



SAOU SA ONDERWYSERSUNIE
SA TEACHERS' UNION

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MEMORANDUM

SAOU AS *AMICUS CURIAE* IN THE MATTER OF THE MEC FOR EDUCATION IN GAUTENG AND THE GOVERNING BODY OF RIVONIA PRIMARY SCHOOL

INTRODUCTION

1. The SAOU is a registered trade union in terms of the Labour Relations Act. It is a national teachers' union which represents more than 34,000 educators distributed over the whole geographic area of South Africa in more than 3,500 schools.
2. The Union represents teachers who render their professional services across a broad section of schools and who teach in the various official languages of South Africa.
3. The vision of the Union is to promote the interests of educators and learners in a balanced manner with due recognition of the Bill of Fundamental Rights and in the process to engage with the various role players in the education community.
4. The reason for our participation as *amicus curiae* is that we believe it is imperative that the Constitutional Court must also hear the voice of the professional educator on this very important matter. Our contribution is based on our organisation's empirical experience of education over a period of 121 years with regard to what aspects ensure success and quality in public education, our own research based on practical experience, and research on international best practice.
5. The SAOU upholds the powers and competences conferred on school governing bodies in terms of the SA Schools Act (SASA) based on paragraph 3.17 of Education White Paper No 2 with specific reference to the following excerpt, "... *The balance of decision making would rest with the school governing body in accordance with its capacity.*"

6. The Union believes that there is a strong correlation between well-functioning school governing bodies and the provision of quality education. Furthermore, the Union believes that there are sufficient checks and balances in SASA to prevent any abuse of power by a SGB. The Union also unreservedly espouses the notion of a partnership between the various role players in education, i.e. the provincial education department, the local community as represented by the SGB and the educators who render their professional service. This partnership is clearly set out in the preamble to the SASA, i.e.

“Whereas the achievement of democracy in South Africa has consigned to history the past system of education which was based on racial inequality and segregation; and

Whereas this country requires a new national system for schools which will redress past injustices in education ... protect and advance our diverse cultures and languages, uphold the rights of all learners, parents and educators, and promote their acceptance of responsibility for the organization, governance and funding of schools in partnership with the state; and

Whereas it is necessary to set uniform norms and standards for the education of learners at schools, and the organisation, governance and funding of schools throughout the Republic of South Africa.”

7. The SAOU supports the principle and the pertinent finding by the Supreme Court of Appeal in paragraph 54 of the Rivonia Judgement, i.e. that Section 5(5) read in conjunction with Section 5A of SASA applies to an SGB when admission policy, and therewith included the capacity of the school, is determined. The SCA stated: *“To conclude, governing bodies are enjoined to determine school policies, including their capacity, while provincial departments are responsible for the professional management of schools and administration of the admission. These functions must not be conflated.”*
8. The delineation of powers conferred on SGBs *vis a vis* the responsibilities of the Provincial Education Department is extremely important from the perspective of the school principal who more often than not, finds him or herself in an invidious position, i.e. in the middle between the SGB which instructs the principal to implement the admission policy in terms of the capacity of the school and his/her employer, i.e. the Department when such powers and competencies of the SGB are ignored by the Department, even though the Department is fully aware that the SGB is endowed with the power to determine policy in terms of Section 5 of SASA with regard to admission and capacity, as well as with regard to language in terms of Section 6 of SASA.

9. The Union has noted with dismay that Provincial Education Departments increasingly ignore the rights and powers of School Governing Bodies, that they instruct School Principals to defy the policy frameworks laid down by SGBs, and that they intimidate and victimise School Principals when they decline to defy such SGB policies. In the case under consideration, the Principal of Rivonia Primary school was subjected to disciplinary action by the relevant provincial education authority, having been charged with and convicted of insubordination by that authority. The on-going and unrelenting challenge to the powers of SGBs by the education authorities, their insistence on compelling school principals employed by them to defy SGB policies, and their minatory and intimidating attitude when principals decline so to do, render it essential that legal clarity be obtained with regard to the delineation of the actual powers of the SGB on the one hand and those of the Provincial Education Department on the other. Insofar as a teachers' union has a statutory duty to defend the rights of its members against unfair labour practice, the Union is of the view that in instances where unlawful actions by an employer are the driving force behind disciplinary measures against Union members, such actions constitute an intolerable violation of the protections a legal system should afford.
10. The Union is of the opinion that if the Minister of Basic Education (MBE) had declared uniform norms and standards for school capacity (fair and objective criteria) as she is obliged to do in terms of section 5A of SASA, it would have obviated the current discourse being considered by the Constitutional Court. The Union seeks hereunder to furnish the honourable Court with its reasons for insisting that the physical spaces available for instructional purposes in a school are a critical component related to any decision-taking with regard to the physical capacity of a school.

SCHOOL CAPACITY AND DEFINING "EDUCATIONAL SPACE"

11. It is common cause that any educational institution reaches a critical point at which it can be regarded as "full". Any further enrolments thereafter may be regarded as contra productive. The determination of this critical point is exactly the nub of the matter and applies not only to the school as an entity, but also to each and every class room.
12. In an attempt to comply with a court judgement obtained by Equal Education against the MBE, the Minister published in Government Gazette No 36062, "Draft regulations relating to minimum uniform norms and standards for public school infrastructure".
13. However, the draft regulations were so vague that the entire education community condemned them as a feeble attempt to comply with said judgement simply to avoid being accused of

contempt of court. In short, the so-called “Draft Regulations” did not provide a solution to a vexing problem that the education community in general has grappled with for a number of years.

14. At very least any attempt at providing draft regulations should have defined in principle an “educational space”. It is the contention of the Union that such a definition should take into account international best practice and include at least the following:

- a. Foundation Phase (Gr R – Gr 3):
 - i. Classes for these grades are larger than the average physical class size for the other grades. The reason is that a socialising area, i.e. a carpet of approximately 3m x 4m is vitally important for teaching this age group. Such classes should be larger by 25 – 36 m².
 - ii. The average physical space for such learners is 700mm x 700mm
 - iii. Furthermore, it should be borne in mind that because of the dependency of learners as a result of their young age, the number of learners in these classes must be smaller, i.e. the maximum class size should not exceed 25 learners.
- b. Grades 4 – 7:
 - i. The required square metres (m²) per learner should include adequate space for the chair, desk and school case. The average space is 700mm x 700mm;
 - ii. Space for the educator to teach effectively, i.e. in a class of 50 m², the teacher requires at least 7 m (width of class) x 1.5 m in front of chalk board. Furthermore, space should also be provided for the desk, chair and cupboard of the teacher.
 - iii. Usually desks are organised in rows, and therefore the minimum space between rows should be 540mm.
- c. Grades 8 – 10:
 - i. Similar space should be provided, except that the average space per learner should increase to 700mm x 800mm with regard being had to the physical size of the learners.
 - ii. The space between rows also increases to 740mm.
- d. Laboratories and technical subjects: Based on the inherent danger associated with such subjects as well as various statutory health and safety requirements the space per learner should increase to 1.8 – 2.5 m².
- e. Learners with special education needs (LSEN):
 - i. The required space per learner per disability should be determined individually and of necessity will be greater than the spaces that apply to learners without disabilities; and
 - ii. Provision must also be made for wheel chairs and/or other equipment.

15. The SAOU conducted a random survey among 94 schools in South Africa, i.e. 52 primary schools and 42 secondary schools. The full survey is attached as **Appendix A**. The summary is as contained in the table hereunder.

Total Average : School Infra Structure : All Provinces																	
Summary: Primary Schools	Number of classes	Average m ² p/class	No. of boys	No. of girls	Total School population	No. of toilets (girls)	No of toilets (boys)	Total toilets	No of eds (Dept)	No of eds (SGB)	No of admin staff (Dept)	No of admin staff (SGB)	Total staff	Ave size of staff room	No of toilets (female)	No of toilets (male)	Total toilets
Eastern Cape	23.7	50.7	310.9	299.5	610.5	16.8	14.7	31.5	17.9	8.5	0.7	3.9	31.1	64.6	3.5	2.4	5.9
Free State	24.0	52.5	436.8	560.8	997.5	14.5	15.8	34.0	30.5	9.8	5.5	12.3	58.0	80.0	3.8	2.8	6.5
Gauteng	30.7	54.0	454.4	447.7	900.7	18.7	16.0	34.7	22.9	12.7	3.6	5.3	44.4	71.9	4.3	3.0	7.3
Kwa-Zulu Natal	24.4	47.7	358.6	371.6	730.2	16.8	11.2	28.0	20.0	9.2	1.2	2.6	33.0	47.5	4.0	1.6	5.6
Limpopo	19.7	46.8	272.5	275.3	547.8	13.5	11.7	25.2	15.8	7.8	1.0	2.5	27.2	55.0	2.3	1.7	4.0
Mpumalanga	29.6	52.4	380.2	385.0	765.2	21.4	19.2	40.6	22.6	10.0	1.2	4.2	38.0	55.0	2.8	1.8	4.6
Northern Cape	15.3	56.0	225.8	236.0	461.5	9.8	8.8	18.5	13.3	5.5	2.0	2.8	23.5	51.5	2.3	1.3	3.5
North West	30.0	52.0	473.2	486.4	959.6	13.0	13.2	26.2	29.0	5.8	1.0	2.4	38.2	59.2	3.2	2.4	5.6
Western Cape	19.6	46.5	297.4	282.2	579.6	11.0	7.6	18.6	14.8	9.0	2.6	2.8	29.2	49.3	3.8	2.6	6.4
Average	24.1	51.0	356.6	371.6	728.1	15.1	13.1	28.6	20.7	8.7	2.1	4.3	35.8	59.3	3.3	2.2	5.5
Summary: Secondary Schools	Number of classes	Average m ² p/class	No. of boys	No. of girls	Total School population	No. of toilets (girls)	No of toilets (boys)	Total toilets	No of eds (Dept)	No of eds (SGB)	No of admin staff (Dept)	No of admin staff (SGB)	Total staff	Ave size of staff room	No of toilets (female)	No of toilets (male)	Total toilets
Eastern Cape	25.8	50.2	293.6	309.5	541.2	11.4	10.4	21.8	19.2	12.2	1.2	4.4	37.0	65.4	2.8	2.4	5.2
Free State	24.3	41.7	412.3	475.3	887.7	11.3	8.3	19.7	32.0	5.7	2.7	2.3	42.7	60.0	2.3	1.7	4.0
Gauteng	24	65	357	620	981	29	15	44	38	17	5	7	67	137	6	3	10
Kwa-Zulu Natal	32	65	355	364	719	23	19	42	27	11	2	5	45	118	5	4	9
Limpopo	42	50	398	486	885	16	9	25	34	11	2	10	57	72	4	2	6
Mpumalanga	28	57	468	437	903	16	14	30	38	12	1	10	61	91	4	3	7
Northern Cape	25	56	214	257	471	13	11	24	16	7	2	3	28	63	3	2	5
North West	38.4	51.2	309.6	350.6	660.2	16.4	13	29.4	27.8	10.6	1.2	2.8	42.4	71	3.8	2.2	6
Western Cape	31	54.6	338.5	496.75	835.25	21	9.75	30.75	24.75	15.75	1.75	4.25	46.5	85.55	3.75	2.25	6
Average	30.1	54.4	349.6	421.9	764.8	17.4	12.1	29.6	28.5	11.4	2.1	5.3	47.3	84.8	3.9	2.5	6.4
Ratios	Ave Learners p/class	Ave m ² p/Learner	Girls p/toilet	Boys p/toilet	L:Ed (Dept)	L:Ed (incl SGB Eds)	Admin staff p/Learner	Admin staff p/learner (incl SGB staff)	Av no of SGB staff	Staff female (76%) p/toilet	Staff male (26%) p/toilet						
Primary School	30.2	2.04	24.7	27.2	35.1	24.7	348.6	114.0	13.0	8.0	4.3						
Secondary school	25.4	2.8	24.3	28.8	26.8	19.2	365.8	104.0	16.7	9.1	4.8						

16. Based on the summary the following findings can be stated:

- The average class size for primary schools ranges from 39 - 60 m²; the national average of the schools polled is 51 m².
- The average class size for secondary schools ranges from 23 – 66 m²; the national average of the schools polled is 54 m².
- The average school population for the primary schools polled is 728 learners and for secondary schools 765 learners.
- The average number of girls per toilet is 24.7 in the primary schools polled, and 24.3 girls per toilet in secondary schools. In some primary schools the average number of girls per toilet was as high as 27 and in secondary schools as high as 37.
- The average number of boys per toilet is 27.2 in the primary schools polled and 28.8 in secondary schools.

- f. The average number of female staff per toilet is 8 in the primary schools polled and 9.1 in secondary schools, bearing in mind that females comprise 76% of the staff.
- g. The average number of male staff per toilet is 4.3 in the primary schools polled and 4.8 in secondary schools in light of the fact that males comprise 24% of the staff.
- h. The average number of administrative staff is 348.6 learners per staff member in the primary schools polled and 365.8 learners per staff member in secondary schools.
- i. Based on the fact that no formal staff provisioning norms exists for administrative staff, the primary schools polled employ an average of 4.3 staff members and secondary schools an average of 5.3 staff members. This reduces the ratio of learners per staff member to 114 learners per staff member in primary schools and to 104 learners per staff member in secondary schools.
- j. The average national number of learners per class in the primary schools polled is 30.2 and 25.4 learners per class in secondary schools.

17. Based on the above, it is obvious that factors other than just the number of class rooms also need to be considered. The principle of health and sanitation is important when large numbers of persons are managed in a limited space. The Union is convinced that the average number of learners per toilet has reached critical levels and that it is an important factor to consider when the capacity of a school is determined.

18. Emanating from the above survey and the definition of reasonable “educational space” per learner, the schools surveyed were requested to determine the average capacity of the average class room. They were requested to provide a typical floor plan of a class room. Typical floor plans for primary and secondary schools are attached as **Appendix B**. In this regard it was determined that the reasonable educational capacity of an average class room was as follows:

- a. Primary school:
 - i. Grades 1 -3: Average class room: 66m² - 31 learners, but as stated, the number of learners should under ideal circumstances not exceed 25;
 - ii. Grades 4 -7: Average class room 56m² - 30 learners; and
- b. Secondary school: Average class room 56m² - 30 learners.
- c. Note: The principle of reasonable teaching space for the teachers should be considered, as well as space for the teacher to move through the class room.

19. In light of the above, it is clear that the present “one size, fits all” approach of the Gauteng Department of Education, i.e. primary schools (number of classes x 40) equals the school capacity and for secondary schools (number of classes x 35) does not make any professional educational sense nor does it reflect responsible management. If South Africa is serious about

quality education, and the provision of educationally accountable “educational space” and justifiable minimum norm and standards in this regard, the Union proposes a different approach.

SCHOOL TIME TABLE

20. A school time table that complies with educationally accountable principles which promote quality education is much more complex than a mere product of a multiplication calculation. The following factors also need to be borne in mind:

- a. Despite the fact that a White Paper was published in 2001 regarding the position of education for learners with special education needs (ELSEN), the education authorities have not formulated policy in that regard. Implicit in the White Paper is the principle of inclusive education, i.e. that learners with special education needs (LSEN) must be included in the main stream schools (primary and secondary schools). LSEN learners require much more intensive and focused personal attention from educators. Main stream schools have to contend with amongst other the following ELSEN complexities:
 - i. Dyslexia;
 - ii. Asperger syndrome;
 - iii. Mild mentally disabled;
 - iv. Hard of hearing and deafness;
 - v. Visually impaired and blindness;
 - vi. Behaviour problems;
 - vii. ADHD;
 - viii. A range of other learning difficulties
- b. Secondary schools which aspire to provide a reasonable choice of subjects in the further education and training phase (FET) have to contend with complex time tables which accommodate the needs of learners and the requests of parents. Therefore it is impossible to fill each and every class to capacity. For example, the number of learners in classes for Physical Science and Mathematics would normally be lower than in classes for Home Language. If such a spread of subjects is not provided, the school will find it virtually impossible to retain the learners as such learners will enrol with other schools that do provide such a spread of subjects. Therefore a quality secondary school must be able to provide a spread of subject packages that will satisfy the needs and requirements of the community from a selection of the following subjects:
 - i. Home Language;
 - ii. First Additional Language;
 - iii. Second Additional Language;

- iv. Accounting;
- v. Agricultural Management Practices;
- vi. Agricultural Science;
- vii. Agricultural Technology;
- viii. Consumer Studies;
- ix. Dance Studies;
- x. Design Studies;
- xi. Dramatic Arts;
- xii. Economics;
- xiii. Electrical Technology;
- xiv. Engineering Graphics and Design;
- xv. Geography;
- xvi. History;
- xvii. Hospitality Studies;
- xviii. Information technology;
- xix. Life Orientation;
- xx. Life Sciences;
- xxi. Mathematical Literacy;
- xxii. Mathematics;
- xxiii. Mechanical technology;
- xxiv. Music;
- xxv. Physical Science;
- xxvi. Religious Studies;
- xxvii. Tourism; and
- xxviii. Visual Arts.

- c. Laboratories and technical centres require larger floor spaces to comply with safety requirements. Furthermore, subjects that are taught in those areas usually qualify for a smaller learner educator ratio. Therefore the normal educational space does not apply.
- d. In light of the fact that a spread of subjects is provided at secondary schools, it is implicit that the number of desks and chairs will exceed the number of learners.

21. On the basis of the information at the disposal of the SAOU, it is our view that the SGB of Rivonia Primary School had indeed taken the above factors into consideration in coming to conclusions about the capacity of the school and that the Department erred in stating that additional does exist in seeking to compel the admission of further learners to the school.

Selected Comparative International Educational Findings

22. In the Organisation for Economic and Co-operative Development (OECD) report, "Education at a Glance 2012, Highlights, How many students are in each classroom?", the following is noted:

"Findings

At the primary level, the average class size in OECD and G20 countries is around 21 students, ranging from more than 29 in Chile and China to fewer than 20 in Austria, the Czech Republic, Denmark, Estonia, Finland, Greece, Iceland, Italy, Luxembourg, Mexico, Poland, the Russian Federation, the Slovak Republic, Slovenia and Switzerland (in public institutions).

The number of students per class tends to increase between primary and lower secondary education. In lower secondary education, the average class size is more than 23 students, ranging from 20 or fewer in Denmark, Estonia, Finland, Iceland, Luxembourg, the Russian Federation, Slovenia, Switzerland (in public institutions) and the United Kingdom to more than 34 students per class in Indonesia and Korea and to over 50 in China.

In Brazil, China, Greece, Indonesia, Japan, Korea, Mexico and Poland, the increase in average class size between primary and lower secondary education exceeds four students while the United Kingdom and, to a lesser extent, Switzerland (public institutions only) show a drop in the number of students per class between these two levels of education.

Across the OECD, average class sizes at the primary and lower secondary levels do not differ by more than one student per class between public and private institutions. There are, however, marked differences between countries. At primary level, the average class in a public institution has at least four more students than a private institution in Brazil, the Czech Republic, Iceland, Indonesia, Israel, Poland, the Russian Federation, Turkey and the United Kingdom. By contrast, the reverse is true for China and Spain. At the lower secondary level, where private education is more prevalent than at primary level, class sizes are larger in private institutions in 13 OECD countries.

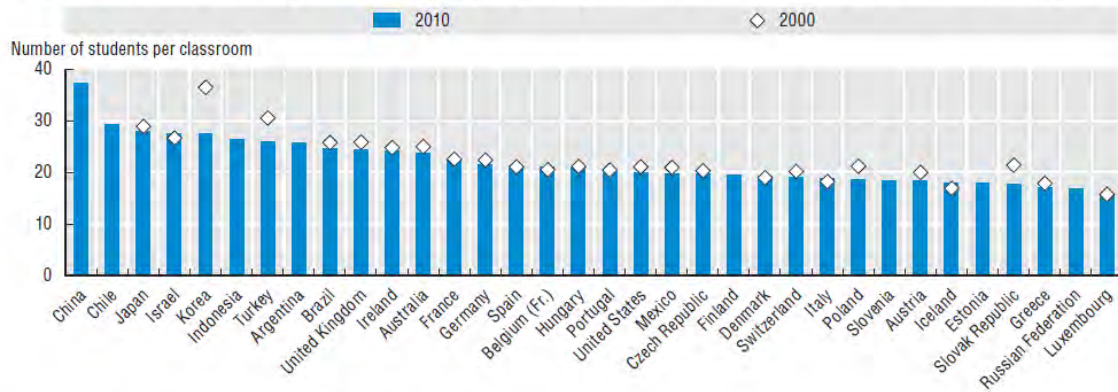
Trends

From 2000 to 2010, the average class size in countries with available data for both years decreased by one student at both the primary and lower secondary levels. The decrease in average primary class size can be partly explained by reforms of class size during that period. Primary class sizes decreased most notably (by more than four students) in countries that had relatively large class sizes in 2000, such as Korea and Turkey. By contrast, class size

increased or was unchanged in countries that had the smallest classes in 2000, such as Denmark, Iceland, Italy and Luxembourg.”

Figure 4.3. Trends in average class size in primary education (2000, 2010)

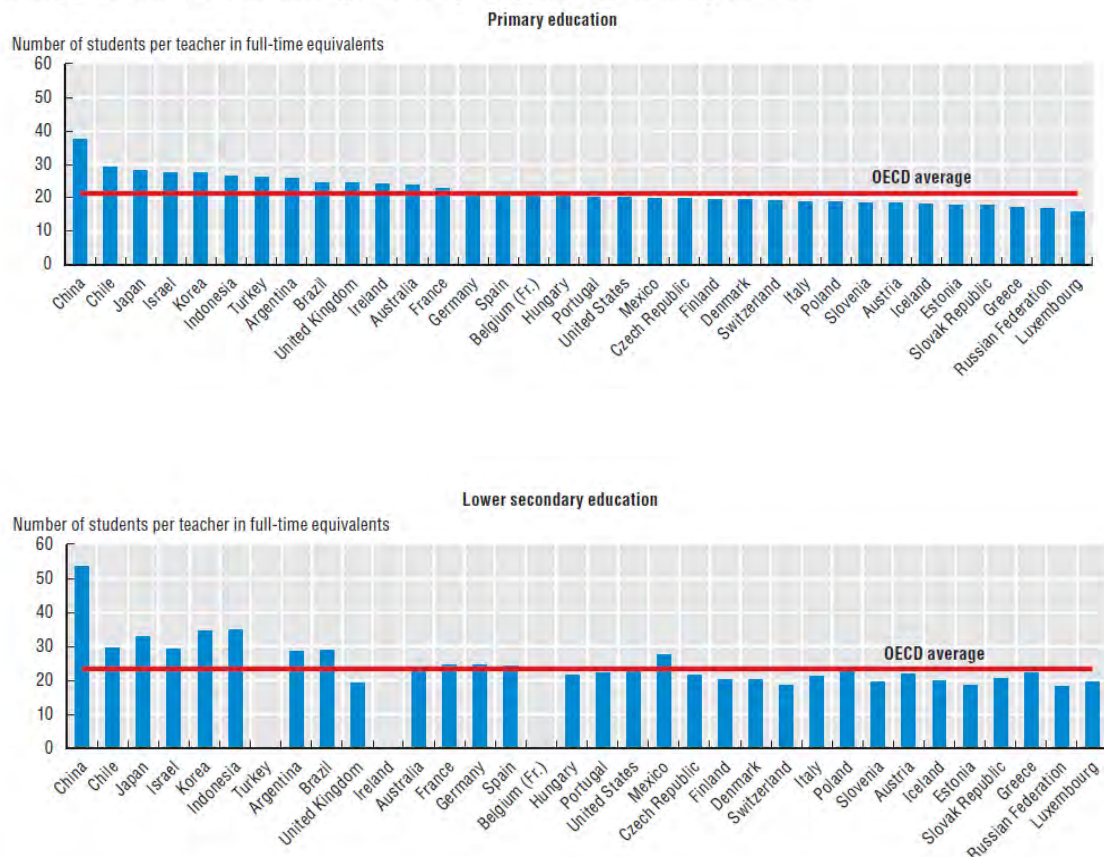
This figure shows the number of students on average in primary classes, and whether these numbers have risen or fallen.



Source: OECD (2012), Education at a Glance 2012, Tables D2.1 and D2.5, available at: <http://dx.doi.org/10.1787/888932667976> and <http://dx.doi.org/10.1787/888932668071>.

Figure 4.4. Average class size, by level of education, 2010

These figures show how class sizes differ between primary and lower secondary education.



Source: OECD (2012), Education at a Glance 2012, Table D2.2, available at: <http://dx.doi.org/10.1787/888932667995>.

23. In the research document of UNESCO published during March 2011, “Beyond the Conceptual Maze, The notion of quality in education”, the following is stated with regard to the definition of quality in education, i.e. *“Discussions relative to the quality of education often remain blurred by the lack both of clarity, as well as of a common understanding of what is actually meant by the term quality. Arguably, this has to do with the fact that, rather than an operational concept, quality in education is a notion which commands a seemingly intuitive understanding. As such, there is no single definition or approach, but rather diverse possible conceptualizations and multiple approaches, each based on widely differing assumptions. This paper thus proposes to take stock of some of the conceptualizations of the notion of quality in education, and of possible analytical approaches as well as their underlying assumptions. This appears crucial to UNESCO’s support of Member States as the notion of quality frames the organization’s efforts for the development of education worldwide. While this paper will focus on conceptualizations developed while monitoring progress towards the Education for All (EFA) goals, it will also refer to other approaches put forward to better understand and examine the quality of learning and the performance of education systems. In reviewing these, this paper offers three categories of frameworks in what might be called:”*

a. The Learner-centred Approach

- i. This approach also dealt with the quantity-quality trade-off where significant emphasis was placed on issues of access, retention and completion. The quantitative basis was clearly a response to the declining trends in primary enrolment observed in 25% of developing country contexts in the 1980s.
- ii. The paper continues as follows, *“Moreover, and perhaps more worryingly, one can observe that completion of a full cycle of primary education of poor quality does not always ensure the acquisition of basic numeracy and literacy skills. As a result, patterns of primary school dropout and the often low quality of learning in primary schools observed in many countries worldwide contribute to the reproduction of illiteracy among young adults. The dilemma thus became increasingly framed in terms of a quantity-quality trade-off; that is, that the expansion of education systems and opportunities to learners thus far excluded, and often belonging to more disadvantaged communities, had translated into an overall decline in average levels of learning acquisition at the end of the primary education cycle.”*
- iii. Therefore, there has been a shift in the international education discourse as reflected in the increased concern with improving the quality of education shown

in education reforms worldwide, and currently more emphasis is being placed on the need to increase the effectiveness of national education systems.

b. The Inputs-process-outputs Approach

- i. The above-mentioned shift away from mere numbers as an indicator of systemic success towards greater emphasis on quality issues was concurrent with an increased tendency to focus on international and national assessments of learning outcomes, with specific reference to the results of the process in terms of the levels and distribution of cognitive skills acquired.
- ii. As stated in the UNESCO document, *“It is within this perspective that international and regional assessments such as the Programme for International Student Assessment (PISA), the Trends in International Mathematics and Science Survey (TIMSS), the Progress in International Reading Literacy Study (PIRLS), the Programme d’Analyse des Systèmes Educatifs de la CONFEMEN (PA SEC), the Southern and Eastern Africa Consortium for Monitoring Educational Quality (SACMEQ) and the Second and Third Regional Comparative and Explanatory Studies of student achievement in Latin America and the Caribbean (SERCE, TERCE) have been testing levels of cognitive achievement in mathematics, science and language skills. Moreover, an increasing number of countries are implementing large-scale external national assessments to test achievement in various areas of learning, and at different levels of schooling. The data produced by such large-scale assessments aims to answer three main sets of questions: (i) what are learners actually learning? what knowledge do they possess? what do they master in terms of skills? (ii) Are education systems performing well in producing the intended learning outcomes? (iii) What are the characteristics of students’ learning environments that explain this performance?”*
- iii. While various reasons for the withdrawal have been furnished by various Ministers of Basic Education since the term of Professor Kader Asmal, it is generally accepted in educational circles that the fundamental reasons for such withdrawal actually lies in such poor performances that it is nothing short of a national and international embarrassment.
- iv. The said international benchmark tests have been replaced with South Africa’s domestic Annual National Assessments (ANAs). It needs to be stated that the most recent published results were themselves not subjected to external verification, as was the case in the past. Adjustments to the interpretation of the

data need to be made in the light of the poverty ratings of schools and other factors which can exercise a depressing effect on performance.

- v. The following summary can be provided based on the most recent assessments, in respect of the languages and Mathematics (the source is the Department of Basic Education itself):

(a) Mathematics

Average percentage mark in Mathematics by grade and poverty quintile					
Grade	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5
1	64.5	65.8	67.4	70.2	77.3
2	53.8	54.6	56.4	60.3	67.5
3	37.8	38.0	39.5	43.3	53.7
4	32.2	32.2	34.8	40.0	53.2
5	26.3	26.2	27.8	32.5	46.7
6	23.7	23.8	24.5	27.4	39.6
9	10.8	10.4	10.6	11.9	23.7

It will be noted that at Grade 9 level the percentage range is between 10.8% and 23.7%. This is a very low level of performance indeed, especially when the needs of the country for high-level technicians, technologists and the various scientific disciplines are considered.

(b) Home Language

Average percentage mark in Home Language by grade and poverty quintile					
Grade	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5
1	53.6	54.4	56.4	59.5	70.0
2	51.6	52.6	54.3	57.7	66.3
3	49.2	49.6	50.8	53.1	61.7
4	25.5	27.3	31.3	45.4	62.3
5	24.2	26.1	30.1	41.9	57.4
6	28.8	31.0	34.8	43.9	57.7
9	31.8	33.9	38.1	42.6	53.9

In the Quintile 1-3 schools the decline in performance between Grades 3 and 4 is noticeable, and is at least in part attributable to the language policies currently embraced by the education authorities with regard to the language of instruction. Once again it can be noted that the levels of language competence at the Grade 9 level are low, a predictor of indifferent success at the FET and Higher Education levels.

(c) First Additional Language

Average percentage mark in First Additional Language by grade and poverty quintile					
Grade	Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5
1	31.5	31.9	34.5	38.0	44.7
2	27.4	27.8	29.8	33.9	46.8
3	33.0	33.9	36.3	39.8	50.2
4	31.3	32.5	35.6	38.8	46.5
5	31.5	31.9	34.5	38.0	44.7
6	27.4	27.8	29.8	33.9	46.8
9	33.0	33.9	36.3	39.8	50.2

If it be borne in mind that South Africa is a multi-lingual country but that the language of commerce and industry is typically English, which is taken at FAL level by a high proportion of learners in South African schools, it is clear that language competence levels are low.

The SAOU presents to the Honourable Court the view that the above data - which are a sub-set of a much wider range of data, and given that the Annual National Assessment instruments are not in line with international benchmarks - indicate a disturbing lack of quality in the public school system of South Africa at the present time.

c. The Multidimensional Social Interaction Approach

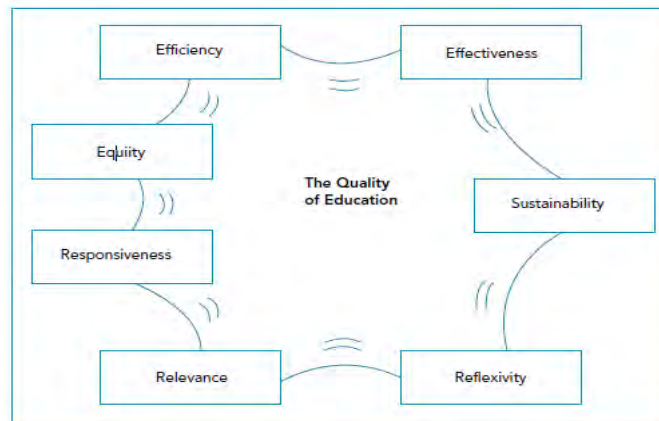
- i. Earlier in the document it was stated that the Union is fully supportive of the principle that the voice of the parent is paramount to ensure the success of the school as an institution of the community, i.e. that it reflects the values and norms

that parents wish to identify with, and furthermore that they are therefore prepared to make substantial financial sacrifices to ensure the quality of education provided.

ii. The importance of parental involvement and their willingness to take ownership of the school is reflected in the Multidimensional Approach as stated in said UNESCO document, i.e.:

1. Indeed, the idea of quantifiable educational performance as translating the essence of quality in education is not shared by all educationists. In order to transcend the instrumental and technical-rational vision on which the input-process outcome model is based, another set of approaches adopt a wider societal approach. Based on a vision of education as a public good, these approaches focus on the dynamics of interaction between the various dimensions of education and the necessary process of continuous redefinition of consensus or social contract among the stakeholders involved relative to what national education systems should achieve and how this is to be done.
2. The „fabric“ of quality in education: One recent illustration of such an approach is that of the „fabric“ of quality in education (Nikel and Lowe 2010). The approach proposes seven conceptual dimensions – effectiveness, efficiency, equity, responsiveness, relevance, reflexivity, and sustainability (see Figure 5 below) – arranged so as to emphasize that the quality of education is much like a „fabric“: that is, it is at its strongest when „stretched“ or maintained in tension. The framework emphasizes the need to seek a contextually relevant balance among the seven dimensions, where „balance“ does not imply a simple equalizing across all dimensions, even if that were conceptually possible. The needs and the possibilities for action within different educational contexts will vary and decisions must be made over what is desirable and feasible within a specific situation. The model represents a radical departure from the input-process-output model, in that it conceptualizes quality improvement in education as attempts undertaken in a context defined by tensions between different dimensions and on different systemic levels.

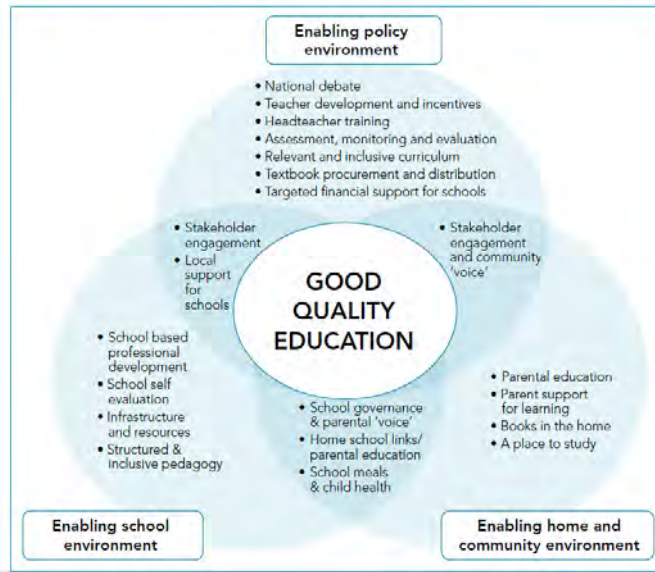
Figure 5
The 'Fabric' Model of Quality in Education



Source: Nikel & Lowe (2010).

3. This explicit recognition of possible differing values amongst the various stakeholders involved in education (learners, parents, teachers, government ... is precisely what the analytical framework developed by Tikly and Barret (2007) is based on. Within this conceptualization, the issue of the quality (and effectiveness) of education cannot be understood without an overall analysis of the historical, socioeconomic, political and cultural contexts within which a given education system is operating. It is in this perspective that the framework aims to help assess and understand the role of a given education system in the exacerbation, reproduction or narrowing of inequalities, in particular those based on traditional factors of discrimination such as gender, income, and (ethnic, linguistic or linguistic) minority status.
4. Two elements are important in their framework. The first is the importance of the contextual factors (historical, socioeconomic, political, and cultural) that shape education policy. Secondly, the perspectives of local stakeholders, including those of teachers, are considered key in understanding quality in a given context. Indeed, the model stresses the importance of taking into consideration the perceptions of stakeholders at the local level in any attempt to improve the quality of education. The model locates the issue of good quality education at the intersection of factors that define the policy, home and community, as well as school enabling environments at the local level. These are summarized in Figure 6.

Figure 6
Tikly 2010 Model of Good Quality Education



24. The comprehensive model for the definition of quality as contemplated in the above mentioned UNESCO document is fully reconcilable with the approach of the SAOU to education, i.e. that it is absolutely imperative to ensure the full co-operation of parents as a vital role player in the endeavour of schools to ensure quality education. The Union actively advocates that SGBs should be fully empowered and that all parents must take ownership of all activities in schools. In this regard the following table that reflects the level of professionalism and parent involvement, clearly shows the benefits for quality education.

Performance of schools with one or more SAOU members versus all public schools				
PROVINCE	PASS RATE OF PUBLIC SCHOOLS (%)			
	Schools with 1 or more SAOU members	Schools with 5 or more SAOU members	Schools with 5 or more SAOU members and principal an SAOU member	All Public Schools
Eastern Cape	84.8	92.8	93.5	58.1
Free State	84.2	91.3	95.6	75.7
Gauteng	95.0	94.8	97.3	81.1
KZN	92.4	91.8	95.0	68.1
Limpopo	92.7	97.4	97.3	63.9

Mpumalanga	88.3	94.8	96.6	64.8
North West	90.4	93.4	92.6	77.8
Northern Cape	79.3	83.5	95.4	68.8
Western Cape	91.9	96.9	96.9	82.9
NATIONAL	90.7	93.8	96.2	70.2

CLASS SIZE

25. Class size is a hotly debated point in education as there is strong support for the notion that smaller class sizes will in the majority of cases ensure a better quality of education. In light of the above, and with specific reference to the aspiration of South Africa to be an integral part of the BRICS countries (Brazil, Russia, India, China and South Africa), the average class size of said countries needs to be noted in paragraph 22 here above. The Bric countries perform far better than South Africa in standardized tests and the deduction can be made that ultimately, they will produce a better quality workforce and thereby further improve their respective economic growth rates – a nut that South Africa finds difficult to crack.

26. The official post provisioning norms (PPN) for the respective provinces during 2013 are as follows:

Analysis: PPN for 2013				
Province	No of posts	Vacancies	% of posts	L:E Ratio
EC	60 820	5 107	8.40%	35
Mpumalanga	32 637	459	1.41%	29.93
Limpopo	55 672	3 197	5.74%	33
Gauteng	56 054	2 335	4.17%	33.64
WC	31 091	2 298	7.39%	35.38
KZN	90 057	2 936	3.26%	31.94
NC	8 132	628	7.72%	32
North West	24 541	1 076	4.38%	32
Free State	21 944	736	3.35%	27.9
Total	380 948	18 772	4.93%	32.31

27. The above PPN should be considered in conjunction with the scheduled teaching time per post level, i.e.

- a. The Personnel Administration Measures (PAM), which contains various descriptions regarding the conditions of service and work loads of educators, determines as follows with regard to teaching time during the formal school hours (teaching loads as a maximum % of instructional time):
- i. Primary school:
 1. Post level 1: Between 85% – 92%
 2. Post level 2: Between 85% – 90%
 3. Deputy principal 60%
 4. Principal 10% - 92%
 - ii. Secondary school:
 1. Post level 1: Between 85% – 90%
 2. Post level 2: 85%
 3. Deputy principal 60%
 4. Principal 5% – 60%
- b. The effect of the prescribed teaching times results in the fact that the class sizes are increased by 19% and 22% respectively for primary and secondary schools. Therefore it is a fallacy to regard the average class size to be equivalent to the learner:educator ratio. Based on the prescribed average teaching time in terms of the school time table for the various post levels, the real average class size is much higher than the learner:educator ratio. In this regard the table hereunder clearly shows that the class sizes are 19% and 22% higher than the learner:educator ratio that is determined on an annual basis by the various provincial departments of education.

Ave size of school staff	Average Primary School	No	Ave Teaching time per PAM	Full time teaching	Real teaching time	Increase of class size
21	Postlevel 1	16	88.5%	1600%	1394%	
	HOD	3	87.5%	300%	263%	
	DP	1	60%	100%	60%	
	P	1	51.0%	100%	51%	
				2100%	1767%	19%
Ave size of school staff	Average Secondary School	No	Ave Teaching time per PAM	Full time teaching	Real teaching time	Increase of class size
29	Postlevel 1	20	87.5%	2000%	1709%	
	HOD	6	85%	600%	510%	
	DP	2	60%	200%	120%	
	P	1	32.5%	100%	33%	
				2900%	2371%	22%

- c. Based on the above table, the average actual real class size as stated in **Appendix A**, and based on the departmental PPN can be calculated as follows:

- i. Primary schools: $35.1 + 19\% = 41.8$; and
 - ii. Secondary schools: $26.8 + 22\% = 32.7$
- d. The education authorities have failed to enhance quality in the education system. They have also failed to provide adequate facilities for learning in a disturbingly large number of public schools. The current levels of contribution by the State to the running costs of schools – personnel costs excluded – are dismally low. SASA, based on the policy intentions clearly expressed in Education White Paper 1, therefore makes formal provision for those SGBs which have been assigned the relevant powers in terms of Section 21 of SASA to levy school fees. In its own policy statements on the funding of schools, the education authorities themselves place an obligation on so-called “no-fee” schools to raise additional funds in the interests of the school. Therefore, the wish of parents to make additional monetary contributions in the form of school fees in an endeavour to ensure smaller classes and therefore to address issues of quality as an additional expense over and above their obligatory responsibilities to contribute to the fiscus by means of normal taxation can be understood.
- e. In terms of **Appendix A** the average number of educators employed by SGBs is 8.7 educators in primary schools and 11.4 in secondary schools. Thereby the average class size may be reduced by 42% and 40% in primary and secondary schools respectively. The insistence of some education authorities, in the absence of adequate measures of school capacity, that additional capacity created at the cost of communities with a view to enhancing standards should be utilised to supplement the deficiencies and shortcomings in the public school system at large, is counter-productive and makes no contribution whatever to the pursuit of quality: as has been shown, bursting classrooms are no guarantee of quality.

CONCLUSION

28. In conclusion, the Union is of the view that it would be a regressive step if the powers and competencies of SGBs were to be curtailed to enable greater powers for the education authorities to intrude in schools and prescribe to schools with regard to policy in terms of admission, capacity, language and religion for the following reasons:
- a. Such a step would be in conflict with best international practice and would not be to the advantage of quality public education.
 - b. It is our belief that if such powers are transferred to the department, SGBs and parents will find it difficult to take ownership of schools and an increase in the exodus of learners to independent schools can be expected.

- c. Public schools are, as has been shown institutions where a nexus of interests must be borne in mind, i.e. those of the learners, the parents, the educators, the community and of the wider society at large, some of whose interests are represented by the State. By no means all interests can, or in the opinion of this Union, should be subjected to State interference.
- d. Public schools are not State schools. The State is a partner in public schooling, but not the only one, and the balance of powers between the third level policy making body, i.e. the SGB, and the second level policy making body, i.e. the provincial educational authority, needs to be borne in mind and jealously guarded.
- e. It is common cause that public education is in dire straits and that approximately 80% of public schools are dysfunctional. Likewise, it is common cause that the 20% functional schools are represented by functioning SGBs and that by adhering to the demand of the department to enable them to determine policy may destroy the last vestiges of quality in the public education system.
- f. The Minister of Basic Education should rather comply with her duty as contemplated in Section 5A in the SA Schools Act to determine norms and standards for basic infrastructure and capacity in public schools. When such fair and objective criteria have been determined and a school does not comply therewith, the department would be within its rights to interfere. In light of paragraphs 14 to 18 here above, we believe that in terms of the survey that was conducted, as well as our determination of educationally accountable “educational space”, a reasonable basis has been provided to work from.
- g. In the present vacuum of fair and objective criteria to determine school capacity the Union is convinced that the SGB of Rivonia Primary School acted within its powers and in the best interest of learners and quality education.