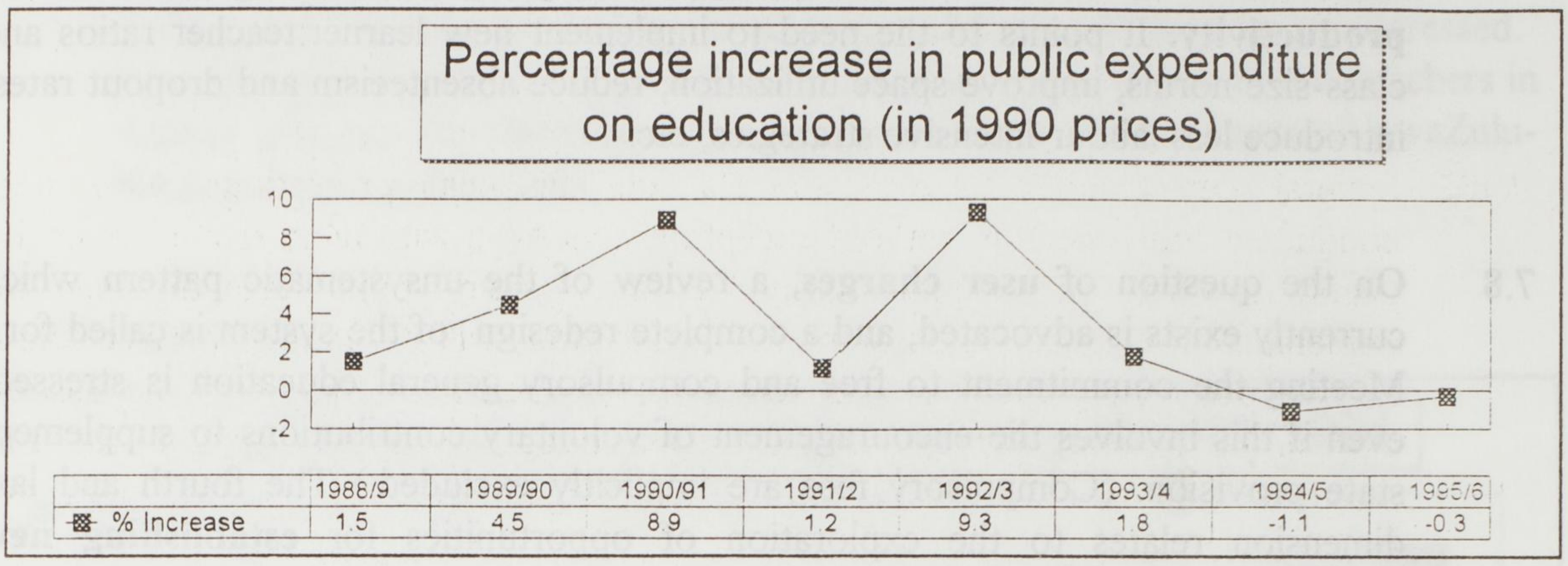
7.9 In developing the three broad strategies for the transformation of school financing outlined below, the Committee attempted at all times to interpret and apply these four dimensions of essential budget reforms as the cornerstones of government policy in this regard.

Increasing the Size of the Budget for Schooling

7.10 Since the late 1980s, public expenditure on education has, in most years, increased slightly faster than public spending as a whole. Education's share of the budget (net after interest payments) increased from 21.9 % in 1988/9 to 25.8% in 1995/6. The real value of these expenditures has also increased, by, on average, 3.7% per year over the period 1987/8 to 1994/5. However, this growth was unevenly spread, occurring particularly in 1990/1 and 1992/3, when real increases of around 9% were seen. Since the latter year, real public spending on education showed less than 1% growth through to 1994/5.

7.11 Furthermore, the education budget for 1995/6 represents only a 9.6% nominal increase over the previous year. Since year-on-year inflation to February 1995 was reported to be 9.9%, the real value of public spending on education is again set to decline slightly. Accordingly, unless a reduction in the inflation rate is achieved, no real increase in expenditures, beyond the levels achieved in 1992/3, is likely during the coming year.

Figure 6



Source: CEPD, Department of Education:five year budget guidelines

7.12 This tight approach to budgetary allocations compounds the difficulties raised by the need to restructure and expand the school system. With population growth remaining at a little more than 2 % per year, and enrolment growth being much faster than this, at around 4 % per year, publicly provided resources per pupil have declined by about 12% since 1992/3. This has created severe problems for the effective running of the existing system, and continues to constrain the possibilities for reform.

7.13 The level of resourcing allocated to education in recent years is inadequate to meet the Government's development goals. This is in spite of the fact that the magnitude of public expenditure on education in South Africa compares relatively well with those in other middle-income developing countries. There are two main reasons for this.

7.14 First, the present budgetary allocation to education represents approximately 6.5% of GDP, which is relatively high by international standards. However, such comparisons are misleading, owing mainly to the historically heavy concentration of educational resources upon a minority of the population in South Africa. Spending on education increased significantly only during the 1980s, and it was focused quite strongly upon the relatively small populations served by the tricameral departments and the university and technikon sector. As a consequence, South Africa does not have the depth of human resource availability which would otherwise be expected on the basis of its proportionate allocation of GDP to public spending on education.

7.15 Secondly, 1995/6 continues the trend of no growth in the total education budget in real terms. Although significant resources will have to be found from efficiency savings and other measures, it will not be possible, without a significant increase in real budgetary allocations over the next five years, to meet the requirements of restructuring, and of providing for qualitative improvements in the under-

resourced schools, for the removal of construction backlogs, for the enrolment of those out-of-school, and the net growth of the system in order to accommodate the growing population of school-going age.

7.16 Several demographic growth models and financial projections have been conducted and conclude, without exception, that even with rapid moves (over five years) towards per capita equity in the system, pupil growth, and the implementation of free and compulsory education, will necessitate between three to five per cent growth in real terms in the education budget. The Review Committee is convinced of the fact that budgetary growth below the rate suggested here would undermine any of the budgetary reform measures suggested in this document.

Realistic Levels of Per Capita Financing.

7.17 Even in a context in which the economy were able to support substantial real growth in the education budget, South Africans would have to become more realistic about the levels of per capita financing that would be feasible and sustainable.

7.18 The Committee has been presented with many submissions, both written and verbal, arguing that the only long-term solution lies in raising the levels of provision in all schools. While this would constitute a perfectly neat solution to an extremely complex problem, it is unfortunately unrealistic. Simple calculations show that raising expenditure in all schools to the 1994 gross levels of per capita expenditure in the former House of Assembly would require that the budget for the college/school sector more than double from R25,6 billion to about R62,4 billion. This would require an additional amount of R36,7 billion at 1994 levels, and would take education's share of total government spending to more than a third.

7.19 Similarly, raising expenditure to 1994 gross per capita levels in the former House of Delegates' schools would require an additional amount of R28,6 billion. Raising expenditure to House of Representative levels would require an additional R16.9 billion. On the other hand, equalising expenditure in all schools at 1994 gross per capita levels of the former Department of Education and Training, would enable a saving of R431 million to be realised.

7.20 The figures above are obviously only indicative, since it would be impossible to manipulate per capita expenditure in the way in which they suggest. They do, however, demonstrate two things very clearly. First, since there can be no justification for continuing to spend more on learners from wealthier families, and since the Constitution can be interpreted as requiring movement in the opposite

direction, the necessity of reducing the levels of per capita expenditure in some parts of the system is real. Secondly, optimum affordable levels of per capita expenditure nationally, at South Africa's current level of development, would be somewhere between current levels of expenditure in the former Department of Education and Training schools, and those of the former House of Representatives. While this would represent serious reductions to those parts of the system currently enjoying higher levels of financing, it would in fact imply modest to substantial increases for the vast majority of schools and learners.

7.21 In striving towards a system of financing schools that would facilitate movement towards greater equity, various options were considered by the Committee. These are presented in outline below.

Some Options for Reforming School Financing

7.22 The three broad approaches to reforming school financing outlined below emerged as options for consideration. They are of course not the only possible strategies, but to the Committee they represented a reasonable set of options for examination. They are presented as three separate and discrete proposals for analytical reasons only, and it should be understood that various combinations and permutations would be possible.

7.23 In all three cases it is assumed that school funding cannot be separated completely from questions of school governance, and a set of common assumptions about school governance underlies all three approaches. These assumptions are based on the preceding chapter.

Option One: the minimalist-gradualist approach

7.24 This option follows a minimalist and gradualist approach to the transformation of the existing patterns of school financing. It would involve doing away with all existing state and state-aided school models by name, but allowing most of the current models to continue existing, some with major amendments, under a broad "public school" rubric. This would mean maintaining, amongst others, a school model closely resembling the current Model C schools, with some of their governance powers reduced, and permitting (perhaps encouraging) many more schools from the other ex-departments to follow suit. The choice would be left to each individual school, and it could be anticipated that it would be mainly middle-class parents would would select this option.

7.25 These schools and/or their governing bodies, being juristic persons, could obtain "ownership" of their grounds and buildings in the Model C sense, and could use these to generate additional resources. In reality, schools would only have usufructuary rights with regard to these properties. It can be anticipated that some schools in black middle-class areas, particularly schools of the former Houses of Delegates and Representatives, would be attracted to this model.

7.26 This option would become a meaningful possibility only if a clear commitment to a more equitable distribution of resources could be demonstrated. This would involve concrete steps towards equalising staff-provision scales to all schools. At present funding levels, this could mean raising the learner:teacher ratio in well resourced schools to approximately 40:1 in primary, and 35:1 in secondary schools, and decreasing them to similar levels in the under-resourced schools. Similarly, the vast disparity in the provisioning of non-teaching personnel would have to be addressed. In all likelihood this would have to entail drastic reductions of non-teaching personnel in the well-resourced schools, since extending similar levels of provisioning to all schools is unlikely to be affordable.

7.27 These changes would need to be phased in over time. The time required in order to complete the phasing in is however subject to some dispute. Early proposals seemed to suggest that a twenty- to thirty-year time-frame was the most realistic horizon to consider. This situation would clearly be unacceptable to those who are impatient to see some concrete improvement in the situation in their schools. But most analysts seem to suggest that such phasing could be completed within a five-year period.

7.28 The second major step toward equity could involve the equalisation of all non-personnel expenditure allocations to all schools. All current estimates seem to indicate that it would be possible to achieve this in one single movement at the beginning of a budgetary year. This would generate an equal per capita allocation which would be intended to cover all non-personnel costs. Alternatively, a more radical redistribution of the non-personnel residue could be achieved by allocating these resources on an affirmative action basis, linked to an index of needs. It should be borne in mind that personnel expenditure currently consumes up to 90% of recurrent education expenditure, leaving a residue of only about 10% to be redistributed in this fashion.

7.29 In order to maintain, or to raise levels of provisioning higher than those the state would be making available, some public schools would be able to levy compulsory fees from parents. Governing bodies of these schools would be able to determine the level of these fees, and since they would have legal competence to sue and be sued, would be responsible for collection and for action against defaulters in terms of the law. Other public schools would not be charging compulsory fees, and would have to rely on state financing and voluntary contributions from parents and the public at large.

7.30 In addition to the obligatory fees which schools would levy in order to finance limited operating costs, schools would also be able to raise other (non-obligatory) contributions. This could include voluntary contributions to school development funds, as well as contributions through other fund-raising activities and projects.

Option Two: the equitable school-based formula approach

7.31 The values underpinning the framework of principles upon which this option is based are identical to those articulated for the previous option. There is however a slight difference of emphasis, resting largely on concern that the fundamental values of quality and efficiency are open to misapplication. Proponents of this option would argue that efficiency can best be enhanced through purposeful and concerted efforts to raise the level of quality in the system overall, but particularly in the under-resourced schools. Heavy emphasis is placed on equity and redress, and concern is expressed that arguments about maintaining higher levels of resourcing to support higher quality in parts of the system, should not be used to block or delay the urgent task of resource reallocation.

7.32 This option proceeds from the premise that the achievement of per capita equity in the allocation of budgetary resources to schools has to be a fundamental objective of the process of educational transformation. It concedes that it would be unrealistic to aim at achieving this in the short term, but insists that this has to remain the target which the process of budgetary reform must aim to meet.

7.33 The starting point would be to argue that the Constitution obliges the State to ensure an equal chance at a minimum quality, basic education for every learner, however such minimum quality, basic education is defined. It also recognises that providing such an equal chance does not cost the same under all circumstances. This option recognises the principle of affirmative action in the funding of schools, allowing for the fact that it is more costly to fund, for example, such an equal chance for rural children, those with special educational needs, those learning in a language which is not their first, those from family backgrounds that are educationally deprived, or those who have been educationally disadvantaged as a result of past policy.

7.34 The starting point for Option Two is to determine, initially on a gross equal per capita basis, what the state is able to afford by way of funding to each eligible child in the compulsory phase. This amount is then used as the basis for determining a formula for funding each individual public school, making due allowance, amongst other things, for the affirmative action and redress factors referred to above. The formula developed would determine funding at the level of the school, and would

be driven largely by enrolments, weighted appropriately, and calculated through cost norms for all items of expenditure, including personnel costs. It would also be possible to top-slice part of the education budget, and to exclude this from the application of the formula. These resources could then be distributed in a targeted fashion, based on an index of need.

7.35 The formula used to determine allocations to schools could be developed along the lines of similar formulae used internationally. An example is included below for illustrative purposes only. The formula would be largely enrolment-driven, but the gross enrolment figures could be weighted to take account of differential costs as well as affirmative action. The weighting of the enrolments could be based on school location, such as urban, rural and informal settlements; differential primary and secondary costs; pupil characteristics related to household income, special needs, children at risk or families on welfare; and on incentives to pursue particular policy objectives, such as increasing the participation of girls in science streams.

$$F = E \times (T/R + Q + S + M)$$

Where E = enrolment weighted
T = average teacher cost
R = learner:teacher ratio
Q = equipment
S = supplies and services
M = maintenance

7.36 The effect of the implementation of this system would be a phased but resolute reduction of the level of provisioning in the well-resourced schools, and a corresponding increase of these levels in under-resourced schools. Should no substantial additional resources become available to the system, equilibrium would eventually be reached at a level which might be regarded by some as quite low. Indications are that this would be at a level somewhere between the levels of provisioning of the schools of the former Department of Education and Training and House of Representatives.

7.37 The reduction in resources for well-resourced schools, generated by such a formula, would be severe if implemented immediately. Provision would therefore be made for the phasing-in of such a funding system, perhaps over four to five years. In addition to this basic allocation from the state, all public schools would be encouraged to raise additional resources, from among other means, the levying of non-compulsory school fees. Schools would be supported in their efforts to raise funds through the removal of legal and financial obstacles, and through training in fund-raising skills. The levying of a compulsory fee in a public school would be viewed as incompatible with the Government's commitment to a free and compulsory phase, and therefore only independent schools would be able to do this.

Option Three: the partnership funding approach

7.38 This approach seeks to achieve a balance between the demands of four key principles: attaining equity, redressing past imbalances, advancing quality and improving efficiency. A key assumption is that the provision of quality schooling for all at no direct cost to parents and communities is not affordable from the resources currently allocated by the state for education. The problem is particularly acute during the transition when the phasing-in of equitable funding allocations will have to take place at the same time as additional expenditure will be required to redress the effects of decades of discrimination and neglect. This approach conceives of public schools in a partnership between State and community, and proposes a framework for partnership funding which attempts to balance the concerns of equity, quality, efficiency and redress.

7.39 The approach proposes a particular way of structuring provincial budgets in order to achieve these ends. The diagram below illustrates, in the form of a conceptual model, how such structuring could take place.

Figure 7: Typical Distribution of Provincial Budget

BUDGET	DISTRIBUTION
CAPITAL	Spent by provincial authorities on basis of Index of Need
SALARIES	Spent by provincial authorities on staff salaries of school personnel (both teaching and other) employed by the state. School level posts allocated on the basis of a uniform staffing scale which conforms to national norms.
REDRESS	Fund for redress of past inequities (esp. rural & township sch.)
CORE	To department for core services (supervision, admin, etc.)
OPERATING COSTS	To schools on basis of percapita formula linked to fee income. To cover operating costs such as maintenance and learning materials.

7.40 The first step would be to identify an amount to be committed to capital development programmes. This would be allocated to the provincial authorities for expenditure on the basis of an index of need, which will determine the profile of

the province's multi-year capital development programme. The development of such a programme would need to be undertaken in an accessible and transparent manner on the basis of clear and publicly available criteria.

7.41 A second allocation would be an amount identified for an Education Redress Fund which would channel resources for reconstruction and quality improvement to schools which have been disadvantaged by past policies. This money would be administered by the provincial authorities and allocated on the basis of criteria agreed with key stakeholders. The money could be used to lever additional funds from RDP and international donors, to make a substantial impact on the accummulated human and physical resource backlogs.

7.42 A third allocation would consist of the funds necessary to ensure that the provincial authorities could provide essential core services such as administration, quality assurance and monitoring, teacher support, planning etc.

7.43 The fourth "slice" would be an amount calculated to meet the salary costs necessary to ensure continuity of service and quality education. This amount, which would constitute the greatest portion of the budget, would be allocated to the department for payment of the teaching and support personnel deployed at the schools. Teachers would be allocated on the basis of a standard staffing scale within nationally established norms.

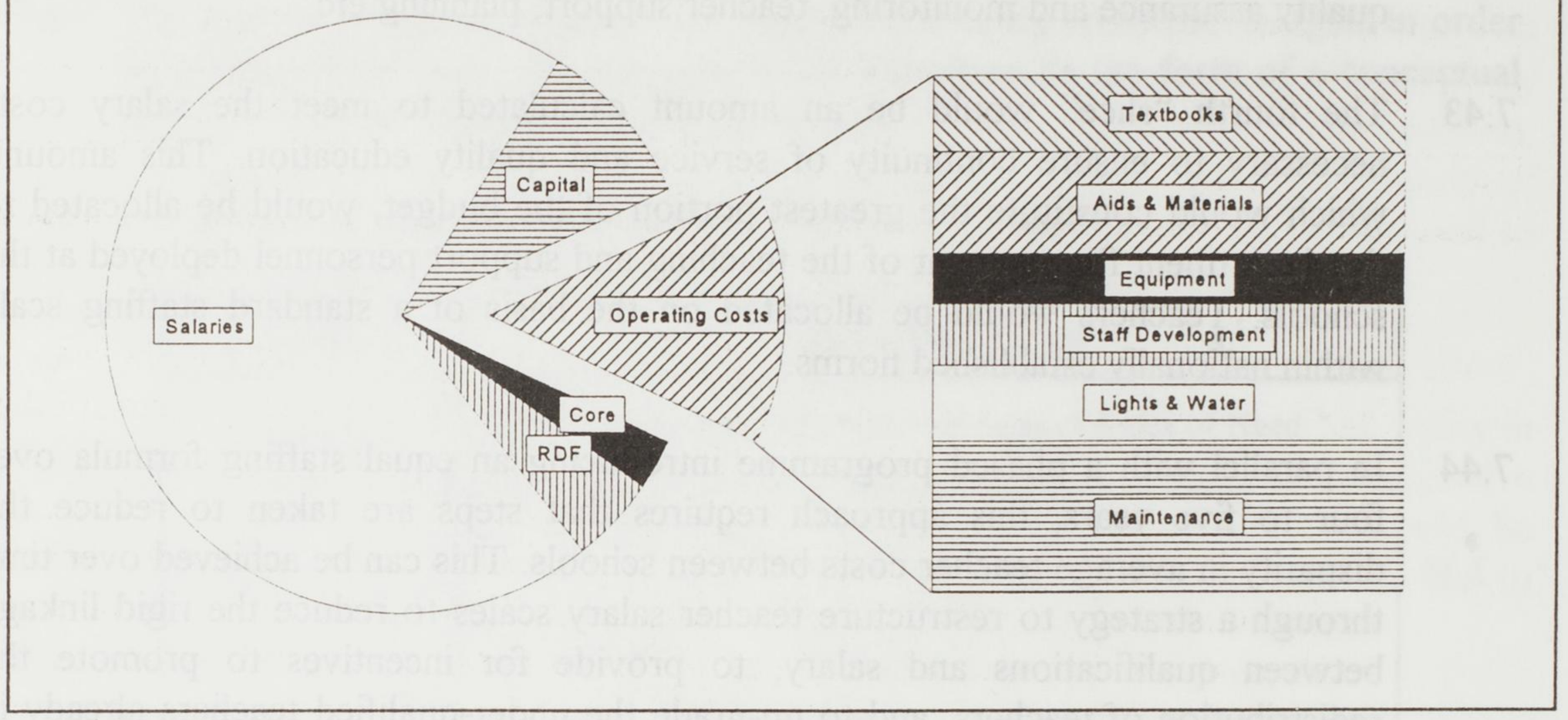
7.44 In parallel with a phased programme introducing an equal staffing formula over four to five years, this approach requires that steps are taken to reduce the disparity in average teacher costs between schools. This can be achieved over time through a strategy to restructure teacher salary scales to reduce the rigid linkage between qualifications and salary, to provide for incentives to promote the redistribution of teachers, and to up-grade the under-qualified teachers already in the system.

7.45 The fifth portion of the budget would be an amount allocated to cover the operating costs of schools. As indicated in Figure 8 on page 74, this item would include textbooks, stationery and teaching materials and other enrolment-driven operating costs calculated on a per capita basis, as well as maintenance and recurrent infrastructure costs, such as electricity and water, calculated on the basis of a per capita linked formula. Such a formula would take into account the different maintenance costs and such factors as distance from an urban centre and differing upkeep costs. The funds would be supplemented by obligatory fees raised from parents (explained below), and allocated to schools.

7.46 Given that funds currently available for education from the State are unlikely to be significantly increased in the near future, the Committee recognises the need to mobilise additional resources. The additional resources necessary can be obtained either from public revenue through additional taxes at national, provincial or local level, or from users of the system through parental contributions. In view of the pressures on the revenue base, and difficulties in ensuring that tax revenue is allocated to education, favours parental contributions.

7.47 Parental contributions can either be collected on a voluntary basis or levied on an obligatory basis. This option argues for a combination of both strategies. The major disadvantage of parental contributions is their potential inequity: wealthy communities are able to mobilise substantial resources with minimum impact on their standard of living, whereas in poorer communities the cost of raising relatively small amounts of money can be substantial or even prohibitive. In opting for a combination of obligatory school fees and voluntary contributions the Committee is seeking to balance the considerations of equity with the need to mobilise the maximum resources, both financial and human, from every community in the reconstruction of the education system.

Figure 8: Illustration of Typical Items in Operating Costs



7.48 This approach recognises that the implementation of an obligatory school fee is in tension with policy commitments to free and compulsory schooling. The first provision must be that no child can be excluded from the compulsory education phase or prejudiced in any way on the basis of non-payment of obligatory fees by a parent. Secondly, it is proposed that the fee be set on a sliding scale based on family income, with the fee zero-rated at the lower end. This will mean that schooling will be fee-free for those who cannot afford to pay for it, while those who can afford will be required to make a contribution towards the operating costs of providing a reasonable level of education.

7.49 An example of a possible fee structure is indicated in table C below for illustrative purposes only. The actual figures would have to be calculated by the provincial authorities, and would have to conform to nationally agreed norms. The fee structure would be set taking into account a number of variables, including estimates of household income distribution in the province as well as the resources

available to the provincial authority to meet operating costs at an acceptable level. The fee would be set at a level which would yield an amount approximately equal to the state's average per capita allocation for operating costs.

Table C: Illustrative Example of Possible Obligatory Annual Fee Scale

	Fee per child per year		
Family Income (p.a.)	1st Child	2nd Child	3rd Child
Below R12 000 p.a.	nil	nil	nil
R12 001 - R24 000	R100	R75	R50
R24 001 - R36 000	R200	R150	R100
R36 001 - R48 000	R500	R350	R250
Above R48 000	R1 000	R750	R500

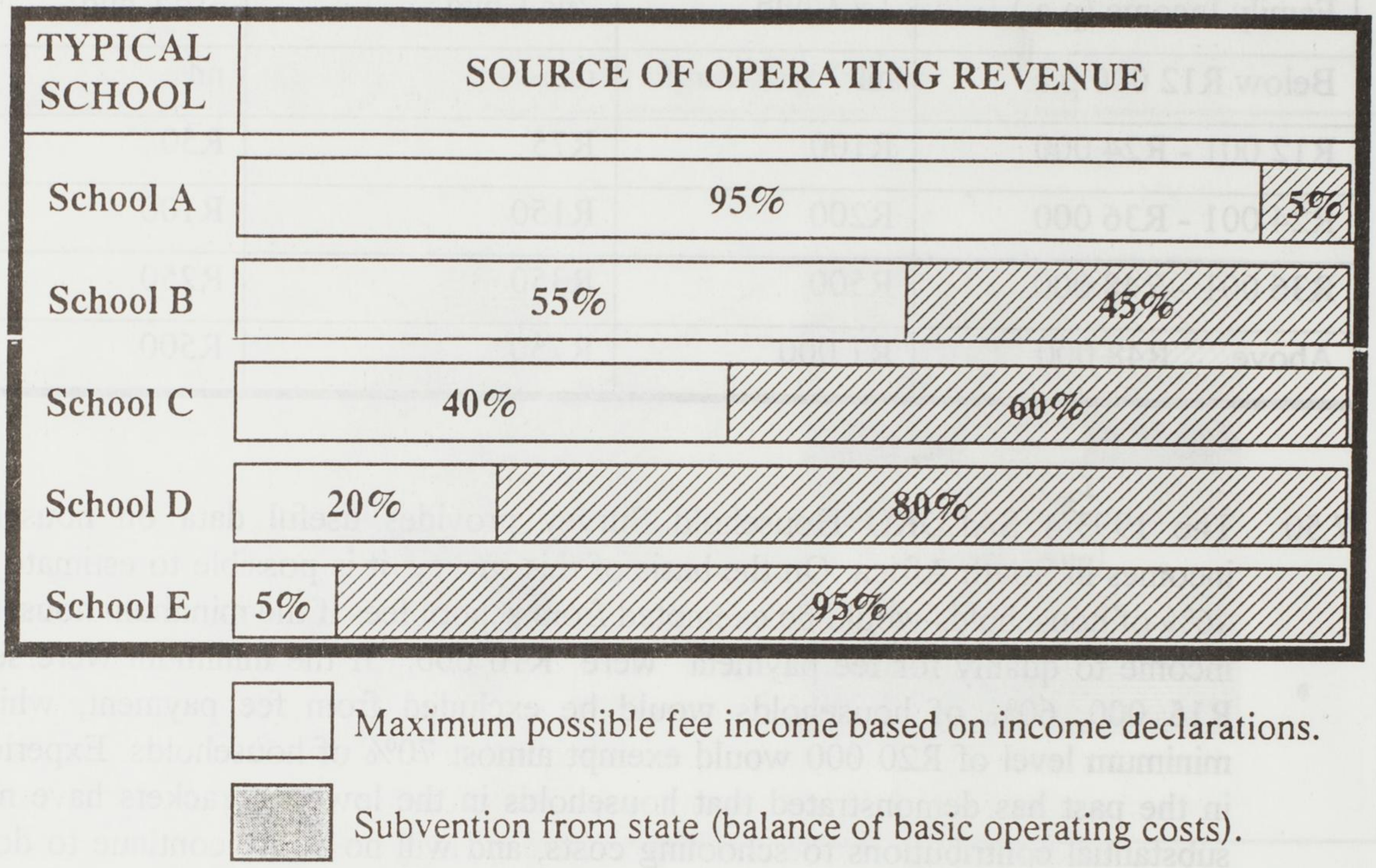
7.50 The 1993/4 SALDRU Household Survey provides useful data on household incomes in South Africa. On the basis of this survey, it is possible to estimate that 46% of households would be exempted from school fees if the minimum household income to qualify for fee payment were R10 000. If the minimum were set at R15 000, 60% of households would be excluded from fee payment, while a minimum level of R20 000 would exempt almost 70% of households. Experience in the past has demonstrated that households in the lowest brackets have made substantial contributions to schooling costs, and will no doubt continue to do so, through fund-raising and voluntary contribution schemes.

7.51 Figure 9, on page 76, attempts to illustrate the proposal graphically. The top row represents the optimal operating expenditure, calculated as the enrolment multiplied by the per capita pupil-driven operating cost allocation plus the maintenance allocation. The next four rows indicate possible scenarios for public schools in different contexts.

7.52 The major principle is a commitment to equitable total expenditure on basic operating costs for each child. Where the assessed fee income is high (on the basis of parental declarations of family income), the contribution of the state towards operating costs will be proportionately reduced. Thus in the case of example A, where the assessed fee income is 95% of the basic operating costs, the State's subvention to that school will be 5%. On the other hand, where, as in example B, the assessed fee income is 55% of the total operating costs, the State's subvention will be 45%. In cases where the assessed fee income is lower, the state's subvention is proportionately greater, with the possibility of a 100% subvention for schools where no parents qualify to pay even the minimum fee.

7.53 There is an incentive for schools to ensure maximum fee payment. This approach assumes that payment of fees will be a legal obligation, and legal penalties can be imposed on those parents who give false declarations of family income category, or who fail to pay the assessed fee. The Committee also noted the need for positive incentives for parents to make accurate income category declarations, and recommends that the implementation of such a scheme should involve developing such incentives.

Figure 9: Example of Variations in Mix of Operating Revenue



7.54 In addition to the introduction of incentives, the whole approach assumes that it will be introduced as part of a campaign to promote community-school relations and community support for schools. The campaign should receive top-level political support and should parallel the Masakhane campaign in encouraging an ethos of payment for services. If the campaign is accompanied by visible improvement in the allocation of resources to poorer schools it is more likely to be well received.

7.55 The purpose of the operating costs component is to ensure that every learner receives education of an acceptable quality. Operating costs constitute a small percentage of a school's overall expenditure because they exclude teacher salaries. However, operating costs include such critical items as textbooks and learning materials and can therefore make a very significant contribution to overall quality improvement. Linking operating expenditure to fee income provides a framework which enables total expenditure on basic operating items to be equalised while at the same time optimising community contributions and compensatory distribution of state resources.

7.56 There may well be circumstances where a school community believes that the basic operating costs allocation will not cover the costs required for the school to maintain an acceptable level of service. In these circumstances it would be possible for such a school to apply to the department for dispensation to extend the fee structure to cover higher income categories, or to increase the fee level in each category, except for the zero-rated categories. This application would have to be supported by a budget demonstrating the grounds for the case, and an undertaking to ensure that the funds generated thereby would be expended only on educationally necessary items and not luxuries.

7.57 All schools would have the right to raise supplementary funds through various fund-raising strategies, including a voluntary supplementary payment. Items not provided under the state's operating costs framework would have to be funded out of money raised in this way.

7.58 The way in which funds for operating costs would be spent would depend on the governance choices of the school. If the school opted to contract into the state's provision of textbooks and teaching materials, for example, it would pay for that portion of the service from the operating cost allocation. Where the school had negotiated to provide its own textbooks and teaching materials, it would draw down the appropriate proportion of the operating allocation to spend on that service.

7.59 Where the school was able to provide the service at a lower cost than that provided for in the operating cost estimates, it would have the right to spend that saving on other educationally relevant items, under the control of the governing body, for instance additional temporary teachers. Where a school opted for a level of service more expensive than the operating cost estimates, it would need to cover the excess from its own funds, or from savings on other items.

7.60 If collection of fees presents a problem to schools because of lack of security or facilities, arrangements can be made for fees to be deposited with an authorised revenue agency, such as a post office, bank or magistrate's office, or the district education office. Such agencies would accept fees and remit these to the responsible department, issuing a receipt for payment which could be submitted to the school as proof of payment.

7.61 The proposed approach depends on a programme of capacity-building-building which is targeted at developing the kinds of skills necessary to enable all communities to benefit from the flexibility of the system. This will involve not only training programmes for officials, governing bodies and school personnel, but also support structures and material support. Capacity-building building is taken up in Chapter 9.

Assessment of the Three Approaches

7.62 **The minimalist-gradualist approach** is likely to cause the least disruption to the well-resourced parts of the system. The reductions in the resource base of these institutions is likely to be minimal, and this process could be managed relatively easily. On the other hand, this approach is not likely to release sufficient resources in order to make a tangible difference to the under-resourced schools. It would entrench a system of unequal schooling, in which middle-class parents, black and white, would be able to use the unequal basic state contribution as a basis upon which to add their own resources in order to support a more generously financed education for their children.

7.63 The notion of free and compulsory education would be abandoned in all but name, and access to it would in effect only be available in the poorest, lower quality schools. The most serious problem with this approach is that it lays the foundation for the development of a bi-polar education system. Some schools would be able to use the advantage of superior facilities and decades of preferential funding and combine this with substantial income from ever-increasing user fees in order to offer more generously funded education. They would be able to attract better qualified teachers, offer wider curriculum choices, fuller extra-mural programmes, and better prospects with regard to access to higher education and career choices.

7.64 The poorer schools, suffering decades of neglect and underfunding, with poor facilities, overcrowded classrooms and limited curriculum options, would be further ghetto-ised. The state would be unlikely to access sufficient resources in order to finance them to a level where they had a real chance of competing with the rest. In the end, learners with better educational potential, as well as teachers of excellence, would be attracted away from these schools, compounding the problems of bi-polarity.

7.65 Option Two, the **equitable funding formula** approach, has the distinct advantage of being manifestly fair, just and equitable, as well as being completely transparent about the rationale for the allocation of resources. It has the added advantage of offering a defensible and open basis for the allocation of national educational resources to provinces, within provinces to regions, within regions to districts, and within districts to schools. The formula would obviously need to be open to adjustment at each of these levels, in order to accommodate local specificities and concerns.

7.66 Funding schools on the basis of such a formula would also introduce a measure of flexibility, since the formula would be adjustable, and could be made to reflect changes in the levels of state funding available. It could reflect new policy

objectives, and the enrolment weightings could be made to reflect new indices of need.

7.67 In the long term this approach would provide a basis for the equitable distribution of educational resources to schools. In effect the system would generate both incentives and disincentives that would collectively drive the voluntary redistribution of better qualified, more expensive teachers. The system would also act as an additional pressure to reduce the differences in average teacher cost, and this of itself would constitute a major step toward greater per capita equity.

7.68 The major disadvantage of the system is that it requires fairly sophisticated management information systems to be in place, including a national index of need based upon an agreed set of indicators. It also requires a higher level of financial planning and management skill than is currently commonplace throughout the system, and will therefore need to be implemented alongside a fairly comprehensive capacity-building building programme. (See Chapter 9.)

7.69 The initial stages of implementation of this approach would require moves similar to those outlined for Option three. These would include the rapid phasing in of equal staff provision scales, the equalisation or compensatory allocation of all non-personnel costs, and resolute steps toward the reduction of the disparity in average personnel costs. These steps could be undertaken simultaneously with the preparation of the information systems and indices of need.

7.70 **The partnership funding approach** seems to offer the most advantages as a strategy for financing schools in the period of transition from a disparate, inequitable and inefficient system, to one in which the schools are integrated, operate more efficiently, and can at least be seen to be part of the same national system of schooling. The approach provides a framework within which parents who can afford it, both black and white, are required to make affordable contributions to the education of their children.

7.71 While this could be interpreted as in some way compromising the commitment to free and compulsory education, this approach will in fact ensure that free and compulsory education is available to all who require it. The fundamental objective of free and compulsory education is after all to ensure that no child is denied access to a minimum quality basic education, simply because of an inability to pay. This option would ensure that students from poorer families could have access to basic education in a range of public schools, and not be restricted to lower quality, fee-free schools.

7.72 The major disadvantage of this approach is likely to lie in the potential administrative complexities of assessing family incomes and fee structures, as well

as in the difficulty for provincial departments in planning and budgeting in the flexible and creative manner that would be required. The Committee is however of the view that these potential problems do not constitute insurmountable obstacles to implementation.

Financing the Post-Compulsory School Sector

7.73 The White Paper on Education and Training points to the underdevelopment of the concept of further education in the South African context, and proposes the establishment of a Commission on Further Education. The Commission would be expected to undertake research, consultation and planning, and to advise on the institutional forms and the resources that will be required in order to set this level of learning on an energetic growth path.

7.74 The senior secondary, post-compulsory school phase will no doubt come under close scrutiny as part of the work of the proposed National Commission on Further Education. The Review Committee did not wish to pre-empt the work of the Commission which has yet to be established, but nonetheless wished to make the following initial proposals for the senior secondary school sector. The financing proposals for post-compulsory education are based on Government policy as outlined in the White Paper.

7.75 State subsidisation of senior secondary education is crucial in ensuring that a significant proportion of students, particularly those from disadvantaged backgrounds, are able to proceed to and beyond the matriculation level. The level of state subsidisation would depend on the level of the allocation of state resources to the compulsory phase, as well as on the extent to which students and their families could be expected to make contributions to the cost of provision.

7.76 The logistics of financing learners in the post-compulsory phase is likely to be further complicated by the fact that the majority of learners would be in schools which also cater for learners in the free and compulsory phase. Whilst not entirely impossible, the introduction of different levels and mechanisms of financing for different groups of learners, in shared institutions, is likely to prove challenging. The fact that schools may be deploying resources, including teachers, across the compulsory/post-compulsory divide would need to be considered. Much could therefore be said for using funding mechanisms which were similar to those obtaining in the compulsory phase.

7.77 The funding approach outlined under Option Three above would appear to be the most feasible proposition, also for funding the post compulsory phase. Following this approach, the state would make a basic allocation to fund the education of all

post-compulsory learners in public schools. This allocation would cover personnel costs based on equal provision scales, capital expenditure, a redress and development fund, and funds to cover departmental core costs. Operating costs would not be provided across the board. The overall per capita state subsidy to learners in this phase would be substantially less than the equivalent subsidy in the compulsory phase.

7.78 Schools would charge compulsory fees on a sliding scale based on family income, and these would be used to fund basic operational costs, as well as other items of expenditure. Additional expenditure would have to be funded through resources raised from voluntary contributions and fundraising activities. Careful attention should be paid to the potential of involving private sector organisations in this regard.

Financing Schools for Learners with Special Educational Needs

7.79 In making recommendations for the financing of schools for learners with special educational needs (LSEN), the Committee has borne in mind that new policies for special education are expected to emerge from the National Commission on Special Education Needs which is soon to be established. Whilst not wishing to formulate new policy for this sector here, the Committee would nonetheless wish to make the following proposals.

7.80 The following principles need to be taken into account when considering the financing of schools for learners with special educational needs. First, racial inequalities have been even more severe in the area of special needs education (see figure 2 in Chapter 3 on page 24). The majority of African children with special educational needs are not in school, and the redress element in funding should reflect this as a priority. Second, special educational needs includes a wide spectrum of need ranging from low to high, necessitating a continuum of placement options related to available resources and infrastructure.

7.81 The financing has therefore to support a continuum of provision, as well as the required infrastructure, from mainstream schools to separate schools for LSEN. Separate schools should be comprehensive and have resources available for students with a wide diversity of need. In addition, financial provision should be made for supporting mainstream schools targeted for specific placement options within a cluster of schools. In such schools, the physical structure would have to be modified and upgraded to improve accessibility and safety for LSEN.

7.82 All schools for learners with special educational needs, excluding the private schools, should become public special schools. A single staff provision scale should be phased in over a five-year period, and the differences in levels of

qualification should be addressed. Schools should be encouraged to raise funds for extra resources from sponsoring bodies, the private sector, and through other fund-raising initiatives

7.83 Parents of learners with special educational needs should not have to shoulder the expense of their children's education unaided. The same system of obligatory fees on a sliding scale and with zero-rating for the poor that is recommended for regular schools, should be applied in the case of special needs education.

7.84 The provision of transport, one of the more costly items in special schools budgets, should be rationalised at the district/local level.

7.85 Inter-agency collaboration between the various ministries responsible, Education, Health and Welfare, and Transport, should be promoted as essential to increased efficiency of provision.

Financing Education in Independent Schools

7.86 Independent schools constitute a very small but important part of the South African school system. Currently they educate less than 2% of the total school population, and they do so using approximately 1% of the State's education budget. Subsidies to students in these schools are remitted though transfer payments to the owners or governing bodies of these schools. Some private schools receive no subsidy at all, whilst others are subsidised at either 25% or 50% of a predetermined basket of costs.

7.87 The amounts generated by the subsidy are substantially less that the per capita expenditure on students in the Model C schools. However, it is still the case that the state spends more on subsidising students in these schools than it does on students in the most under-resourced state sectors, such as in the former Transkei.

7.88 While it is true that there is considerable uncertainty over the nature of the right conferred by section 32(c) of the Constitution (see para 4.9), the Committee is of the view that in the light of the fact that private schools could be argued to represent savings to the state, and in the light of the small proportion of the budget that these schools consume, the practice of providing subsidies to these schools should be continued.

7.89 The per capita subsidy to private schools should under no circumstances exceed the per capita spending on students in the public school sector.

7.90 The present levels of subsidy should be reviewed, and serious consideration should be given to a single level, with satisfactory scholastic standards being the criterion for the payment of the subsidy.

7.91 The formula upon which the subsidy is based must be clear and must be made transparent. Such a formula could, for example, be based on enrolment figures divided by learner:teacher ratios of 35:1 in secondary and 40:1 in primary schools, and multiplied by an average educator's remuneration package,or part thereof.

7.92 In addition, the conditions for subsidy should be such that they enable the provincial departments to honour their resposibilities with regard to ensuring minimum standards of professional competence, health and safety, and proper pedagogigal practice in all independent schools.

Conclusion

7.93 The three broad approaches to the rationalisation of the financing of schools discussed in this chapter, constitute a reasonable set of options available to the Government. The Committee is convinced that the minimalist-gradualist approach will not deliver enough change, rapidly enough, to meet the Government's overall policy objectives in the reconstruction and development of the education and training system.

7.94 The formula funding approach would not be implementable in the immediate short term, mostly because of the logistical concerns identified, and because initial implementation would be facilitated by a prior process of reducing per capita disparities as outlined above. The Committee is convinced that the equitable distribution of finances that this approach would effect, would satisfy the Constitutional requirements with regard to the financing of schools. The introduction of equitable formula funding should therefore remain the objective of budgetary reform.

7.95 The Committee recommends that the partnership funding approach be implemented. Due attention should be paid to questions of affordability.

7.96 The Committee recommends that the developmental work with regard to information systems, the construction of indices of need, and the required capacity-building-building initiatives be commenced simultaneously.

7.97 The Committee recommends that the entire system be reviewed after a five-year period, with the view to determining whether the implementation of a system based on an equitable funding formula would have become more feasible.

7.98 The Committee is of the view that, regardless of the particular approach taken, serious consideration should be given to making provision for financial support in the form of subsidies for transport and accommodation of rural learners. This is essential in order to ensure that rural learners, and the children of farm workers in particular, are enabled to exercise their rights to basic education.

7.99 The Committee recommends that in order to cover the high cost of special needs education, provision should be made to cover the additional capital costs, staffing and operating costs involved in providing this service. In addition, the proposed Redress Fund should also be available to address the current inequities in the provision of special education.

7.100 With regard to independent schools, the Committee recommends that subsidies continued, subject to certain conditions, in particular that in no circumstances should the subsidy exceed per capita spending on learners in public schools.

7.101 The subsidies to independent schools should be based on a clear formula, and consideration should be given to the introduction of a single subsidy level.

CHAPTER EIGHT: IMPLEMENTING THE FRAMEWORK -- NEGOTIATED CHANGE

Introduction

8.1 This chapter outlines an approach to the implementation of the broad framework of recommendations presented in the preceding chapters. It is recognised that this Report provides proposals for a policy framework only, and that before implementation can take place the proposals will have to be worked through a comprehensive policy formulation process at national level, followed by extensive policy development and planning within each of the implementing departments. Both policy formulation and planning will require access to data which this Committee had not the time nor the resources to assemble. They will also involve negotiation with a range of stakeholders at national, provincial and local levels. Implicit in the framework, then, is an approach to implementation which involves negotiations at a range of levels. The broad parameters of this approach are outlined here.

The Context

8.2 The work of this Committee takes place in a context which recognises the critical importance of negotiations in the implementation of policy. The transition era in South Africa in the first half of the 1990s saw the emergence of a strong tradition of negotiation and stakeholder participation which was to leave a lasting stamp on South African politics.

8.3 This tradition was embedded in the **Interim Constitution of 1993**, which commits the nation to stakeholder participation and negotiation as a principal medium of change in the new society. The Constitution specifies in Section 247 particular requirements for a negotiation process for the implementation of any changes to the powers and functions of a governing body.

8.4 **Section 61** of the Constitution implies negotiations prior to any legislation which affects the relationships between the provinces and the national government. Before any legislation arising out of these recommendations can be passed, such negotiations will have to take place.

8.5 The **White Paper** endorses this principle strongly, and emphasises it explicitly in paras 6 and 7 on page 37 where it spells out the Government's commitment to consulting *"as widely as possible to establish the broader level of social consensus..."*.

8.6 In addition to these commitments to negotiation, the **Education Labour Relations Act** requires that any issues of mutual interest to teachers and employing departments involve negotiations through the Education Labour

Relations Council or provincial chambers. Where these recommendations involve such matters, provision will have to be made for such negotiations.

8.7 Another key element of the context in which these recommendations are made is the principle of **administrative justice** which is provided for in the Constitution. This implies a commitment to transparency and disclosure, principles which must be embedded both in the process whereby the new governance dispensation is implemented, and in the practices of the new governing structures established in terms of the policy.

8.8 The final critical element of the context to which the Committee draws attention at this stage is the **culture of community responsibility** which has been given particular momentum with the launching of the Masakhane campaign. The recommendations of this Report were influenced by recognition of the need to build on the tradition of community responsibility which is a feature of many of the governance practices of the past, and which is endorsed by the publicity around the Masakhane campaign.

8.9 A range of different negotiating processes will therefore be required as part of the implementation strategy for this Report. The first step will involve negotiations with the provincial governments to establish a level of consensus on the policy framework, and the relative roles, in implementing change, of each level of government. The extent to which these agreements will need to be embedded in national and provincial legislation will also have to be discussed. There will be negotiations with governing bodies of schools required in terms of Section 247 of the Interim Constitution, negotiations to ensure the transfer of assets, negotiations regarding the change of employer, and finally, an ongoing process of negotiations to secure the allocation of the negotiable functions described in this Report's Chapter on Governance. These are discussed briefly in the following paragraphs.

Section 247 Negotiations

8.10 The recommendations on the powers and functions of governing bodies in this Report imply changes which fall within the purview of Section 247 of the Interim Constitution. This means that arrangements will have to be made to meet the requirements of that negotiating process before some of the provisions recommended in this Report can be implemented in full.

8.11 A critical policy issue in the Section 247 negotiations is the question of whether the process can be handled as a mass negotiation (as provided for in certain labour relations legislation), or whether the clause in the Constitution requires that every governing body is entitled to individual negotiations. The Committee received conflicting expert evidence on the matter.

8.12 Whatever the case, the Committee is of the opinion that the majority of governing bodies in the country will willingly accept the new governance framework since it

will not deprive them of any power currently exercised, and in most cases will supplement those powers.

8.13 Where the new framework has the effect of depriving a governing body of a power or function which it wielded prior to the promulgation of the Interim Constitution, the governing body could agree to accept the new dispensation, or it could elect to enter negotiations either individually or severally with the provincial department as provided for in Section 247.

Transfer of Ownership of Assets

8.14 The new governance proposals provide for public ownership of school land, fixed assets and state-provided movable assets in case of former Model C schools and former farm schools. Where this requires transfer of these assets to the state, this can best be achieved through a process of negotiation which will provide for agreement on practical arrangements regarding timing and compensation (where applicable).

8.15 Any moveable assets which were acquired using school funds or private donations would remain the property of the school.

8.16 In the case of privately owned former state-aided schools or former community schools, this ownership of private assets may remain with the community or church or mine, but arrangements will be made to secure the State's interests with regard to the land and premises.

8.17 The process of transferring assets to public ownership will vary significantly from one context to another. The argument for public ownership of assets in public schools is premised on the position that if the state is to meet its constitutional obligations with regard to educational provision, and its legal obligation of protecting the public interest with regard to public assets, it must ensure that there is some guarantee of continuity in educational provision, and that expenditure of state resources on land, buildings and infrastructure is a secure investment in the public interest.

8.18 There is a range of different approaches to effecting this guarantee in order to secure the public interest. The first is to seek the **transfer of ownership** of land and assets from private hands to state ownership. This can be achieved through donation, purchase or by expropriation. The first two will involve negotiations between the main parties, while in the case of legal expropriation, there are constitutional and legal provisions for the procedures to be followed, and for the determination of compensation where appropriate.

8.19 A second possible approach would be for the state to **lease the property** from the owner for a period which would ensure that investment of public resources in the property would not be compromised, and would assist the state in meeting its commitment to educational provision. Such lease arrangements would have to be

negotiated, and in many cases the lease could be arranged for a nominal amount, since both parties would be committed to the establishment or continued operation of a public school on the premises.

8.20 A third possible approach is to **secure certain of the state's rights** over the land and assets. Such rights would probably concern the use to which the land and assets are put, rights of access, and the question of sale or alienation of the assets. It may not be possible, necessary or desirable to transfer full ownership of the land and assets, and the most practical option may be, in some instances, for the state to secure the necessary rights over the premises. Usufructuary rights (rights of use) of this kind can be acquired through negotiation, purchase, lease arrangements or expropriation, in which case all the legal provisions referred to above will come into effect.

8.21 The complex education history of this country has left a legacy of widely differing arrangements regarding ownership of property and assets in the various types of schools which will be incorporated into the new category of public schools. Finalising arrangements regarding ownership of property and assets will take considerable time, and will involve different kinds of negotiations and measures for the different historically-determined contexts. In the next sections some of the implications which will apply to the different existing school types are explored, with particular reference to some special cases. The list is not exhaustive, since the range of contexts is so wide. However, it does point to some of the key issues with which the Committee was able to engage in its deliberations.

Public schools on private farms

8.22 The situation of public schools on private farms represents a special case. All submissions to the Committee indicated that the farm school system, which had been part of the Verwoerdian ideal of a "school on every farm", has outlived its usefulness even for those parties who had benefitted from it in the past. If South Africa is to develop an internationally competitive agricultural production capacity-building, it must create a supportive education system to ensure that learners who wish to follow an agricultural career have the requisite education and skills to meet these demands. The current system, with its high drop-out rate, the critically limited provision at secondary level and the lack of resources to implement an appropriate curriculum cannot meet such demands. Farmers and workers alike recognise this imperative.

8.23 The under-provision of education facilities in rural areas, and the fragmentation of facilities resulting from the different policies followed by former departments, indicate that education provision must be integrated and rationalised at district level in order to optimise resources. In addition, it is particularly important in rural areas for the development of the education system to be integrated into the overall development strategy in the region. Moreover, administering thousands of schools with very small enrolments and multi-level classes presents a logistical nightmare

for the state which now has a constitutional responsibility to provide for the education needs of all children.

8.24 On the basis of these factors the Committee took the view that it would be preferable for arrangements to be made to effect the transfer of the land and assets of farm schools to the state. Transferring land will not be a simple matter, and has implications which go well beyond the brief of this Committee. A number of factors must be considered here. First, policy on land in rural areas is currently undergoing major transformations, and tensions are high regarding any form of land alienation. Secondly, contractual relationships between the state and the farmer have varied over the years as policies have changed. This has affected the subsidy as well as the buildings subsidised. Thirdly, some schools are placed on the perimeter of the farm simplifying transfer, while others are not. Such differences indicate that a negotiating process will have to be put in place which recognises the context of each school. It is argued here that this process would best be conducted at the district level, so that the stakeholders can be directly involved in the process.

8.25 Negotiations to transfer the ownership of land, school buildings and teachers' housing will have to respond to the variety of contractual agreements between the state and property owners, and the long-term lease arrangements between the state, property owners and community trusts.

8.26 It is essential to note that in the past the placement of farm schools depended on whether or not farmers were willing to establish schools, and did not follow a plan which took account of the size of the school-age population and other related issues such as transport routes and other schools in the district. Therefore it is possible that when provinces conduct audits of school provision and develop plans to rationalise and integrate existing facilities to ensure that they are used optimally, it may be necessary to expand some schools, leave some as they are and close others. This process must include the participation of all stakeholders who play a role in the farm schools in the region.

8.27 It is therefore recommended that in those districts where there are farm schools, ad hoc negotiating forums be constituted at the district level under the auspices of the provincial department of education. The first steps would be for the provincial department to develop, in consultation with key stakeholders, procedures to be used to transfer land to public ownership. The district forums could then negotiate the transfers at the local level.

8.28 The forum would be constituted of all the key stakeholders, including farmers, educators, learners, parents, farm workers, government officials and community development personnel. The forum would negotiate a school development plan for the region which would take into account the need for rationalisation of resources, the location of additional schools, the upgrading of existing schools, the availability of transport and routes, and the location of available facilities, including teacher accommodation. Such decisions would be driven by national and provincial commitments to equity, quality, access and efficiency as well as local considerations such as local rural development strategies.

8.29 When completed the plan prepared by the ad hoc negotiating forum should provide a mechanism to integrate farm schools into educational provision in the region. Property owners would have to choose from a range of ownership options which could include: donations of land and premises to the state, purchase of the land and buildings by the state, securing of usufructuary rights and access by the state, lease of the land to the state for a nominal or market-related rate, closure of the school or conversion of the school to independent status.

8.30 In the case of any arrangement which does not involve direct ownership by the state, the Government would seek to secure its rights with regard to ensuring continuity of service, access of staff and students, protection of state assets on the property and access to basic services.

State-aided ordinary schools (Model C schools)

8.31 In the case of state-aided schools which formerly fell under the control of the various provincial departments of the House of Assembly, the Committee found the question of ownership of land and assets to be a very complex matter. Ownership was transferred formally, to each school by the legislation and regulations which provided for the establishment of these schools. However, this ownership is extremely restricted, since the regulations prohibit the sale of the land or fixed assets without the authority of the minister. They cannot even be used as security for a loan or bond, and can only be used for educational purposes. In essence the effect of the "ownership" has only two practical implications: the school has responsibility for repair and maintenance of the premises, and the school is entitled to receive the proceeds of the hire of the premises.

8.32 The Committee also noted that, unlike other categories of state-aided schools, the premises and assets which were "transferred" to the school were public property acquired and developed with public funds. It therefore took the view that it would be in the interests of all if these assets were to revert to the state. In order to address the concerns of those communities which had invested community resources in the property while it had been the "property" of the school, it is suggested that the school can negotiate with the state for certain usufructuary rights over the property which would protect these interests. In the case of moveable assets acquired with school or private funds, ownership would remain with the school.

8.33 Where a public school earns income from the hire of its premises or facilities, the proposed framework provides for schools to apply for the right to use the proceeds, and for the right to maintain the premises themselves. The new dispensation provides all the benefits and responsibilities of the current regulations without the "ownership" provision, and it is therefore anticipated that the majority of governing bodies will willingly accept the transfer of ownership of assets simply by signing the relevant form provided by the provincial department. Where

governing bodies wish, they may take up the issue of transfer of ownership in the Section 247 negotiations provided for above.

Public schools on community-owned land

8.34 The case of public schools on community-owned land is very complex. The ownership of the land and assets is already in public hands as property of the community. However, this form of ownership does not provide a role for the state authority, and it is necessary for the new dispensation to ensure that the provincial department is able to ensure continuity of service, open access, and a secure environment for the investment of public funds in buildings and infrastructure.

8.35 The Committee is aware that the whole matter of community-owned land and its relationship to the state is currently being reviewed. In addition it would be inappropriate for the education system to put into place legislation or structures which would pre-empt these important matters, and which would have implications well beyond the education system. Thus, while resolving that public schools on public land should be regarded as public property, the Committee is reluctant to spell out the particular form of public ownership which this could take. Perhaps the most practical solution in the short term would be for the state to negotiate with the community authorities to secure usufructuary rights over the property until a more permanent arrangement can be settled. The Committee was struck by the fact that the majority of traditional authorities actively sought a more active role for the state in the provision of education.

Public schools for learners with special education needs

8.36 Schools presently provided for under the budgetary programme "Special School Education" are categorised either as state or state-aided schools. The provisions above will apply in the same way to these schools. Currently, governing bodies of these schools frequently have relatively little representation of parents, and very strong representation of sponsoring bodies. In implementing the new framework special negotiations will need to be undertaken to facilitate the transition to the new governing bodies which give parents a greater role.

Provincial Department as Employer

8.37 The Committee took the view that a defining characteristic of the public school is that teachers should be employees of the State. For the vast majority of teachers, this presents no problems. However, the Educators Employment Act provides that in the case of teachers at some state-aided schools the employer is defined as the "school". A recent industrial court decision suggests that this may represent "co-employment", and that the State still retains its status as employer. The change to this provision would require an amendment to the Act, and therefore negotiations

in the Education Labour Relations Council to ensure adequate consultation with all parties before the act could be amended.

Change of Category of School

8.38 Where an independent school seeks to become a public school, further negotiations are required. These negotiations would seek to establish the following:

(a) that in the view of the provincial authorities, the establishment of a public school on the site would be warranted in terms of its planning criteria;
(b) that the majority of teachers, parents, staff, students (where appropriate) and the governing body of the independent school support the proposed change of status;
(c) that the teachers are willing to become state employees, and accept the service conditions attached thereto;
(d) that the premises are in a condition acceptable to the provincial authority, and that the State's rights of use of the land and premises are secured in an agreement for an acceptable period of time;
(e) that the admission policies of the school will assist the State in meeting its constitutional obligation to provide access to education;
(f) that the department has the resources to meet the recurrent and other costs of the school.

8.39 In the case of a public school seeking to become an independent school, negotiations would have to secure agreement on the following:

(a) that the department is satisfied that the change of status would in no way prejudice its obligation to provide access to education for the citizens of the province;
(b) that the State would not be prejudiced by the loss of assets, or that adequate compensation would be arranged;
(c) that the parents, teachers, students (in the case of secondary schools) and governing body support the change of status;
(d) that the requirements of the Educators Employment Act and the Education Labour Relations Act, and any other relevant legislation, have been met with regard to the change of employer of the staff.

Allocation of Negotiable Powers and Functions

8.40 A basic assumption of the framework proposed here is that a process will have to be established whereby schools can negotiate with the provincial authorities to acquire the powers and functions indicated in the governance framework as "negotiable". Each province will establish its own negotiating processes through its regional or district offices. In the majority of cases these negotiations will take the form of the completion of an application form by the school, and approval by the

provincial authority. Only in cases where the provincial authority believed that the application was problematic would direct face-to-face discussions between the parties be involved. In all such cases the commitment to administrative justice requires that every such negotiation is inclusive of all the key stakeholders, and that there is full disclosure by the State of the criteria used in assessing applications, and of the reasons for any rejection of applications.

Implementing the Framework: Initial Steps

8.41 The first steps will be for the Minister of Education to make the Report and the recommended framework available to the provincial MECs, and to the public. This will initiate a process whereby the education authorities and the public can jointly assess the merits and disadvantages of the proposal, and through a process of negotiation reach agreement on the new framework. This will involve some detailed macro-planning work to assess the financial, legislative, logistical and other implications of the framework. The Minister would clearly develop his own strategies to assess the reaction of the public and of key stakeholders to the proposals before finalising them.

8.42 Once agreement has been reached on the particular form the new framework is to take, and the legislative and other requirements necessary for implementation, the drafting of legislation and regulations should proceed. Amendments to existing legislation, or the passage of new legislation to provide a legal basis for the proposed framework would involve their own negotiation and consultation processes. Once this is completed, it is envisaged that implementation could proceed along the following lines.

8.43 At the school level, the first step will be for the provincial authorities to publish guidelines for public schools, outlining the provisions concerning membership and elections of governing bodies, spelling out the basic powers and functions which apply to all public schools, and the procedures to be followed and criteria to be met in the case of negotiable powers and functions.

8.44 Governing bodies whose composition does not conform to the requirements of the new regulations would be required to take steps to rectify this. If the existing membership had been elected in a manner compatible with the new regulations, then they could be supplemented with any additional members necessary. If this were not the case, then new elections would have to be held and a new governing body elected which would conform to the new regulations.

8.45 In the case of all institutions where the land and fixed assets are publicly owned (such as state, Model C and community schools) the provincial authority would issue a statement declaring them to be public schools.

8.46 In the case of state-aided schools wholly or predominantly constructed with private funds (such as state-aided schools on church, mine, or farm property) owners would be given an option of seeking registration as independent schools or

as public schools. If the former option is chosen, negotiations will have to take place about compensation for any assets which may have been constructed at public expense, and thorough negotiations will have to be conducted with teachers who are state-employed to make arrangements for transfer to employment by the independent school. If the owner opts for public school status, the focus of negotiations will initially be on arrangements for the transfer of ownership of any private assets to public ownership, or for protection of the State's interests in the property and assets, as described in the sections above.

8.47 Where no recognised governing structure currently exists, the assistance of the district or regional office would be sought in conducting the necessary elections to establish a new governing body constituted in terms of the provincial policy. Such provincial policy would be required to conform to the standards and norms agreed at national level.

8.48 The next step would be for each governing structure to table with the provincial authority a completed *pro forma* draft agreement document which spells out the basic powers and functions of all public school governing bodies, and indicates which negotiable powers and functions the school is seeking to have transferred. This would include the necessary evidence that the capacity-building and will exists in the school community to take on the additional functions as laid out in the departmental criteria.

8.49 Should a governing body at this stage wish to object to any change in its powers and functions, it should at this point declare its intention to seek negotiations in terms of Section 247.

8.50 Where the department is satisfied that the application meets all the criteria, it would issue an agreement document or governance charter which would then become the legal instrument by which the particular combination of powers and functions are determined to reside at a specific school. Where the provincial authority is not in a position to approve the draft agreement document, it will provide an explanation of the grounds for its concerns and enter into negotiations with the governing body to resolve the matter. Should this refusal constitute a change in the governing powers as prescribed in Section 247, the governing body may indicate its intention to exercise its option to seek negotiations in terms of that section.

8.51 In the first instance, and during the transition from the present system, the existing powers and functions of recognised governing bodies will apply until amended after *bona fide* negotiations.

Summary of Recommendations

8.52 The Department of Education should facilitate negotiations which would involve provincial authorities, key stakeholders and the general public to reach agreement on the implementation of the recommendations in this Report.

8.53 These negotiations should include any discussions between governing bodies and provincial departments required by Section 247 of the Constitution, where governing bodies are dissatisfied with the proposed changes to their powers and functions..

8.54 Where implementation of the framework requires transfer of ownership of land and assets, negotiations between the affected parties should take place to facilitate such transfer.

8.55 Where former state-aided schools on private land opt to convert to independent school status, negotiations will have to take place concerning compensation in respect of assets provided by the State. Where such schools opt for public school status, negotiations should take place to establish the mechanisms to secure the State's interests in the land and assets.

8.56 Public schools on private farms will need to be integrated into the district development plan, which will require rationalising provision. Farmers, farm workers, community development agencies should participate in district level forums with the education stakeholders and authorities to develop such district development plans for schooling.

8.57 When the land and assets of former Model C schools revert to the State, negotiations will need to be undertaken to protect the parents' interests, possibly through an agreement which grants certain usufructuary rights over the land and assets. Moveable assets not purchased with public funds should remain the property of the school.

8.58 In the case of public schools on community owned land, negotiations will have to be conducted with the key stakeholders to secure the State's interests in the land, possibly through the granting of certain usufructuary rights.

8.59 Specific conditions should apply in the case of independent schools seeking to be declared public schools, or vice versa.

CHAPTER NINE: CAPACITY-BUILDING FOR SCHOOL GOVERNANCE

Capacity and Capacity-building

9.1 The structures and strategies proposed in the preceding chapters call for a comprehensive development of "capacity-building" in the education system as a whole. This Review Committee, with its focus on the school level, is particularly concerned that these institutions and their immediate support structures, the district authorities, should develop the capacity-building necessary for effective democratic governance and management.

9.2 The educational structures relevant here are

(a) school managements;
(b) school governing bodies; and
(c) district education offices.

9.3 The term capacity-building may be defined as the power to act. Capacity-building-building building is directed to community empowerment, and entails the development of both the material and the human resources (the knowledge, skills and attitudes) necessary for effective governance and management. In this chapter attention will be directed mainly to knowledge and skills, but there will first be a brief treatment of the resources component.

Material Resources

9.4 Many schools, particularly in rural areas, lack the basic equipment necessary for the efficient administration of an institution. Democratic governance and management require fundamental facilities for communication, record-keeping, etc.

9.5 But in many areas the school's basic educational function itself is severely handicapped by inadequate material resources. Given the deprivation that exists in many rural districts, development plans will have little impact unless accompanied by building refurbishment, reconstruction and the provision of fundamental infrastructural needs such as electricity and water. The provision of basic physical plant, equipment, and materials, together with administrative and professional support, is essential for the development of capacity-building of these school communities to provide learning opportunities of quality.

Skills for Governance and Management

9.6 In many school communities there are skills that need to be developed if the relevant structures are to be effective. Large numbers of governing body members, for example, will be performing this role for the first time. But many such people will have

had experience in other consultative and decision-making groups, and this experience and knowledge must be recognised and drawn upon in the processes of capacity-building development. Furthermore, personnel providing information and workshops in the course of such processes will need to be very sensitive to the implications, for local relationships, of differences in social context, e.g., those between the urban and the rural.

School Management

9.7 The requirements of democratic institutional management make considerable demands upon school principals and their senior staff members. Many have developed considerable skill in a balanced exercise of leadership and authority in relation to assertive constituencies of teachers, students and parents. These skills (e.g., those of negotiation), obviously need to be developed more widely, and programmes are required to facilitate this systematically.

9.8 In addition, there are the regular management processes of record-keeping, budgeting, financial control, reporting, staff selection and meetings-procedures. In-service programmes in such matters have become common in many contexts. What needs to be ensured is that those provided under the auspices of the new departments of education accord with the spirit of the new education policy and are effective.

Governing Bodies

9.9 New and existing governing bodies will need clear information on their basic powers and functions, and on the negotiable ones suggested in this Report. For very many governing bodies, workshops will be necessary on the implications of these powers and functions, on procedures appropriate to governing body meetings, and on some aspects of the regular administrative procedures mentioned in the previous paragraph Such capacity-building-building support should also be made available to student and parent organisations which elect representatives to the governing body.

9.10 The implementation of a school ethos which is sensitive to race and gender issues will, on the part of many governing bodies, require the development of new understandings and approaches to aspects of institutional policy. This will call for explicit attention in programmes for governing bodies.

9.11 Another area in which governing bodies will need sensitisation is that of modern approaches to the schooling of learners with special educational needs.

District Education Offices

9.12 This Report has supported the development of district-level educational management, providing professional leadership and support, and material resources where necessary, to local schools. They will of course also monitor the development of these institutions,

and provide administrative services for district-level consultative processes regarding educational policy.

9.13 The education officials within these district offices will be the ones in closest contact with the schools, and will obviously need to have professional knowledge and skills relevant to the school management and governance processes which they are to support and monitor, and skills in relating to school-level structures.

9.14 District offices will be vital in facilitating contact and co-operation among schools, in identifying local priorities for resourcing, and in co-ordinating, where necessary, the use of scarce specialist personnel among schools. One example would be advisory services for the teaching of learners with special education needs in regular schools. Another would be teachers' resource centres and community learning centres.

Capacity-building Processes

9.15 The overall management of the new education structures will require an Education Management Information System on all the schools to which norms of minimum provisioning and an index of need can be applied. Establishing this EMIS is an interactive process in which local school communities would be consulted in the provision of information and the identification of needs.

9.16 Consideration should be given to the establishment of a national Education Management Training Institute (EMTI). Courses offered could comply with the National Qualification Framework (NQF) and could service national, provincial and sub-provincial structures.

9.17 Provincial education departments will require capacity-building units devoted to the identifying of priorities and the development and implementation of programmes in the areas suggested here. All this will entail considerable discussions with various categories of education personnel and consultative structures, including teachers' and parents' organisations.

9.18 Many schools and school communities have accumulated substantial knowledge and skills to run their schools effectively. It is recommended that this expertise is shared with other schools in the district. For example, well-resourced schools for learners with special education needs could develop resource centres, supporting under-resourced units, providing for these special needs. In the same vein, independent schools, including religious schools, and other religious institutions often possess administrative expertise and infra-structure at a level which is rare in their respective contexts. They should be encouraged to make appropriate specialist contributions to capacity-building development in the overall school system.

Recommendations

9.19 It is recommended that

(a) a well-coordinated capacity-building programme be developed and implemented that provides educators and members of governing bodies access to the knowledge, skills, information and material resources necessary to sustain governance functions: and

(b) an Education Management Information System and an Education Management Training Institute be established to provide management information and training to relevant personnel.

CONCLUSION

1. In a spirit consistent with the perspective of the White Paper, the Review Committee has proposed a framework of school organisation, and norms and standards for school governance and funding. We have been concerned to suggest a foundation upon which a policy could be built that would promote the development of long-lasting quality and equity in education. The Committee has also set out the processes entailed in those changes which require negotiation, and has indicated the very substantial programme of capacity-building required in many contexts if school governance and management are to be effective in the democratic structures being developed.

2. We trust that the Report will contribute effectively to the work of the educational policy-makers, planners, and education managers in implementing a reformed education system which is truly democratic in the sense that it provides quality education to each and every South African child.

APPENDIX A

Organisations and Institutions Consulted

Schools visited:

Sitintile High School, KaNyamazane, Eastern Transvaal Province
Middelburg Primary School, Eastern Transvaal Province
Beesteplaas Agricultural High School, Eastern Transvaal Province
Injabula Farm School, Eastern Transvaal Province
Thulani School, KwaMhlanga, , Eastern Transvaal Province
Pietersburg English Medium Primary School (PEMPS), Northern Province
Lehlasedi Farm School, Northern Province
Hoërskool Louis Trichardt, Northern Province
Mudwaswadi Secondary School, Northern Province
Silemane Secondary School, Makonde, Northern Province
Bosele Special School, Northern Province
Ramotshinyadi School, Northern Province
Myeshi Primary School, Northern Province
Platinum and the DET, North West Province
Lichtenburg Hoër Skool, North West Province
Stella Laerskool, North West Province
Vryburg Hoërskool, North West Province
Kismet Combined School, North West Province
Ex HOR school, North West Province
A township Secondary School, North West Province
Tiger Kloof Private School, North West Province
Bothidello Combined School, Rustenburg, North West Province
Boikagong High School, Rustenburg, North West Province
Letsibogo Primary School, Rustenburg, North West Province
Treasure Trove Farm School, Bakerville, North West Province
Jabulile Secondary School, Orange Farm, Gauteng Province
Lenasia Model Primary School, Lenasia, Gauteng Province
Lenasia Muslim Private School, Lenasia, Private, Gauteng Province
Kliptown Primary School, Gauteng Province
Roseneath Primary School, Gauteng Province
Roedean Private School, Gauteng Province
C R Swart High School, Gauteng Province
Cradock High School, Cradock, Eastern Cape Province
Matthew Goniwe Secondary School, Cradock, Eastern Cape Province
Glen Stuart Farm School, Cradock, Eastern Cape Province
Primary School in Soweto-On-Sea, Port Elizabeth, Eastern Cape Province
Pearson High School, Port Elizabeth, Eastern Cape Province
Shortlands Farm School, Grahamstown, Eastern Cape Province
Vukuhambe School, Eastern Cape Province
Wongulethu School, Eastern Cape Province
Alphen Secondary School, Eastern Cape Province

Ebenezer Majombozi Secondary School, Eastern Cape Province
School for street children run by Ms Jane Bradshaw and Mr Kennith Pitso, Eastern Cape Province
Libodo Village School, Eastern Cape Province
Mt Nicholas School, Eastern Cape Province
Davies Junior Secondary School, Butterworth, Eastern Cape Province
Msobomvu Senior Secondary School, Butterworth, Eastern Cape Province
Gobinanba Junior Secondary School, Eastern Cape Province
Joyi Senior Secondary School, Baziya, Eastern Cape Province
Ntsizwa Senior Secondary School, Mt Ayliffe, Eastern Cape Province
Butterworth High School, Butterworth, Eastern Cape Province
Manthatisi High School, QwaQwa, Free State Province
Seotlong Agricultural and Hotel School, Phuthaditjhaba, QwaQwa, Free State Province
Thiobolho School for the Deaf and Blind, Phuthaditjhaba, QwaQwa, Free State Province
Dr Blok Secondary School, Free State Province
Community School, ThabaNchu, Free State Province
Farm school under the jurisdiction of the NG Church, Bloemvallei, Free State Province
Farm school in the Bloemfontein district, Free State Province
St Joseph's Christian Brothers College, Free State Province
Daluxolo Primary School, Free State Province
Tswelang Special School, Bloemfontein, Free State Province
Dr Viljoen High School, Free State Province
Dankbaar Christelike Volkseie Onderwys School (CVO School), Free State Province
Ronwe Primary School, Paarl, Western Cape Province
Drosdy Technical High School, Worcester, Western Cape Province
De la Bat School for the Deaf, Worcester, Western Cape Province
Elda's Community School, Milnerton, Western Cape Province
Khutele Industrial School, Western Cape Province
Windsor High School, Cape Town, Western Cape Province
Robinvale Secondary School, Atlantis, Western Cape Province
Rylands Primary School, Cape Town, Western Cape Province
Lulhalaza Secondary School, Khayelitsha, Western Cape Province
Northern Cape Technical High School, Kimberley, Northern Cape Province
Boitumeling Specialised School, Kimberley, Northern Cape Province
St Boniface Finishing School, Kimberley, Northern Cape Province
Emong Mmogo Comprehensive School, Kimberley, Northern Cape Province
Douglas Combined School, Douglas, Northern Cape Province
Tau Diarora Primary School, Jan Kempdorp, Northern Cape Province
Voorspoed Primary School, Magogong, Northern Cape Province
Northern Cape Agricultural School, Jan Kempdorp, Northern Cape Province
Barkley West Secondary School, Barkley West, Northern Cape Province
Mogomotse High School, Warrenton, Northern Cape Province
Carlton van Heerden Secondary School, Upington, Northern Cape Province
Curriekamp Primary School, Keimoes, Northern Cape Province
Upington High School, Upington, Northern Cape Province
Boplaas Primary School, Olifantshoek, Northern Cape Province
Paballelo High School, Upington, Northern Cape Province
Theron High School, Britstown, Northern Cape Province

Orion High School, De Aar, Northern Cape Province
Norvalspont Public School, Norvalspont Northern Cape Province
Bulte Fontein Primary School, Bulte Fontein, Northern Cape Province
Yardly Farm School, Colesberg, Northern Cape Province
Umthombo Wo Lwazi School, Colesberg, Northern Cape Province
Open Air School for the Physically Handicapped, Glenwood, KwaZulu-Natal Province
Nkayishana Combined Farm/Factory School, at SAPPI Mill), Crammond, KwaZulu-Natal Province
Wykeham Collegiate Girls' School, Pietermaritzburg, KwaZulu-Natal Province
Gugulesizwe High School, Umzinto, KwaZulu-Natal Province
Glenwood High School, Durban, KwaZulu-Natal Province
Vulindlebe School for the Deaf, Umlazi, KwaZulu-Natal Province
Shembe Combined Primary School, Inanda, KwaZulu-Natal Province
A J Mwelase High School, Lamontville, KwaZulu-Natal Province
Georgenau Farm School, KwaZulu-Natal Province
Dlangezwa High School, KwaZulu-Natal Province
Prince Myayiza High School, Nongoma, KwaZulu-Natal Province
Richards Bay Secondary School, KwaZulu-Natal Province
Thandukwazi Combined Primary School, KwaMashu, KwaZulu-Natal Province

Stakeholders Consulted During Provincial Visits

Mr D D Mabuza, MEC: Education, Eastern Transvaal; Ms F Sithole, Head of the Education Department; Dr M Mahlangu, Acting Chief Director, Development and Provisioning, former Transvaal Education Department; Mr S Sukati, Acting Director, Eastern Transvaal Education Department and Mr P Mthimunye, Acting Chief Director, Eastern Transvaal Education Department
The governing bodies of schools in the Eastern Transvaal Province: a former KaNgwane community school, a former KwaNdbele community school, a Model C English primary school, a special agricultural high school, a farm school
The Mpakeni District Education Coordinating Committee, Eastern Transvaal Province
A Students' Representative Council (SRC) of a school in the Eastern Transvaal Province
A delegation from the Interdenominational Committee for Education and Training (IKOO), Eastern Transvaal Province
Dr Aaron Motsoaledi, MEC for Education, Northern Province
Dr J Malatji, Director-General of the Provincial Administration and Acting Superintendent-General of Education, Northern Province
South African Democratic Teachers Union (SADTU), Northern Province
National Professional Teachers' Organisation of South Africa (NAPTOSA), Northern Province
Association of Professional Teachers (APT), Northern Province
Transvaal United African Teachers' Association (TUATA), Northern Province
Teachers Federal Council (TFC), Northern Province
Congress of South African Students (COSAS), Northern Province
Azanian Students' Movement (AZASM), Northern Province
Pan African Students' Organisation (PASO), Northern Province
Organised Business, Pietersburg, Northern Province

Traditional leaders, Northern Province: R R Sumbana, S C Mhinga, B D Tabotswana, M Ntsanwisi, M M Marishane, L S Mogoboya, T J Ramovha, M G Nethengwe, Zion Christian Church (ZCC), Northern Province
Mr G Grobler, member of the District Committee of the Transvaal Agricultural Union, Northern Province
Mr H H Mateme of the Parliamentary Standing Committee on Education, Northern Province
Mr D Motubatse, Culture of Learning Project, Northern Province
Governing bodies and/or staff and students at schools in the Northern Province: a Special School for the Blind and Deaf, a Farm School on a citrus estate, an ex-Lebowa Community School, an ex-Gazankulu Community School, Model C Afrikaans-medium Secondary School, an ex-Venda Community School, a Private School
Mass meeting at a school used by an ex-Bophuthatswana government school and an ex-DET school that are platooning in the North West Province
Area Manager and a superintendent of the ex-DET in Lichtenburg, North West Province
The principal, an ex-TED superintendent and a member of the School Committee of the Lichtenburg High School, North West Province
Dr A Motsoaledi, MEC for Education and senior officials, North West Province
The MEC for Transport, North West Province
The Mayor of Vryburg, North West Province
Ex-TED Officials: Dr K Paine, Dr W Boshoff and Dr M Teichler, Gauteng Province
Gauteng Education Department officials: J Maseko, W Motara, D Maboi, T Chaane, E Motala, M Poswa, N Moiloa, B Wessels, A Moonsammy, T Waspe and L Botha, Gauteng Province
Transvaal English Medium Parents Association, Gauteng Province
Association of Governing Bodies, Gauteng Province
Association of Professional Teachers, Gauteng Province
Suid-Afrikaanse Onderwysersvereniging (SAOV), Gauteng Province
Interkerklike Kommissie, Gauteng Province
Afrikaanse Ouervereniging, Gauteng Province
Ms N Balindlela, MEC for Education, Head of Department and senior officials of the Eastern Cape Education Department, Eastern Cape Province
Delegation of representatives of Private Catholic Schools, Eastern Cape Province
Delegation of representatives of Non-Catholic Private Schools, Eastern Cape Province
Delegation of representatives of the Association of State-aided Schools, Eastern Cape Province
Delegation of Cradock School Principals, Cradock, Eastern Cape Province
Queenstown Education Forum, Queenstown, Eastern Cape Province
Representatives of the organised teaching profession, Eastern Cape Province
Members of the Education Desk of the ANC in the Eastern Cape Province
The Eastern Cape Teachers' Association (ECTA) affiliated with NAPTOSA, which includes organisations in the Eastern Cape Province: Cape Association of Teachers' Unions (CATU), Cape Teachers' Professional Association (CTPA), Suid-Afrikaanse Onderwysersunie (SAOU), South African Teachers' Association (SATA)
Representatives of South African Democratic Teachers' Union (SADTU), Eastern Cape Province
Representatives of the All Saints College, Eastern Cape Province

Senior officials of the Education Department, Eastern Cape Province
Representatives from the parent community/teachers/students of schools in the Eastern Cape Province: Vukuhambe School, the Alphen Secondary School, the Majombozi Secondary School, the Wongulethu School
Ms Jane Bradshaw and Mr Kennith Pitso of the Daily Bread Charitable Trust, Eastern Cape Province
Mr Majova, Regional Director, North Eastern Region, Eastern Cape Province
Mr Ntonzeni, Regional Director, Southern Region, Eastern Cape Province
Rt. Rev. David Russell, Anglican Bishop of Grahamstown, Eastern Cape Province
Rhodes University Maths Project, Grahamstown, Eastern Cape Province
Albany Farm Schools Working Group, Eastern Cape Province
Mr S T Belot, MEC: Education and senior officials of the Free State Education Department
Management Team of the Dr Blok Secondary School, Free State Province
Teaching staff of the Dr Blok Secondary School, Free State Province
Inspector for Education in whose territory the Bloemvallei farm school is situated, Free State Province
ThabaNchu Principals Forum, Free State Province
Mr R S Phele, Regional Coordinator, QwaQwa, Free State Province and Eastern Cape Province
Mr H G Buitendag, Principal, Seotlong Agricultural High School, QwaQwa, Free State Province
Mr P Cook, Principal, Thiobolho School for Deaf and Blind, Phuthatdijhaba, Free State Province
Representatives from the organised teaching profession, the parent organisation and Superintendents Auxiliary Services from the Free State Education Department: Mr J M Losabe (Bloemfontein West), Mr M E Mokhephe (Bloemfontein West), Mr S E Masemkane (Bloemfontein North), Mr T L Thibele (Bloemfontein North), Mr J H Steyn (Bloemfontein South), Mr J J Spies (Association for State-aided Schools), Mr J J Kritzinger (Association for State-aided Schools), Dr A A Stulting (Association for State-aided Schools), Mr H P Smit, Oranje Vrystaatse Onderwysersvereniging (OVSOV), Professor N T van Loggerenberg (OVSOV)
Representatives of South African Democratic Teachers' Union (SADTU)
Representative of the Dankbaar Christelike Volkseie Onderwys (CVO) School, Free State Province
Members of the Management Body of the Sentraal High School in Bloemfontein: Prof C A J van Rensburg (Technikon, OVS), Professor W J Botha (University of the Orange Free State), Mr H P Smit (Headmaster), Mr R F Crowther (Free State Education Department), Mr J J D Havenga (Daan Havenga and partners Auditing firm), Mr J le Roux (Chairman of the Parent Association), Professor A A Stulting (Chairman of the Governing Body, Chairman of the Associations for State-aided Schools (ASAS) and Vice-Chairman of the South African Association for State-aided Schools (SAFSAS)
Board of Governors of the St Joseph's Christian Brothers College, Free State Province
Staff of the St Joseph's Christian Brothers College, Free State Province
Representatives of the PTSA of the Daluxolo Primary School, Free State Province
Staff of the Daluxolo Primary School, Free State Province
Representative from SADTU, Free State Province
Representative from PASO, Free State Province

Representative from COSAS, Free State Province
Representatives of the PTSA of the Moemedi Secondary School, Free State Province
A senior official of the Education Department, Free State Province
Representatives and staff of the Governing Body of the Dr Viljoen High School in the Free State Province: Mr M Grobler, Principal, R F J Bergh and Mr W Strydom, Deputy-principals, Rev W J van Eeden, Chairman of the Governing Body and Head of the Children's Home, Deputy Director-General, Professor Khoale, Mr J D Botha and Mr R F Crowther, Free State Education Department
Ms M E Olckers, MEC, Education and Culture, Western Cape Province and senior officials: Dr F L Knoetze, Acting Head of Education, Mr B Gilbert, Acting Executive Director, Mr A W Muller, Head of Education ex-HOR, Mr C Beukes, Chief Director, Miss M Ngcelwane, Regional Acting Head of Staff, Dr O M Firmani, Director of Communication Service
Delegation of Independent Schools, Western Cape: Mrs J Weight, Mr M Gray, Mrs P Duff, Mr P Oertel, Mr R Cox, Mr A Lindeque, Mr R Cawood, Mr M Hoare, Mr Y Mandes, Mr D Ginsberg, Mr R Stein
Delegation of Church Schools, Western Cape: Mrs J G Pietersen, Mr E Nober, Mr P A Myburg, Rev C du Toit, Mr A Cloete, Mr C C van der Merwe, Rev J H Kronenberg, Mrs M Gardner, Mr C Marais, Mr R H Theunissen, Mr H Slaas, Rev J Joseph,
People of the Ronwe Primary School, Paarl: Mr C Moses (Principal), Mr J Douman (Inspector), Mr L April, (Chairperson) and Mr S Johannes (Member) of governing body
People of the Khutele Industrial School, Paarl: Mrs Elda Nahlentle, Principal, School Committee Chairperson and two parents
People of the Curriekamp Primary School, Keimoes: Mr H Olivier (Principal), Rev Kulsen (Chairperson), Mr P Davies (Member) of the governing body
Senior officials of the Department of Education in the Northern Cape: Dr Dlamini, newly appointed Head of Education, Mr Tex Moroladi, former Acting Head of Education, Dr Mohape Malaka, Mr David Visagie, Mr Hurter, Mr Sandile Beuzana
Dr V E T Zulu, MEC for Education, and members of the Interim Provincial Strategic Planning and Management Committee (IPSPMC), Mr Vic Pillay, Mr A Olmesdahl, Mr W Dorkin, Dr H Vermeulen, Dr S Shabala and Mr B Martin
Principal and Manager of Farm/Factory School at SAPPI Mill, Crammond, KwaZulu-Natal
Circuit Offices in Umbombo, KwaZulu-Natal Province
Principal, Chairperson of Board, Bursar and members of SRC Wykeham Collegiate, KwaZulu-Natal
Principal and Chairperson of the School Committee of Gugulesizwe High School, KwaZulu-Natal
Principal, Deputy Principals and members of the Board of Management of Glenwood High School, KwaZulu-Natal
Principal of Vulindlebe School, KwaZulu-Natal
Member of the Natal Deaf Association, KwaZulu-Natal
Principal, Vice Principal, members of the Board of Management and members of the School Committee of the Shembe Memorial Combined Primary School, KwaZulu-Natal
Members of the Interim Provincial Strategic Planning and Management Committee (IPSMC), KwaZulu-Natal
Principal, Deputy Principal and members of the governing body of the Open Air School for the Physically Handicapped, Glenwood, Durban, KwaZulu-Natal

Principal, Deputy Principal and members of the governing body of the Open Air School for the Physically Handicapped, Glenwood, Durban, KwaZulu-Natal
Mr Mazibuko, Principal, Members of the Management Committee, Students and Teachers of the A J Mwelase High School, Lamontville, KwaZulu-Natal
Principal, Acting Farm Manager, School Inspector and a teacher of the Georgenau Farm School, KwaZulu-Natal
Principal and School Manager of the Human Resources of Factory, Nkayishana Combined School, KwaZulu-Natal
Principal and Chairman of School Committee, Gugulesizwe High School, KwaZulu-Natal
Mrs D Sithole, teacher, Mr V B Nhlumayo, School Inspector, Dr W S Mpofana, Subject Advisor, Mr S M Zuma, School Principal, Ms A T Zwane, Principal, from the Port Sheptstone Area, KwaZulu-Natal
Mr N Yeni, Principal and Mr Mthiyane, Deputy Principal, Dlangezwa High School, KwaZulu-Natal
Sister Mary-Anne, Principal, Sister Amara, Miss Dube, Natal Deaf Association, Mr A N Nzimande, Vulindlebe School for the Deaf, Umlazi, KwaZulu-Natal
Mr Dlomo, Ndwedwe Circuit Inspector, KwaZulu-Natal
Principal, Vice Principal and 4 Members of School Committee, Shembe Memorial Combined Primary School, Inanda, Durban, KwaZulu-Natal
Umbombo Principals and School Committee Members, KwaZulu-Natal
Nongoma Circuit Principals, KwaZulu-Natal
Principal, Deputy Principal, Chairman, Parents Committee and, two Head Prefects, Richardsbay Secondary, KwaZulu-Natal
Principals of Community Schools in the Port Shepstone area, KwaZulu-Natal

P Mahlelu, Network Against Child Labour (NACL),
B Maserumule, Farmworker Research and Resource Project (FRRP),
P Masia, Director , Rural Education Forum (REF),
J Mokungwe, Education Officer, South African Agriculture and Plantation Allied Workers Union (SAAPAWU), an affiliate of the Congress of South African Trade Unions (COSATU),

APPENDIX B

Public Documents

Assignment to the Provinces of Acts of Parliament Relating to Education Under Section 235(8) of the Constitution of the Republic of South Africa, Proclamation No. R.151, 1994, Regulation Gazette No. 5418, Government Gazette, vol 352 No. 16049, 31 October 1994

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APPENDIX C

Written Submissions

Tegwan's Nest Primary School
Dower College of Education
Mr M M Ceasebar, Messina
National Educational Cleaning and Security Services C.C.
South African Association of Occupational Therapists: D van der Reyden
Mr P P Nyiko, Letaba
Van den Berg Sam and Elizabeth, Hatfield
Mr P N Kekana, Temba
Mr L N Rafapa, Sovenga
Mr R B Gcakasi, Khayelitsha
Mr S J Makgoba, Phalaborwa
Mr T Kain, Ladysmith
Mr F C Samson, Kirstenhof-Retreat
Mr W O'Meara, Kimberley
Mr L G Masiu, Mokodumela
Department of Education and Training: Mr D A Scholtz
Association of Muslim Schools (2)
Pinelands High School, Cape Town
Parents for Children with Special Educational Needs (W Cape)
Coopers & Lybrand Management Advisory Services
Sibonile School for Visually Impaired Pupils, Kliprivier
Hoërskool Kroonstad
Khanyisa School for the Visually Handicapped, Port Elizabeth
Kwazamokuhle School for the Handicapped, Estcourt
Westville Girls High School
Danville Park Girl High S, Durban North
Thabo-Vuyo Special School, Boipatong
Parish of Belvedera, Knysna
Human Performance Systems
Pietermaritzburg Mental Health Society
Westville Boys High School
Jannie Brink-skool, Kimberley Opleidingsentrum en Boitumelo Skool vir Erg Gestremde Kinders
Newlands East Secondary School PTSA, Marbleray
R S Masango, Umtata
Wilma Lederle (principal of St Martin's Comprehensive School for LSEN): extract from thesis
Harding Special School
E B Masuku
Orient Islamic Educational Institute, Juma Masjid Trust, South Coast and District Madressa Trust, Verulam Madressa Koovathe Islam Trust, Madressa Anjuman Islam Trust
Department of Education, Dr M Lane: Memorandum on Property Rates on Schools
SA Teachers Association, Cape Town (prepared by group of Cape Town-based Model C principals)

SA Teachers Association, Cape Town (prepared by group of Port Elizabeth-based Model C principals)
SA Teachers Association, Cape Town (prepared by group of East London-based Model C principals)
SA Teachers Association, Cape Town (prepared by a Model C high school headmaster)
OVS Onderwysersvereniging
Ex-Natal Education Department
Mev J A Slabbert, Beaufort-Wes
J P Kramer, Simon's Town
Mev Ilze Slabbert, Kommetjie
G J Grobbelaar, Noordhoek
C J Slabbert, Fish Hoek
Miles Foxcroft, Johannesburg
Meisieskool Oranje
St Joseph's College, Rondebosch
Professor James Moulder
SA Onderwysersvereniging, KwaZulu-Natal
Hoër Landbouskool Noord-Kaapland, Jan Kempdorp
Interkerklike Kommissie vir Opvoeding en Onderwys
Meredale Primary School
Transvaalse Onderwysersvereniging and associate member associations
Gauteng Association of Governing Bodies
Partikuliere Sinode OVS en Natal van die Gereformeerde Kerke in Suid-Afrika
Gereformeerfde Skoolvereniging Dirk Postma
Worcester Christian School
Prinshofskool, Pretoria
Transvaalse Onderwysersvereniging (letter to Eastern Transvaal Education Department)
Association of Governing Bodies, Eastern Cape
Association for Home Schooling
Bethlehem Voortrekker Hoërskool
Constantia Waldorf School, Cape Town
Dagbreek Primêr, Welkom
Theocentric Christian Education, Brackenfell
ACDP Working Group on Education
Home School Legal Defence Association (Open Letter to SA Parliament, 1994)
Governor of the PETF Working Group for Specialised Education (the Eastern Cape Provincial and Training Forum)
Professor G J C Jordaan
Committee of Technikon Principals: two policy documents
Mr D R Sawyer, Central Statistical Service, Durban
Educsource
Anonymous
Kruger, Professor A G, Deptartement Vergelykende Opvoedkunde en Onderwysbestuur, UNISA
Steyn, Professor P D G and colleagues, Vista University, Bloemfontein
Laerskool Menlopark
Association of Professional Educators of KwaZulu-Natal
Hoërskool Hercules Bestuursliggaam, Pretoria

Letaba School, Tzaneen
Bestuursliggaam van die Hoërskool Oos-Moot, Pretoria
Mrs M Bodington, Monte Vista
Rustenburg Regional Education and Training Forum
Kroon Primary
HSRC Education Policy and Planning Unit
Laerskool Elarduspark
Laerskool Garsfontein
National Professional Teacher's Organisation of South Africa
Prof A A Stulting, Voorsitter, VESOS
Paul Roos Gimnasium
Theron High School
OVS Onderwysvereniging
Potchefstroomse Gereformeerde Ouerverening
Fish Hoek High Schools
Molefi Secondary School
Western Cape Principals' Association
Pumelela Training Centre
Aksie Reformatoriese Skoolonderwys
C B Visser
Office of the Minister of Education and Cultural Affairs: Western Cape: Mrs M E Olckers
Die Universiteit van die Oranje-Vrystaat
St Patrick's Special School for SMH
Prof W L Nell, Universiteit van Stellenbosch
C J du T Visser, Harrismith
Cambridge Junior School
Cambridge Preparatory School
Kimberley Girls' High School
Dominican Region House
Technical High School Oude Molen
Prof J F Steyn en Dr H T van Deventer, Garsfontein
Tshilidzini School for Special Education, Shayandima
Laerskool Totiusdal
Hoërskool Voortrekker, Natal
The Daily Bread Charitable Trust, East London
Judge H B Klopper, Dundee
University of the Witwatersrand, Johannesburg
Catholic Institute of Education
High School Milnerton
University of Namibia
Diocese/Bisdom/Dayosisi-Kokstad
Independent Schools' Council, Eastern Cape Region
ASGOB, Eastern Cape
Catholic Education Negotiating Team (CENT)
Laerskool Van Rheede
Hoërskool Wittedrift
Grey College, Bloemfontein
Union High School

Star of the Sea School
Ds C du Toit, Mnr E Nober, Mnr J J Jordaan
Collegiate Junior High School for Girls
Rustenburg High School for Girls, Rondebosch
P W Botha Kollege
Archdiocese of Cape Town
George Randell High School
Grey Junior School
Association for the Learning Disabled (Natal) ALD
Queenstown Girls High School
Hoër Tegniese Skool Kimberley
Westering High School, Port Elizabeth
Erica Girls' Primary School
Prof J L Beckmann, Universiteit van Pretoria, Fakulteit Opvoedkunde
Selborne Primary School, East London
Cambridge High School
Stirling High School
York High School
Laerskool Oudtshoorn-Noord
Hoërskool Oudtshoorn
Langenhoven Gimnasium
Hoërskool Sentraal
Plettenberg Bay Primary School
Queen's College
Knysna High School
Laerskool van der Hoven
The S A Federation of Waldorf Schools
Rondebosch Boys' High School
Sans Souci Girls' High School
Oudtshoorn Junior Primêr
Charlo Primary School
Die Moraviese Kerk
Hout Bay Christian School
Laerskool George-Suid
Potchefstroomse Universiteit vir Christelike Hoër Onderwys
Dankbaar CVO-Skool, Vrystaat
Kwa-Mhlanga Progress Day Care Creche
Hoërskool Vaalrivier
Dominican School for Deaf Children
The King's Lighthouse
Springfield Convent School
Knysna Primary School
George Randell Primary School:
Mnr A J van der Merwe
Independent Examinations Board
Gonubie Primary School
The Montessori Society of Southern Africa
Highway Community Church

Hoërskool Upington
Association of Professional Educators of KwaZulu-Natal
South Peninsula High School
Task Team, Northern Transvaal Proposal: Specialised Education
Ms Hermanean Laauwen, Sinoville
Cape Province Parents' Association
Rural Education Forum (REF)
Farmworkers Research & Resource Project (FRRP)
Disability Rights Unit (DRU)
South African Agriculture, Plantation and Allied Workers Union (SAAPAWU)
Department of Education,Sport and Recreation, North West Province
Network Against Child Labour (NACL), Fordsburg