

Special Issue

Education and the Challenges for Democracy

education policy analysis
archives

A peer-reviewed, independent, open access,
multilingual journal



Arizona State University

Volume 31 Number 105

September 19, 2023

ISSN 1068-2341

Race, Class, and the Democratic Project in Contemporary South African Education: Working and Reworking the Law

Crain Soudien

Nelson Mandela University, University of Cape Town
South Africa

Citation: Soudien, C. (2023). Race, class, and the democratic project in contemporary South African education: Working and reworking the law. *Education Policy Analysis Archives*, 31(105).
<https://doi.org/10.14507/epaa.31.8017> This article is part of the special issue, *Education and the Challenges for Democracy*, edited by Fernando M. Reimers.

Abstract: Democratization of the South African education system was significantly advanced by the South African Schools Act (SASA) promulgated in 1996. SASA gave parents the power to direct the course and substance of their children's education in important ways. The circumstances of its origination, however, left in place crucial features of the country's apartheid education system. Central among these were white parent's rights to determine their schools' admission and language policies. In this contribution I explore the tensions over democratic principles experienced by the South African government in correcting SASA to manage parents' control over these key school policies. I do so through a critical engagement with the positions that have emerged in the process currently underway to consider the Basic Education Laws Amendment Bill (BELA). I argue these positions represent a struggle in play over whether the future South African school system will be marked by ongoing and new forms of race and class domination.

Journal website: <http://epaa.asu.edu/ojs/>
Facebook: /EPAAA
Twitter: @epaa_aape

Manuscript received: 13-02-2023
Revisions received: 04-06-2023
Accepted: 06-06-2023

Keywords: race; class; inequality; school policy; democratization in education; education laws; South Africa

**Raza, clase y el proyecto democrático en la educación sudafricana contemporánea:
Trabajando y reformulando la ley**

Resumen: La democratización del sistema educativo sudafricano avanzó significativamente gracias a la Ley de Escuelas Sudafricanas (SASA, por sus siglas en inglés) promulgada en 1996. SASA otorgó a los padres de familia un poder importante de dirigir el rumbo y el contenido de la educación de sus hijos. Sin embargo, las circunstancias de su origen dejaron intactos aspectos fundamentales de sistema educativo que había creado el régimen de apartheid en el país. Entre estas, una de las características centrales era el derecho de los padres de familia blancos para determinar las políticas de admisión y de idioma de sus escuelas. En este artículo, exploro las tensiones en torno a los principios democráticos experimentados por el gobierno sudafricano al corregir SASA para gestionar el control de los padres de familia sobre estas políticas escolares clave. Lo hago a través de un análisis crítico de las posturas que han surgido en el proceso que actualmente se encuentra en marcha para considerar el Proyecto de Enmienda de las Leyes de Educación Básica (BELA, por sus siglas en inglés). Sostengo que estas posturas representan una lucha en curso sobre si el futuro sistema escolar sudafricano estará marcado por formas persistentes y emergentes de dominación racial y de clase.

Palabras clave: raza; clase; desigualdad; política escolar; democratización en la educación; leyes educativas; Sudáfrica

**Raça, classe e o projeto democrático na educação sul-africana contemporânea:
Formulando e reformulando a lei**

Resumo: A democratização do sistema educacional sul-africano foi significativamente avançada pelo Ato das Escolas Sul-Africanas (SASA), promulgado em 1996. O SASA deu aos pais o poder de direcionar o curso e o conteúdo da educação de seus filhos de maneiras importantes. As circunstâncias de sua origem, no entanto, mantiveram intactos características cruciais do sistema educacional do apartheid no país. Entre essas, estavam os direitos dos pais brancos de determinar as políticas de admissão e de idioma de suas escolas. Nesta contribuição, exploro as tensões em relação aos princípios democráticos vivenciados pelo governo sul-africano ao corrigir o SASA para gerenciar o controle dos pais sobre essas políticas escolares-chave. Faço isso por meio de uma abordagem crítica com as posições que têm surgido no processo de análise do Projeto de Lei de Alteração das Leis da Educação Básica (BELA) atualmente em andamento. Argumento que essas posições representam um embate em relação ao futuro sistema escolar sul-africano marcado por contínuas e novas formas de dominação racial e de classe.

Palavras-chave: raça; classe; desigualdade; política escolar; democratização na educação; leis de educação; África do Sul

Race, Class, and the Democratic Project in Contemporary South African Education: Working and Reworking the Law

A democracy is more than a form of government; it is primarily a mode of associated living, of conjoint communicated experience. The extension in space of the number of individuals who participate in an interest so that each has to refer his own action to that of others, and to consider the action of others to give point and direction to his own, is equivalent to the breaking down of those barriers of class, race, and national territory which kept men from perceiving the full import of their activity. These more numerous and more varied points of contact denote a greater diversity of stimuli to which an individual has to respond; they consequently put a premium on variation in his action. They secure a liberation of powers which remain suppressed as long as the incitations to action are partial, as they must be in a group which in its exclusiveness shuts out many interests. (Dewey, 2015, Ch. 7, para. 7)

The relationship between democracy and education has many facets and can be approached from many angles. Amongst those, two are prominent: firstly, the role of education in shaping consciousness (the questions of curriculum and pedagogy), and, secondly, the rights of citizens to determine the forms of education that serve, most purposefully, both their own interests and those of the wider communities in which they find themselves (the question of participation). Both have been the subjects of struggle and contestation since the beginning of formal education in South Africa in 1658. In this contribution, I focus on the latter, the question of participation. The contribution is historical and draws, as explained below, directly on publicly available sources, official documents and records of meetings, and interviews to describe and analyze how the process of democratization of education is unfolding in South Africa. At issue here is the right of access to that which education can offer and the right to influence and shape the direction of the educational experience. The contribution is shaped by a Deweyan conceptual frame, which is concerned with the practical difficulty of building democratic cultures able to work critically with the influence of strong interest groups. It is concerned with the particularities of South Africa; however, it acknowledges the experience of important sites elsewhere in the world where similar dynamics have played and continue to play themselves out. The work of Morrison (2008) in the United States and Sugawara et al. (2012) in Croatia helps emphasize how difficult it is to both establish and cultivate democratic cultures. That difficulty, the theoretical question driving my work, is as Dewey (2015) puts it, “the extension in space of the number of individuals who participate in an interest so that each has to refer his own action to that of others” (Chapter 7, para. 7).

I will argue that the struggle to open up the South African school—to refer one’s own actions to those of others to give point and direction to their own—is marked by ongoing race and class difficulties. The article focuses on a difficulty particular to the South African democratic context, that of working respectfully but critically with social groups that seek to protect their own interests above the interests of the wider polity in which they find themselves. It looks at the ways in which the current reform process of the South African Schools Act (SASA) is being opposed by representative organizations of white and middle-class parents. The significance of what is playing out in South Africa for a wider global discussion is how democratic processes retain their participatory commitments—the question of a system’s ability to attend to and acknowledge the concerns of interest groups while simultaneously considering the wider public’s needs and requirements.

The South African struggle for democracy has achieved much. It has brought the education system to a greater degree of democratization than it has ever experienced. However, the structural realities of the country, those of race and class in the main, have bedeviled the South African education system right from the beginning of its transition into democracy in 1994.¹ When the transition began with the merging of apartheid's 15 separate educational departments, most of the worst features of apartheid education were removed. However, specific elements of South Africa's past were bolted onto the new education system. These included the ability of former white schools to control their admission processes. It is in these bulwarks, I will argue, that we are seeing the persistent playing out of forms of exclusion and marginalization—their reproduction and elaboration. They constitute a complex challenge to the process of deepening democracy, or, to put it more concretely, the capacity for groups to sublimate their own interests in support of the emergent and new South African commons. Individuals and groups have difficulty in refer(ing) (their) actions to the actions of others. Instead, they invoke a form of governmentality, replete with established codes of ordering that constitute the normative order and the sociocultural and economic horizons of the schools, which they brought into the new system. This normative order presents itself through particular forms of superiority, enunciated through a discourse of standards that I call here “that-which-should-be.”

The that-which-should-be discourse, I seek to show, is maintained through complex sociocultural maneuvers and strategies that have their base and take expression in and through new race-class configurations. These configurations consist essentially of the coalescence of old and new privilege—of old white middle-class interests with those of the new black middle class. They exist in often awkward coalitions and are, sometimes, in struggle with each other, as, for example, when the children of new black privilege rebel against the normative order that requires them to “tame” their hair, or, worse, “mind their language” (see Gon, 2016; Pather, 2016). But they share material common interests, that of that-which-should-be, reproducing old inequalities and also giving rise to new ones (see Christie & McKinney, 2017). The major factor in this development, which for reasons of expositional economy I do not examine here, has been the rise of the black middle class, which has grown from approximately 300,000 people out of a population of 45 million people in 1994 to anything between 4 and 11 million people in a population of 60 million in 2011 (see Southall, 2016). With the growth of this new class has come, paradoxically, deeper forms of inequality than were evident during apartheid. South Africa is now the most unequal country in the world in terms of the Gini coefficient (see Zizzamia et al., 2019). This inequality in the broader society takes strong expression in the country's schooling system.

I use the process of amending the SASA of 1996, post-apartheid's anchor educational legislation, as the object of inquiry for surfacing the complexities of the ongoing struggle for democracy in education. I acknowledge that the contribution does not deal at all with learner participation. It is focused on the role of parents. The process of amending SASA has been underway since 2013 but gained momentum in 2017. Out of it came the Basic Education Laws Amendment Bill (BELA), which is currently working its way through the legislative process. I look particularly at interest groups' positions on BELA concerning key educational questions to bring the challenges to democratization into view. The material for this work comes from policy documents in the public domain, court records, and interviews with key stakeholders in the educational system.

¹ Racial classification is a contentious issue in South Africa. I reject the biological naturalization of race and so the ubiquitous apartheid South African terms “white,” “African,” “black,” “coloured,” and “Indian,” which remain official demographic designations of the nature of the South African population. I use them strategically here, acknowledging the semantic and interpretive difficulties they might cause.

These include official documents and transcripts of official engagements between major stakeholder groupings, which show, I argue, how the arguments for and against the reform of the democratic policy landscape are being presented.

It is important to properly contextualize the contemporary struggle for openness in the system. To do this, the article begins with a brief description of the educational landscape inherited by South Africa's new government in 1994 and the legislative and policy apparatus introduced to deal with it. Following this brief introduction, the article describes the current morphology of the system. The purpose of this contextualization is, first, to indicate the extent and scale of the system's deracialization since the apartheid period and the deepening of class forces in giving the system its new character. Second, it seeks to show the relationship of policy to these social developments, particularly the place of SASA. With this background, the article looks at the process of amending the SASA with the promulgation of BELA. I focus on what is proposed in BELA and the positions that have formed around the key educational issues of access and language.

South Africa's Educational Inheritance in 1994

Up until the middle of the 1980s, when the apartheid government, under duress, introduced the policy of school integration, South African schooling was essentially a project of racial domination (see Christie & Collins, 1984; Kallaway, 1984). As a project, it was deliberately structured to produce and maintain separateness and inequality. It was top-down, undemocratic, and ideologically tendentious. Its primary architect, Hendrik Verwoerd, said of it in an address to the South African white Senate in 1954 that

the Bantu must be guided to serve his own community in all respects. There is no place for him in the European community above the level of certain forms of labour. . . . Until now he has been subjected to a school system which drew him away from his own community and misled him by showing him the green pastures of European society in which he was not allowed to graze. (Christie & Collins, 1984, p. 173)

At the height of the apartheid period in the 1960s, per capita annual expenditure on African students was R12.46. For whites, it was R144.57 (Christie & Collins, 1984).² It produced an educational system that was in every respect unjust. The schools were unequally resourced, black schools grudgingly and white schools lavishly. Black schools were, by any measure and standard, inferior and inadequate. White schools, by contrast, were amongst the best to be found anywhere in the world (Horrell, 1969; Hlatshwayo, 2000; Hyslop, 1999). Black teachers were, for the most part, underqualified. Their white counterparts entered classrooms having met formal requirements of high levels of subject and pedagogical competence.³

Critically, in terms of parental involvement in their children's education, black people had little say in what was provided. Whereas school governing bodies (SGBs) were introduced in white schools in the 1980s, historically black schools (separately classified African, coloured, and Indian) were served by school committees appointed by their separate education departments. These committees had no say in how their schools were run. This system took its character from the

² The exchange rate for the rand with the United Kingdom pound in the 1960s was at parity, R1=£1.

³ The literature for this situation is vast but well documented in the National Education Coordinating Committee (NECC) series of reports published as a result of the National Education Policy Investigation (NEPI) in 1993. The report in that series that details the key structural and performance features of the system inherited by the democratically appointed government in 1994 is NECC (1993).

centralized nature of the apartheid state. While there was administrative devolution, this was a racial and ethnicized exercise framed and determined by the policy of apartheid. Limited authority was delegated to the 15 racially and ethnically defined groups. The national Department of Education (DET) effectively retained responsibility for key school governance functions, such as determining a school's medium of instruction, the admission of learners, and the appointment of educators (Kallaway, 1984; Nasson & Samuel, 1990).

A predictable consequence of this state of affairs was persistent dissatisfaction in the black community. In 1976, the system was thrust into an almost 20-year-long period of protest by angry students, provoked by the National Party's decision to make the Afrikaans language a compulsory medium of instruction in black schools. A key demand in the protest was for "People's Education"—the right of people to have a say in their children's education (McKay & Romm, 1992; Motala & Vally, 2002, p. 181).

The revolt, perversely, introduced into the system two enduring sociological features. First, it plunged black schools into deep cultures of educational disaffection. Learning routines were upended, and the whole experience of education was chronically subverted. Second, it forced the apartheid government to reform the system after about 1985. The reforms were preceded by a process of consultation with white parents about school integration. What came to be called Model C schools were the school option favored by the majority of white parents just before the negotiations between the African National Congress (ANC) and the apartheid National Party produced democracy in 1994 (Christie & McKinney, 2017). In terms of this model, the government effectively handed over control and ownership of the white schools to parents. Schools continued to receive government subsidies for salaries, but parents were to take responsibility for all the school's capital costs and other forms of improvement they sought through levying school fees.

While the negotiations that brought democracy reversed the transfer of property back to the state, it confirmed, through SASA, what Christie described as a "transition trick," the control white parents had been given over their schools, particularly the power to manage their admission and language policies (McFarlane, 2022, paras. 9 and 10). They could manage who entered the school and the medium of instruction that was to be used. In this, the normative that-which-should-be discursive architecture was set. The right to determine the language policy was important for protecting the Afrikaans language in particular but also for protecting English (though less obvious to most commentators). The reforms had a lasting impact on the educational system and present what exists today with its most difficult administrative and educational dilemmas. Central to these is that the reforms, in a context where the larger educational crisis was producing deep dysfunctionality, protected and even, in some ways, advanced academic success in formerly white schools. In a landscape of poor learner academic performance, these schools are shining lights of that-which-should-be (Christie & McKinney, 2017). As we shall see later, the that-which-should-be discourse is an important signifier in managing privilege. It is correct to say, in the present, that white schools no longer exist. They are simply public schools. However, they are, most will acknowledge, elitist. How to manage this elitism—a race-class syndrome—is the difficulty with which democratization has to deal.

The dynamics of dysfunctionality and privilege feature strongly in the current system's morphology and constitute it, effectively, as a two-tiered system. When the new government came into power in 1994, it abolished the old racialized and ethnicized education departments and instantly equalized education expenditure per learner. It had to deal, however, with big challenges. The situation that the new administration encountered was characterized by huge backlogs. As Fiske and Ladd (2004) observed, "As late as 1994, after the National (Party) government had significantly increased spending on black students, the amount spent per pupil in white schools was more than

two and a half times that spent on black students” (p. 44). The system was still authoritarian and racially and ethnically managed. Schools had been rendered dysfunctional by protests. The landscape inherited by the new government in 1994 was one of disrepair. This brokenness was evident in the system’s structural fabric, the capacity of teachers to teach, learners to learn, and the whole system to function educationally. Repairing this brokenness has been extremely difficult. Even more difficult to imagine has been “what could be”—in other words, what a good and democratic education for all South Africans could be—and particularly how a new culturally sensitive approach could produce revitalized and inclusive standards of excellence for the country.

It was only around 2015 that signs of the large sums that were being invested in education improvement began to make themselves apparent. Learner performance in the poorest schools began to improve (Reddy et al., 2020). However, the system’s binary and polarized character persists and is evident in a wide range of inequalities (see Hunter, 2019; Spaull & Jansen, 2019).

The Introduction of SASA

When the new government came into power, it had the task of not only equalizing the system but also reinstating cultures of teaching and learning into it. The primary instrument it developed to effect the system’s reform was the SASA of 1996 (Republic of South Africa [RSA], 1996). The act was both a manifesto and a working framework for restructuring South African education. Described by the Constitutional Court of South Africa as an example of “grassroots democracy” (Amnesty International, 2020, p. 94), its primary objective was to

provide an education of progressively high quality for all *learners* and in so doing lay a strong foundation for the development of all our people’s talents and capabilities, advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance, contribute to the eradication of poverty and the economic well-being of society, 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 organisation, governance and funding of schools in partnership with the state. (RSA, 1996, p. 2, italics in original)

The act focuses on all the legacy problems inherited from apartheid. With respect to governance and democratic participation, it aimed to deal with the questions regarding the following:

1. inclusion and exclusion in schools;
2. the alienation from the schooling system felt by black parents and thereby restoring a sense of community ownership of schools;
3. parental and civic participation in school life, thereby enabling the democratization of school;
4. investment of parents with rights of ownership of the school, and, finally,
5. requirement for parents to take responsibility, with the state, for issues such as school quality.

Following the adoption of the act, parents were brought into the center of the governance of education. The ambition was to distinguish the new government from its apartheid predecessors by giving parents, through the institutionalization of SGS, powers and opportunities they had never had. Whereas apartheid had both disregarded and disrespected parents and the community, the hope was for SASA to hand the ownership of schools to the people.

SASA required, and still does, that every SGB, amongst other things, promote the best interests of the school by

- recommending to the provincial Head of Department (HOD; the Director-General in most provinces) educators for appointment at schools,
- providing quality education for all learners,
- adopting a constitution,
- adopting an admissions policy,
- adopting a language policy,
- adopting a mission statement that sets out the goals and the shared values of the school,
- adopting a code of conduct for learners, and
- assisting the principal and their management team in the performance of their professional functions. (RSA, 1996).

In terms of SASA, the state continues to be the primary funder of public schools. Due to reforms to the policy after 1996, a system of differentiation in school classification has been developed, allowing for greater support for economically disadvantaged communities. Schools have been divided into five income quintiles, which enable differential but equitable subsidization per learner. Schools in Quintiles 3 to 5, holding former white and middle-class black students, 25% of the school-going population, are entitled to charge school fees, while the poorer schools, holding 75% of the school population and almost entirely black, do not. Amendments to the act have also led to the retraction of the powers of SGBs in poorer areas to manage their own finances. These schools have been classified as Section 20 schools, following SASA. More capacitated schools, Section 21 schools, have the authority to effect procurement transactions, enter into financial relationships with outside entities, and undertake plans and activities to improve themselves (Pakade & Chilenga-Butao, 2021). The descriptors “Section 20” and “Section 21” map well, albeit not perfectly, onto former black and former white Model Schools. The state continues to provide the resources for employing educators, constructing and maintaining the school’s physical infrastructure, and supporting the school’s basic service needs. As described above, parents are responsible for duties such as determining the school’s most important features—such as its language, religious observation, and admission policy—and making recommendations for the appointment of educators.

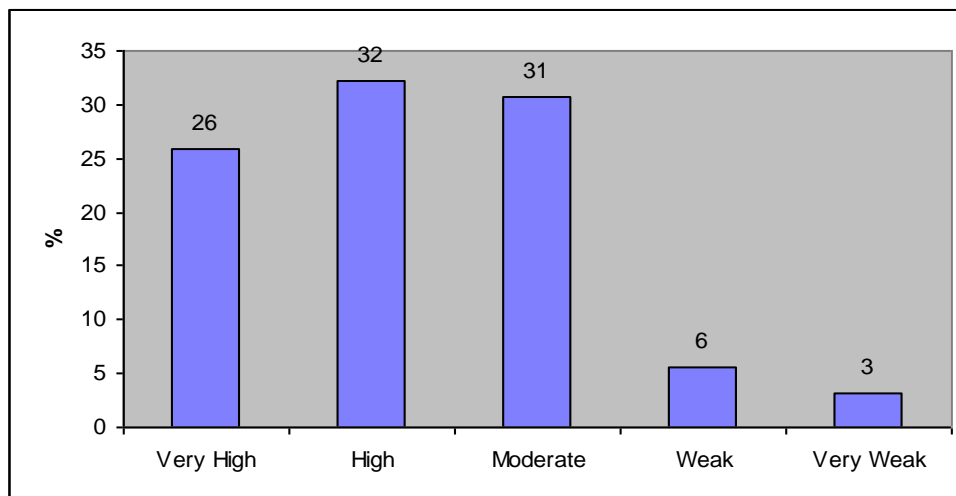
The results of this important intervention have been mixed. In participating in the governance of their children’s schools, parents are giving life to the third largest exercise of public elections in South Africa. The system is a partnership between the state and its citizens and has succeeded in involving significant numbers of parents. Importantly, it offers the country a process through which parents might be inducted into the practice of democracy. Every 3 years, close to five million parents have the right to cast their votes for their school governors. As a result, since 1996, with elections taking place every 3 years, South Africans have had the experience of participating in the process of identifying leaders from within the parent body, the majority constituency, the student community, and teachers at least eight times. With a system of almost 30,000 public and private schools, this has meant that for more than 25 years now, several hundred thousand parents,

learners, and teachers have had the experience of influencing the nation's educational affairs (Ministerial Review Committee, 2004).⁴

The institutionalization of SGBs has effectively situated parents in their rightful place. From never having any say about what is happening in their children's classrooms, they now have the right to decide most of the educational experience's key elements. SGBs have come into being in even the most under-resourced parts of the system where active chairpersons are in place who are generally fulfilling their responsibilities. Starting from zero base in 1996, democratization has made immense achievements. A survey conducted in 2003 by the Ministerial Review Committee (2004) found that parents are participating in the governance of their children's schools, of course, with varying degrees of participation (See Figure 1).

Figure 1

Level of Parental Participation



Note. Adapted from Ministerial Review Committee, 2004, p. 53.

On a scale of 1 to 5, where 1 is very high and 5 is very weak, the survey showed a mean of 2.4 for describing levels of parent participation in SGB work and activities. The Ministerial Committee concluded that the strength of parental participation in the affairs of the SGBs was moderate to high. Almost a third of the schools rated parental participation as “very high” and “high”; in contrast, a nominal number of schools (between 3% and 6%) reported that parental participation was weak or very weak. Increased co-ownership and co-responsibility for the school were commonly associated with parental participation and were reported by almost 91% of respondents.

And yet, as Motala and Carel (2019) explain, the education system continues to be characterized by rampant inequality. This inequality takes many forms. Its most egregious features bear the strong imprint of apartheid—a social dynamic I described in 2007 as the ‘A Factor’ (Soudien, 2007). These include widely uneven learning outcomes between the wealthy and the poor (Reddy et al., 2020), severe infrastructural problems, high levels of overcrowding in the schools of

⁴ It is necessary to declare here that I was the chairperson of this Ministerial Review Committee and was responsible for writing the 2004 report.

historically disadvantaged communities (Amnesty International, 2020), debilitating school administrative inefficiencies (van den Berg, 2008), teacher shortages in key subjects (Simkins, 2015), and poor school climate and discipline (Winnaar et al., 2018). With respect to learning, “only a third of Grade 6 learners reached the 50% mathematics (threshold) in 2014. . . . Only 3% of Grade 9 learners reached the 50% threshold” (Amnesty International, 2020, p. 32). At the beginning of the 2019 school year, there were nearly 4,000 schools still using pit latrines, 20,071 with no laboratories, and 18,019 with no libraries; class sizes among the poorest 60% of the school population grew from 41 to 48 learners between 2011 and 2016 while those for the wealthiest grew from 33 to 35 (Amnesty International, 2020, pp. 37, 72).

But what about the democratization project? The problems relating to the democratization of schools are as challenging and are reflected in the five following issues.

First, the quintile system, meant to equalize the provision of state resources, has produced what appear to be long-term inequalities under the aegis of SASA, which allows Quintile 4 and 5 schools to collect fees. Wealthier schools (with wealthier parents) have been able to improve all aspects of how their schools function. Haystek (2011) showed that, in the years after the no-fee policy was introduced in 2006, the funds garnered by schools from the state in the bottom three quintiles compared to those from the top two quintiles were significantly unequal. The former received R738 per annum compared to the R389 per learner, but the latter generated a total of R4022 per learner on average through school fees (Haystek, 2011, p. 465).

Second, the demographic shape of the system continues to have strong racial features. Using data from the Department of Basic Education’s (DBE) 2021 Annual Survey, Gruitjers et al. (2022) found that many, but not all, “former white schools have become racially diverse to varying degrees. Yet they also contribute most to segregation . . . because white and Indian students remain strongly overrepresented in these schools” (p. 25). The schools were found not to be representative of the population (O’Regan, 2022, para. 4). With as racially diverse as schools have become, some no longer reflect their historical beginnings; for example, many formerly white schools that are now entirely black. However, Gruitjers et al. (2022) showed that the average white student went to a predominantly white school with enrollments of 68.5% white, 19.6% black, 3.3% Indian, and 8.5% coloured children. By contrast, the average black student attended schools that were 0.9% white, 0.7% Indian, 2.0% coloured, and 96.4% black (O’Regan, 2022, paras. 6–8). In developing this picture, Gruitjers et al. argues that “the democratic transition in South Africa facilitated the hoarding of educational opportunities by the white minority” (Gruitjers et al. 2022, as cited in O’Regan, 2022, para. 2).

Third, white protectionist attitudes, using SASA, appear to be keeping black and poor students out of historically privileged schools, akin to what Gruitjers (2022) describes as a “hoarding” mentality (p. 4). One example is Rivonia Primary School, a former white school in Johannesburg, which refused to admit a black learner in 2011. The South Gauteng High Court ruled that the Gauteng Department of Education (GDE) had the power to compel the school to admit the child. The school challenged the decision on the basis of SASA Section 5(5), which gives the SGB the power to determine its school’s admissions policy. The school had, in terms of Section 5(5), determined that it had reached its holding capacity and was full. It took the South Gauteng High Court decision on appeal and won (Supreme Court of Appeal, 2012). The GDE took the matter to the Constitutional Court, which overturned the judgment and ruled against the school. It argued that “co-operation (was) the compulsory norm in disputes between SGBs and national or provincial government. Such co-operation is rooted in the shared constitutional goal of ensuring that the best interests of learners are furthered and that the right to basic education is realised” (Tobin, 2013, para. 12).

Fourth, a study conducted by the Ministerial Review Committee on the demographic composition of SGBs in 2003 found that although many former white schools had become majority black, the SGBs continued to be largely white. Haystek's (2011) later work suggests, in drawing attention to the presence of more capacitated and skilled parents serving in the SGBs of more affluent schools, that this situation de facto continues. Membership distribution by racial groups in the country in 2003 are presented in Table 1.

Table 1

Distribution by Racial Group in SGBs

		Ex-DET	Ex-HOA	Ex-HOD	Ex-HOR	Learners with Special Education Needs	Total
Learners	Black	97%	28%	69%	19%	39%	68%
	White	1.2%	56%	1.3%	2.3%	46%	25%
	Coloured	1.5%	14%	1.3%	73%	15%	14%
	Indian	0.05%	2.1%	3%	0.01%	2.5%	0.8%
	Other	0%	0.6%	0%	6%	0.08%	0.6%
Staff	Black	94%	4%	13%	7%	25%	52%
	White	5%	89%	9%	9%	62%	35%
	Coloured	1.2%	3%	0%	78%	8%	9%
	Indian	0.3%	4%	77%	1.8%	7%	5%
	Other	0%	0%	0%	5%	0%	0.4%
SGB (including parents, educators, support staff, and learners)	Black	96%	11%	72%	8%	33%	60%
	White	2%	79%	0.2%	3%	49%	24%
	Coloured	1%	6%	1.2%	81%	14%	8%
	Indian	0.4%	4%	27%	1%	4%	7%
	Other	0.1%	0%	0%	8%	0%	0.8%
SGB (Parent compon ent only)	Black	55%	7%	3.5%	7%	18%	27%
	White	1.2%	40%	0%	1%	26%	12%
	Coloured	0.5%	5%	0%	43%	9%	5%
	Indian	0.2%	2.3%	5%	0.4%	0.6%	1.7%
	Other	0.2%	0%	0%	3.5%	0%	0.4%

Note. Adapted from Ministerial Review Committee, 2004, p. 60.⁵

⁵ The numbers when aggregated for categories do not equate to a 100 because new schools, not categorized, were established in the post-apartheid period. These schools are not included as a category.

In terms of Table 1, in the former House of Assembly (HOA; the white parliament) system, while black learners constituted up to 30% of the learner profile in some schools, their parents only made up 11% of their SGBs' membership. Indian and coloured parents in those same schools constituted a further 10%. In the former coloured schools (ex-House of Representatives [HOR]), black learners made up almost 20% of the learners, but their parents only made up 8% of the SGB profile.

Fifth, socioeconomic factors bear strongly on the ability of all parents to participate in SGBs. While the government has begun to support SGBs by providing school governance training, SGBs in poorer areas remain under-resourced (Amnesty International, 2020). The work of the Ministerial Committee (2004), Haystek (2011), and Pakade and Chilenga-Butao (2021) suggests that there is much greater middle-class representation in SGBs than there is representation from poorer parents. A survey of 36 schools by the Ministerial Committee (2004) showed two schools with SGBs made up almost entirely of working-class people, 17 with parents from a wide variety of occupations, and 17 with predominantly middle-class parents. Interestingly, in the 17 schools with diverse parental occupations, middle-class people tended to occupy the most significant positions in the SGB. Clearly, while SGBs are making serious efforts to take ownership of schools in rural areas, their plight is hindered by conditions beyond their control. Many school governors must travel long distances to and from schools for meetings, workshops, and other events. More often than not, the burden of transport fees is carried by the governors themselves. In some areas, inaccessible roads and a lack of transport facilities create additional burdens for governors. Based on the case studies research, one might suggest that the social class profiles of former Department of Education and former homeland (all African) schools are significantly more diverse than those in the former HOA schools. There, however, middle-class parents play stronger roles.⁶ In the context of these realities, the Ministerial Review (2004) suggested that there was compelling evidence that schools in rural and poor areas were governed differently from schools in the more affluent urban areas. The most important difference appears to lie in, among other things, how parents assume their roles and responsibilities in school governance.

Clearly evident in these five contexts are the historical legacies inherited by the system. They are not easily managed. They reflect a form of democratization that is formally strong in its devolutionary intentions but weak practically in terms of managing the disparate and often discriminatory proclivities and tendencies within local sites. In ceding power to parents locally, the democratization process has come face to face with the problem of sectional interests, particularly those of race and class. As much progress as the system has made, new combinations of class and race factors present challenges to advancing the project of democratizing the South African school.

The Response of the State: BELA

In response to the difficulties and challenges presented by SASA, the Minister of Basic Education established a task team in 2013 to review the country's basic education legislation. In

⁶ When public hearings for the Ministerial Review Task Team took place in 2003, a principal at an Eastern Cape Primary/Junior Secondary School (27 June 2003) commented that "the majority (of parents) [are] facing poverty, it is not easy for them to come up with proper structures" (Ministerial Review Committee, 2004, p. 48). Another speaker at the public hearing at Bronkhorstspuit in the Gauteng Province spoke of the difficulties in getting parents involved in the SGB's work in rural schools with intense HIV/AIDS problems: "One would be lucky to find a school without orphaned learners due to HIV/AIDS" (Ministerial Review Committee, 2004, p. 48).

conducting its review, the task team held 31 meetings, sought advice, and then submitted a draft of BELA to the public for consideration in 2018. It received almost 5,000 comments, including 144 petitions (supported by 195,695 signatories) objecting to certain clauses of the bill. It is important to say that these objections ranged across the wide variety of changes proposed in the bill. Critical for this analysis are the objections relating to those elements of the SASA and the new draft pertaining to parental participation and democratization.

For the sake of clarity, it is necessary to make clear that the bill—which is still in the legislative process and will be brought before parliament shortly—was and is an attempt by the South African state to overhaul and consolidate its central piece of educational legislation. It strengthens and refines many existing clauses in SASA, such as those relating to the authority of the HOD/Director-General, the most senior official in a government department, concerning a wide range of matters such as learner discipline and codes of conduct. It also introduces new elements into the country’s policy agenda. Central amongst these is the inclusion of early childhood education, formally described as Grade R (for “Reception”), in the definition of “basic education”; the inclusion of sign language as an official language of learning; the stipulation of conditions for the consumption and sale of alcohol on school premises; and the stricter regulation of home school learning.

The provisions in BELA relating to democratization are important for this discussion. In what follows, I describe the most pertinent proposed amendments and the dynamics that have developed around them. The major interventions in this regard relate to the state’s project to transform education and specifically deal with the legacy issues of apartheid. In a briefing, to explain the rationale for the amendments, a senior administrator in the national education department explained that the transformation of former white schools remained a challenge: “Former Model C schools (former white schools) have learner profiles which are 80% black, but their staffs are lily-white. We are finding it difficult to take decisions to effect transformation . . . These amendments are meant to get government to move more strongly” (Briefing, Senior DBE Official #1, 2023). More pertinently, another official remarked that the amendments managed processes in which SGBs used the existing policy to hold transformation back (Briefing, Senior Official #2, 2023.)

The areas of contention, where the government believed transformation was being stalled, were related to the school’s admissions and language policies. As a result, the clauses in the act that relate to these relevant issues needed attention, argued the government. SASA 5(5) reads as follows: “Subject to this Act and any applicable provincial law, the admission policy of a public school is determined by the governing body of such school” (RSA, 1996, p. 13). With respect to language, Section 6(2) stipulates that the “governing body of a school may determine the language policy of the school subject to the Constitution, this Act and any applicable provincial law” (RSA, 1996, p. 15).

The amendments proposed dealing with the admissions policy went as follows:

(5) Subject to *this* Act and applicable provincial law, the admission policy of a *public school* is determined by the *governing body* of such school: Provided that

(a) The *Head of Department*, after consultation with the *governing body* of the *school*, has the final authority, subject to subsection (9), to admit a *learner* to a *public school*.

(b) the *governing body* must submit the admission policy of a *public school* and any amendment thereof to the *Head of Department* for approval . . .

(d) the *Head of Department*, when considering the admission policy or any amendment thereof for approval, must be satisfied that the policy or the amendment thereof takes into account the needs, in general, of the broader

community in the *education district* in which the *public school* is situated, and must take into account factors, including, but not limited to –

- (i) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution*, and equity;
- (iii) available resources of the *school* and the efficient and effective use of state resources;
- (iv) the space available at the *school* for *learners* (RSA, 2022, p. 8, italics and underlining in original)

With respect to the language policy, BELA proposed the following new formulation in 6(a)(2): “The *governing body* of a *public school* may, subject to subsection (13), determine the language policy of the *school* subject to the *Constitution*, this Act and any applicable provincial law” (RSA, 2022, p. 9).

Subsection 6(c) proposes, “The *governing body* must submit the language policy of a *public school* and any amendment thereof to the *Head of Department* for approval” (RSA, 2022, p. 9). Subsection 13 qualifies the powers of the governing body in subsection 6(a)(2) as follows: “Notwithstanding the provisions of section (2), the *Head of Department* may, where it is practicable to do so and subject to subsection (7), direct a *public school* to adopt more than one language of instruction” (RSA, 2022, p. 10). Subsection (7) proposes that

The *Head of Department*, when considering the language policy of a *public school* or any amendment thereof for approval, must be satisfied that the policy or the amendment thereof takes into account the language needs, in general, of the broader community in the *education district* in which the public school is situated, and must take into account factors, including, but not limited to –

- (a) The best interests of the child, with emphasis on equality as provided for in Section 9 of the *Constitution* and equity; . . .
- (d) the changing number of *learners* who speak the language of learning and teaching at the *public school*;
- (e) the need for effective use of classroom space and resources of the *public school*; and
- (f) the enrolment trends of the *public school*. (RSA, 2022, pp. 9–10)

Interestingly, the process of engagement with stakeholders around BELA has, as the volume of submissions referred to above indicates, generated significant debate. Stakeholders in and outside of government have had a great deal to say. Foremost among the issues raised has been the power shift from SGBs to the HOD. It was, for example, the primary issue of concern when DBE representatives reported to the parliamentary portfolio committee (a standing oversight committee) in November 2017. According to the meeting minutes, a member of the ruling ANC, Mr. D Mguni, said, “The SASA had been enacted to ensure parents had a voice in school governance. Was it thus correct to take away parents’ rights?” (South African Parliament, 2017, para. 43). The chairperson commented, “The Bill and amendments had drawn attention that was alarming. She agreed that there were clauses that were quite controversial, especially the amendments that dealt with the school governing bodies” (South African Parliament, 2017, para. 45). It was so again when the portfolio committee received an update in February 2022 from the Minister of Basic Education, who acknowledged that the DBE had received negative criticism about the withdrawal of powers from SGBs. As she explained, the DBE’s approach on these occasions was to draw attention to the major problems in schools “to ensure that the admission and language policy complied with existing legislation” (South African Parliament, 2022, para. 67). The minister made these comments in

response to veiled remarks from opposition party members about the legislation being aimed at formerly white schools.

Coming closer to what the substance of the objections to the bill was were the comments of a range of largely white organizations. An important example was the Federation of Governing Bodies of South African Schools (FEDSAS), an organization of mainly Afrikaans-speaking white governing bodies. Its chief executive officer commented that the “amendments go directly against the principle of cooperative governance on which the model for public schools was built. . . . The amendment on admission policy together with amendments to the determination of language policy create the impression that only the state may decide which powers parents may have. This takes us back to a totalitarian state and will do nothing to improve education” (FEDSAS, 2022, paras. 6 and 7). In this document, the chief financial officer does not explicitly state his organization’s objection to the amendments. Somewhat more explicit, but still not direct, are positions taken by him and other spokespeople in several public media statements. In several YouTube communications (youtube.com/watch?v=4aL2sarjWPE), they argue that the amendments do nothing to improve the quality of education in South African schools. They miss the point about the problems in education. The issue is presented as a quality concern. Their criticism is that the amendments fail to focus on the right thing—putting in place that-which-should-be. Invoked is the threat the amendments make to established standards or, put differently, the unquestionable normative authority of the “that-which-should-be” criterion for quality. Nodada (2022) came closer to what the objections were while speaking for the Democratic Alliance, the country’s official and still largely white opposition party. He claimed that the “BELA Bill is an ill-disguised attempt at centralizing power and targeting schools with a single language of instruction – particularly if that language is indigenous It is extremely worrying that the ANC government is pushing legislation to the detriment of learners and communities – and that this legislation seems to be born from ideology to capture schools rather than facts” (Nodada, 2022, paras. 8 and 9). Here was, it is important to explain, a member of the new black elite railing at the prospect of what he called the “capture” of former white schools (Nodada, 2022, para. 9). Significantly, he made clear who his allies were. They were organizations such as AfriForum (an Afrikaner civil society organization), the South African Institute of Race Relations, Cause for Justice, and FEDSAS, all interest groups representing largely white and oftentimes conservative political positions. In their submissions, AfriForum and Solidariteit (an Afrikaner political formation) described the amendments as “a breach of the (1994) settlement” and an attempt to “hijack” functioning schools, and the bill as “draconian” (McFarlane, 2022, para. 1).

Conclusion

There are clearly real issues at stake here for the South African project of democracy. Of no small importance is the real danger—in shifting power away from parents to the government—of imposing measures that threaten the unquestionably high standards of learner attainment and educational delivery manifest in the schools of the privileged. In those schools are evident teaching and learning practices that are important for the education process. These are matters not to be naïve about. They do warrant some form of protection. But not, I would like to argue, unconditionally.

At issue is not simply the mechanical exercise of parental control but, more critically, how that control takes form and substance and is mediated as good educational practice. At issue here is Dewey’s clarification of democratic engagement as the act of referring one’s actions to the actions of others and how their views of the world might influence one’s own. It is a matter of, as the Constitutional Court judgment stipulated, how parties cooperate with each other. How, in other

words, one facilitates processes in which the powerful, however that power is acquired, can admit into the discourse of what is good that which emanates outside their normative zones of comprehensibility.

It is what the substance of one's own actions consists of that is of consequence in the positions taking shape around BELA. This substance of the critique of BELA, I suggest, is coded and implicit. It is not—and for this, one must be thankful—conveyed in the language of self- or group interest and much less in the completely unconscious registers of crass racial superiority. In terms of this, even South Africa's right wing has learned some of the language of equality. At work, however, is the presumption of the new elite alliance in South Africa that, in their governance practice, they *already* have the form and substance of what a democratic order is all about. All they must do to affirm this form and substance is to show the outstanding performance their governance practices can generate. It is a functional model which, contrasted to that which is in evidence in the black school, has to be protected at all costs. The that-which-should-be ideal of post-apartheid democracy is already exemplified in historically white schools. It is through this, I argue, that inequality is reproduced in South Africa. It is a reluctance to admit into the democratic debate possibilities for re-imagining education completely anew, to admit the possibility that the levels of excellence demonstrated by exclusively Afrikaans or English elite schools can be mediated through the use of the country's indigenous languages and through having children of widely different sociocultural and economic backgrounds sitting alongside each other. We are seeing the playing out of a complex transition challenge. It is complex because the institutionalization of normative order around the language of "high functionality" dies a hard death. It presents itself as good sense but obscures deep-seated racial and class interests. In play here is the durability of the discourse of what good education is—the that-which-should-be discourse. Lost is the democratic opportunity of activating what Dewey (2015) described as "more numerous and varied points of shared common interest" (para. 7).

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About the Author

Crain Soudien

Nelson Mandela University (Honorary Professor), University of Cape Town (Emeritus)

crain.soudien@uct.ac.za

<https://orcid.org/0000-0002-9934-6532>

Crain Soudien is a sociologist and an emeritus professor in Education and African Studies at the University of Cape Town, an Honorary Professor at Nelson Mandela University and the President of Cornerstone Institute. He is a fellow of the International Academy of Education, the African Academy of Science, a Senior Fellow of NORRAG, Geneva Graduate Institute, a Chen Yidan Visiting Global Fellow at Harvard University, and a member of the Academy of Science of South Africa.

About the Guest Editor

Fernando M. Reimers

Harvard University

Fernando_Reimers@gse.harvard.edu

ORCID: <https://orcid.org/0000-0002-8081-3663>

Fernando Reimers is the Ford Foundation Professor of the Practice of International Education and Director of the [Global Education Innovation Initiative](#) at Harvard University. He is an elected member of the U.S. National Academy of Education and the International Academy of Education.

Special Issue

Education and the Challenges for Democracy

archivos analíticos de políticas educativas

Volume 31 Number 105

September 19, 2023

ISSN 1068-2341



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