

Full Length Research Paper

Democratic education in the classroom: An education law perspective

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This paper sought to unpack the extent of students' democratic involvement in the teaching and learning processes. Data that were analyzed were obtained from 253 teachers and 194 students from 15 secondary schools in Botswana using a closed questionnaire consisting of 31 question items. Although the sample may not be representative of all the schools in the country (only 15 out of 233 schools were studied), the study concluded that the teaching and learning activities are largely pursued in democratic environments where teachers consult students on important classroom decisions. These efforts are, however, constrained by the disturbing levels of bullying in the classroom reported by the students. The democratic practices encouraged by the teachers, the study concluded, are consistent with what obtains at the national macro level.

Key words: Democratic education, learner-centred teaching, academic freedom, children rights.

INTRODUCTION

Education aims at promoting the intellectual development of the learner by expanding his/her boundaries of knowledge (Gerstmann and Streb, 2006). This can best be achieved in an environment of disciplined inquiry and in an atmosphere where the learner is free to interact with both colleagues and teachers (Bottery, 1993). Characterizing such environments are policies, procedures and rules that everyone realizes the implications and consequences of breaking them (Joubert, 2007). Although schools purport to encourage the democratization of teaching and learning that involves the students' uninhibited participation in the learning activity, the exact scope of such participation remains unclear (Subban, 2006).

This paper is located in the literature on academic freedom, education law, and learner-centred teaching. Essentially, education law is about the educational liberties of individuals and groups in an educational setting (Barrell and Partington, 1985; Adams, 1992; Thro, 2007). The existence of a code of conduct in a school is a right and proper way of limiting fundamental liberties. Such learner freedom, however, should never justify any misconduct of such a learner. The interests and welfare of learners and educators at a school must be balanced against the rights of a learner or a group of learners (Joubert, 2007). Learner-centred teaching on the other hand embodies the principle of democracy because the learner's academic interests are taken cognizance of. It is

hoped that this study will further cement to teachers the widely researched outcomes that the potential for learning can be enlarged if learners are allowed free participation and are positioned at the centre of the teaching and learning activities.

BACKGROUND

A global overview of academic freedom and how governments attempt or have attempted to stifle it at the higher learning institutions begins this paper before focus can be made at the lower level of learning (at the school level). This introductory approach has been adopted fully aware that the motives for stifling academic freedom at the two different levels of education (higher education and school level) can be different. Often, at the higher education level the motive to stifle academic freedom can be political and/or economical, whereas at the lower education level the motive may not be ulterior or intentional but can be influenced mainly by culture, that is, the tradition that adults tell and children listen and do without question. As Covey (2004, pp. 16-17) puts it:

"Often, the students tend to consent to this tradition, perhaps unconsciously, to be controlled like things. Even if they perceive a need to act, they don't take the initiative to do so. They want

to be told what to do by the person with the formal title, and then they respond as directed. This kind of dependency does not help intellectual growth in the child.”

Research on academic freedom at higher education institutions abound but it is at the apparent exclusion of primary and secondary education. This is probably the case because at tertiary institutions lecturers, professors, and the students can be very vocal and critical in their analysis of the way governments' policies relating for example, to education, the economy, and the politics are arrived at, managed, and implemented. Governments on the other hand defend their policies and want to ensure that what the academics publish or write about does not threaten governance. In the USA, following the September 11 disaster, the government put into immediate effect the Patriotic Act which expands the federal governments' authority to demand business records including lists of library records and recent book orders. The Act bars librarians and bookstore employees from disclosing any request for such law enforcement (Gerstmann and Streb, 2006).

Academic freedom at American Universities has further been threatened by the wars in countries such as Iraq. “Government officials and watchdog groups have become more aggressive about denouncing and calling for punishment of professors, who challenge the war against terrorism and the invasion of Iraq” (Gerstmann and Streb, 2006 p. 3).

In Iran and Iraq college/university lecturers and professors have fled these countries because their academic lives were threatened. Their works were under constant surveillance and subjected to restrictions and censorship which made their teaching and research difficult (Gerstmann and Streb, 2006). Higher learning institutions in Africa have not been spared of similar governments' censorship. At the height of the apartheid era in South Africa, censorship of published material to those opposed to the regime, including the academics was the order of the day (Mandela, 1994).

In the recent past in Zimbabwe, students have been subjected to beating, harassment and expulsion from universities for protesting against government policies on higher education (The Zimbabwean, 2006). Also, because of the political instability and the economic turmoil prevailing in that country, teacher attrition rate is very high. They leave the job because they no longer have the freedom to teach as the ruling Zanu-PF accuses and harasses them for supporting the opposition parties (Sunday Times, 2008). The teachers' freedom in the classroom is the learners' freedom. If teachers cannot exercise freedom of teaching, the learners cannot learn freely.

In Zambia, university students' protest was met with brutal police force. One student was shot, allegedly by a stray bullet (Republic of Botswana, 2000). In Botswana

there is the infamous case of a university professor who was deported from the country under controversial circumstances following a protracted court wrangling. Critics have linked the government's decision to the professor's publications which government felt were politically inciting (Sunday Standard Reporter, 2005). The examples given above, although they do not relate directly to schools, serve to illuminate the general concepts of educational democracy and freedom.

Academic freedom: Conceptualisation

The need to understand the usage of the concept 'academic freedom' and its ingredients as applied to classroom settings is important and is therefore offered here. This is because its application can have considerable variations as to meaning and applicability. Learners' academic freedom refers to their ethical involvement and consultation about the manner of their treatment and about suggestions for improvement (Bottery, 1993). Thus, while learners are given and may exercise freedom of expression and participation in the classroom, they are still subject to the teacher's guidance and control (Joubert, 2007). Such involvement is made bearing in mind that teachers are authorities on what they teach and therefore, they must be authorities relative to the learners who are not authority in this sphere otherwise they would not be learners (Bottery, 1993). In democratic environments, democratic education or academic freedom is a constitutional entitlement. It is an essential component to education at all levels and is the cradle to democracy (Thro, 2007). Without the ability to openly and freely discuss issues with teachers, students' intellectual development is constrained (Gerstmann and Streb, 2006). Breadwin (1952) in Merruti et al. (2006) has argued that to encourage intellectual progress, a spirit of reflection and coordination must be promoted in the classroom as this is the process of development. Though, there are many ways in which this can be achieved, but the fundamental context for all of them is the one that encourages students to consider, propose and openly discuss a variety of ideas. This constitutes democratic education or academic freedom in the classroom (Breadwin, 1952).

However, education law has concentrated more on the child's rights to education, information, harsh and cruel treatment, religion and language than on the specific rights of the child to classroom educational processes that include the rules that regulate behaviour and the teaching methods (Barrell and Partington, 1985; Adams, 1992; Thro, 2007). In the recent draft Bill on Children's Rights, authored by the Minister of Local Government (2008) in Botswana, emphasis is children's safety on; child abduction and trafficking, sexual abuse and exploitation, exposing children to narcotic substances and subjecting them to cruel punishment (Piet, 2008) at

the apparent exclusion of their academic freedom in schools or in the classroom in particular. The rather tenuous and skeletal Education Act also does not even have a clause on democratic education in schools let alone in the classroom. Emphasis is instead on the 'safeguards for health of pupils' (Republic of Botswana, 1967:58:70). The Constitution of South Africa (a new democracy) Act 108 of 1996, although it does not specifically touch on the learner's democratic involvement in the classroom, at least such involvement is implied in the statement: The constitutional right for a learner to enjoy education in a harmonious and free environment is a source of significant learning. In the context of this paper, the term academic freedom is therefore operationally defined as the students' guided and controlled democratic right to participate in the teaching and learning processes without fear.

Student-centred education

Another major source of significant learning is when the learner solves problems by himself/herself rather than being taught (Pedler et al., 2001). This is learner-centred education, a pedagogical framework that positions learners at the heart of the instructional process and not as passive recipients of information (Mahendra et al., 2005). Current educational trends compel educators to re-look at their teaching and instructional practices to accommodate groups of learners from among others, diverse backgrounds, slow learners, students on accelerated programmes and so on (Republic of Botswana, 1993; Subban, 2006). Some are analytical and rational and prefer the practical application of ideas and others are creative and artistic and like plenty of interaction (Hess, 1998; Tomlison, 1999; Anderson, 2005; Popham, 1993).

Clark and Starr (1967) also argued that since students differ in their learning abilities, an inescapable fact of nature, teaching must be adapted to the individual differences and students should not be treated as though everyone were just alike. In this type of learning environment the learner is not force-fitted into a standard mold but competes against himself/herself more than he/she competes with other students (Hess, 1989; Tomlison, 1999). This is democratic learning, these authors emphasise. Anderson (2005, p. 180) refers to this method of teaching as "strengths-based teaching" that draws on the teachers' strength and those of the students or "learning that brings out talent from the learner". By using the discovery learning technique, the teacher serves as a facilitator and resource provider (Kaplan, 1999). Subban (2006) in his/her study on differentiated instruction added a social interaction dimension between the learner and the teacher as important to the development of the learner's intellect.

Such an approach to teaching, where the learner is

granted the freedom to explore and manipulate his/her learning environment, can have the effect of empowerment on the learner and his/her whole process of learning can begin to make sense. There are, however, barriers to classroom free learning.

Barriers to classroom free learning

Legal uncertainty

There can be no exercise of free intellect in a classroom where tension fills the air and students are always uncertain about the expectations of the teacher (Merruti et al., 2006, p. 12). Such uncertainty can result in what these authors refer to as common fears of school that are characterized by "refusal of school behaviour, conduct disorders, and surreptitious absenteeism without knowledge of the parents." Van Zyl and Van der Vyver (1982, p. 265) in Oosthuizen (2003) refer to the situation where learners are unsure of what is expected of them as legal uncertainty. According to the principle of legal uncertainty, classroom rules must be "formulated in such a way that those who are subject to them will know exactly what their rights and obligations in terms of the relevant requirements are." Good classroom order is based on the agreement between the teacher and the students about what is expected of the students (legal certainty). Involving students in the maintenance of order in the classroom "helps them learn responsibility for their behaviour and judge between right and wrong. It also helps them gain a sense of responsibility that accompanies freedom" (Fields and Boesser, 2005, p. 5). If this holds true, then students must participate in the formulation of the classroom rules that regulate their behaviour. The perspectives made by the different authors above constitute academic freedom or democratic education to the learner in more than one way.

Classroom bullying

The opportunity for the student to pursue his/her educational rights becomes meaningless unless this is done in an environment that is safe and secure. No matter the amount and the abundant availability of resources such as finance, material, and human are, as long as the learning environment is terror struck, no significant learning can take place to the student (Thro, 2007). If the right to quality education is to have any substantive meaning, necessarily there must be space in the classroom that is secure and free for learning (Thro, 2007).

The object of law in general and the law of education in particular is to ensure order and justice (Gilliant, 1999). In classroom settings, the law in the form of rules is important particularly that which regulates the privileges and liberties of learners. Joubert (2007) has argued that

schools have the opportunity to create academically free environments through subordinate legislation such as school rules. For learners to miss school because of fear of bullies or the teacher, is not 'in the best interest of the learner' principle purported by Barrell and Partington (1985), Lunney and Oliphant (2003) and Gilliant (1999).

Sadly, some students who were otherwise tertiary material have lost educational opportunities because they were in the wrong classes at school, either in a class of bullies or taught by teachers who did not protect them (Thro, 2007). The questions that can be asked are why did the teacher allow bullying in his/her class? Does the teacher, like a parent, have a legal duty to protect a learner against ill-treatment or danger? Teachers indeed have a duty of care and protection to their students that flows from the *in loco parentis* doctrine, which, literally translated, means "in the place of a parent" (Oosthuizen, 2003).

The problem with law, however, is because of its emphasis on the natural justice principle, it gives extensive due process to the accused more than the victim. The burden of proof often lies with the plaintiff, under the "no person is guilty unless proven so" doctrine (Kasozi, 1999, p. 113). The victims or plaintiffs are usually not the best in self-defense. In schools these are usually cowardly, fragile, withdrawn, and defenseless students that are vulnerable to bullies. Thro (2007) posits that often, minimal punishment is given to the accused if found guilty and the victim gets little or no compensation for the harm and in many cases the student who has harmed will be returning to the classroom soon. In the USA, although the victims have the right to protection against aggressors, schools do not vigorously enforce this law (Thro, 2007)). This can have the effect on the weak, of feeling unsafe and unprotected from intimidation and harassment by the strong. This situation can constrain free learning. Impediments to free learning have also been reported in Botswana schools. Bullying, perpetrated mostly by the boys on other boys has led to truancy (Moswela, 2005). The use of corporal punishment in schools in Botswana, which is sanctioned by law in the Education Act, also contributes to students not feeling free in their learning. Corporal punishment can add to what Merruti et al. (2006) referred to as "conduct disorder" and "refusal of school behaviour." McManus (1995) views the use of corporal punishment as the application of force that can reinforce bad behaviour rather than deterring it. Put another way, "those who are really tough are sometimes actually encouraged by the threat of punishment and they see it as a challenge" (Rigby, 1996, p. 222). They retaliate on other students, thus creating a hostile classroom learning environment.

AIM OF THE STUDY

With the purpose of education as previously outlined in mind, and the schools' claim on democratic practices, this

paper investigated the extent of students' democratic involvement in the teaching and learning processes. Exactly, the paper sought to find out; whether the teachers make deliberate efforts to involve students in decisions that affect pedagogy and behaviour in classrooms relating particularly to rules and regulations. The paper is guided by the research question: To what extent do teachers involve students in classroom pedagogy and classroom management decisions?

MATERIALS AND METHODS

Sampling

The study was carried out during the researcher's winter teaching practice engagement conveniently carried out at nine secondary schools, the researcher did the teaching practice. The other six schools involved in the study were not too distant from the nine schools. The target groups of the study were teachers and students from the fifteen secondary schools. Ten of the schools were junior and only five were senior. The schools represented a wide geographical spread of the country, covering schools in the Northern, Southern and South Central regions, out of a total of five regions in the country. Twenty (N=20) teachers from each school were randomly selected from the initial purposive sampling of teachers who had three or more years of teaching experience. Purposive sampling or judgment sampling was employed to tap quality responses from informed and experienced people in the classroom (Gay and Airasian, 2000).

The students were randomly selected from each school as follows: From each school, between 3 and 5 students were randomly selected from each of the Forms 1, 2, and 3 classes. One hundred and twenty five (N=125) students from ten junior secondary schools were selected this way. Another one hundred (N=100) students were randomly selected from the senior school category (Forms 4 and 5). Between 11 and 13 students were drawn from the different classes in Form 4 and 5. The resultant selection yielded a total of (N=300) teachers and (N=225) students comprising a balanced representation of males and females.

Procedure

Instructions on how the students were to be selected were given to a teacher in the school. These teachers had volunteered to coordinate the distribution of the questionnaire to the students and teachers. The same questionnaire was used on both the students and the teachers for purposes of triangulation. All the twenty (N=20) question items were to be answered with an "agree" or "disagree" response. Though the questionnaire appeared quantitative in nature (close-ended questions), the descriptive analysis and discussion rendered it qualitative.

The questionnaires were returned using a pre-stamped envelope in the name of the researcher. The question items were designed based on the main research question and were pilot-tested on a school outside the fifteen participating schools. The results of the pilot were not used in the final data analysis.

ANALYSIS OF RESULTS AND DISCUSSION

Bottery's (1993) and Joubert's (2007) perspectives on learners' democratic learning and the research question on whether teachers involve students in classroom

pedagogy and management decisions guide the interpretation and discussion of the results in this study. Bottery's depiction of democratic learning purports that it is only ethical to involve, consult, and enlist learners' suggestions on how their learning can be improved. Joubert on the other hand cautions that although learners have rights and freedom, these should not be allowed to justify misconduct. Put another way, Joubert cautions that learners' rights must go hand-in-hand with responsibility and that they must be controlled. Three main themes that emerged from the analysis of results form the sub-topics for the discussion.

The analysis is based on data drawn from two hundred and fifty three (n=253) teachers and one hundred and ninety four (n=194) students from the initial target of 300 teachers and 225 students from fifteen (15) schools.

Students' participatory decision making in classroom rules

Statement = S

S The teacher alone draws the class rules that guide students' behaviour.

R 89% of the teachers and 78% of the students disagree with the statement.

S The students alone draw the class rules.

R 87% of the teachers and 83% of the students disagree with the statement.

S Both teacher and students together are involved in making classroom rules.

R 98% of the teachers and 83% of the students agree with the statement.

S Teacher drafts rules and then invites input from students.

R 65% of the teachers and 56% of the students agree with the statement.

S The involvement by teachers of students in the making of classroom rules can make students feel empowered and behave better.

R 96% and 86% of the teachers and students submit to the above statement respectively.

S Students' involvement in decisions on classroom rules can encourage indiscipline.

R Both teachers and students strongly disagree with this assertion as depicted by 84 and 86% of the teachers and students respectively.

S Students are not mature enough to be able to participate in making rules for themselves.

R There was a resounding 97 and 84% disagreement with the statement by the teachers and students respectively.

S It is not good to impose rules on students.

R Both teachers (72%) and students (69%) respectively agree with the statement.

S Bad students' behaviour is usually a protest

against their non-involvement in classroom decisions that affect them.

R Both teachers (67%) and students (60%) agree with this assertion.

The evidence presented above points to the conclusion that teachers trust students' responsibility and ability to participate in decisions that guide behaviour in the classroom. The extent of participation purported by the teachers, however, differs from that of the students', who think that they are not as involved as the teachers claim they involve them. This makes the argument difficult as to which information best represents real practice in the classroom. However, there is general positive students' involvement as indicated by responses from both the teachers and the students. This is different from what Covey (2004) posits as "adults tell and children listen" all the time, a situation where youngsters are denied the opportunity to gain experience.

Joubert (2007) has however argued that they ought to be boundaries and limits as to how far learners can be involved in school decisions. The boundaries are not made to suppress students' civil liberties pertaining to their democratic right to freely participate in classroom activities. Rather, Joubert makes this argument bearing in mind that teachers as professionals are able to make professional judgments; they have authority over the students; and given their age, students have limited experience.

To the researcher, the high percentages (89, 87 and 98%) of students' involvement alleged by teachers in the drawing of class rules are too democratic. To be democratic does not necessarily mean being too permissive. Rather, it is more about communicating, guiding and controlling. Sufficient involvement can still accord students the ability to freely discuss issues of concern (Thro, 2007; Gerstmann and Streb, 2006) and this can encourage what Fields and Boesser (2005) refer to as "students' responsibility for their behaviour . . . that accompanies freedom". The teachers' and students' responses support the above view as indicated by 96 and 86% (teachers) and 84 and 86% (students) to the statements: The involvement by teachers . . . make students feel empowered and behave better" and "students' involvement . . . can encourage indiscipline", respectively.

Bullying as a barrier to classroom academic freedom

S There is a lot of student-to-student bullying in the class.

R Only 11% of the teachers say bullying is prevalent in their classes as against 41% of the students who said so.

S There is some amount of student-to-student bullying in the class.

R 48 and 59% of the teachers and students agree with the statement, respectively.

S I protect or the teacher protects other students from bullies.

R Most teachers (91%) claim such protection. Only 59% of the students agree that teachers provide such protection.

S Some students miss school or classes because they are being bullied.

R Only 26% of the teachers agree and 57% of the students agree with the statement.

S Bullies reduce other students' participation in class activities.

R 87 and 84% of the teachers and students strongly confirm this statement respectively.

Whereas, students enjoy freedom of participation in decision making in the classroom, the freedom to learn is constrained by the behaviour of bullies. The findings of this paper revealed a student-to-student bullying in the class, a conclusion also made by Moswela (2005) in his study on bullying in schools. The teachers' and the students' views, however, differ in the extent of bullying in the classroom. Only 11% of the teachers say bullying is prevalent in the class as opposed to 41% of the students who think so. The difference in view confirms the general secrecy surrounding bullying. It also suggests that bullying occurs mostly during the teacher's absence and that the victims do not always report such incidents to the teacher, perhaps out of fear of reprisals by the bullies. This could explain why most teachers (91%) say they take action against bullies (based on few reported cases) and also explains why students (59%) say teachers do not protect them from bullies. Teachers cannot take action against bullies they do not know. Students should not make assumptions that teachers know who the bullies are. They should be responsible enough and report the perpetrators. On the other hand, if the students' claim about the teachers' negligence on bullies, is anything to go by, classroom learning will be affected and the students' educational advancement will prematurely end because of truancy resulting from being bullied (Thro, 2007; Moswela, 2005). Teachers need to exercise their authority as surrogate parents (Oothuizen, 2004) to protect other students from bullies as parents would with siblings. Bullies have no legal authority over other students but teachers getting authority from the *in loco parentis* doctrine do (Oothuizen, 2004). They are the appointed authority by the state in this respect.

Learner-centred teaching as a way of democratizing classroom learning

S During teaching, teachers talk most of the time while students listen most of the time.

R 56% of teachers indicated a 'yes' response to the

statement while the majority students (72%) also indicated a 'yes' response.

S In most lessons, students are actively kept busy while the teacher helps them as individuals where help is needed.

R 49% of the teachers and 47% students think this way. Responses from the two statements above indicate dominance of teacher-centred teaching in schools.

S Students must be given the opportunity to learn at their pace.

R While most teachers (61%) agree, some however, feel that big class sizes and inadequate resources militate against this. The majority students (75%) also agree.

S Teacher-centred teaching methods encourage self-responsibility or self-direction among students.

R Both teachers (94%) and students (93%) strongly disagree with the statement.

S Student-centred teaching methods encourage self-responsibility or self-direction among students.

R 97% of the teachers and 90% of the students strongly agree with the statement.

S Students learn better if they are encouraged to find answers to problems for themselves.

R Teachers (77%) have no problem with this statement. However, students had mixed views about it, 53% agreed with the statement while 47% disagreed.

Although the closed questionnaire did not have room for comments, one student remarked: "Teachers must teach us, it is their job to do so".

As the findings show, teacher-centred teaching methods, where the teacher talks most of the time when students are listening, still dominates teaching activities in schools. Both the teachers and the students, however, commonly agree on the benefits students can derive from teaching that places the learner at the centre of the teaching and learning activities. These latter findings corroborate the views of Peddler et al. (2001) of learner-centred teaching as a way of democratizing learning and those of Mahendra et al. (2005) that significant learning occurs when the learner solves problems by themselves and also supported by Anderson's (2005) views on strength-based teaching and learning that brings out talent.

A considerable number of students (47%), however, do not think they learn better if they are left to learn on their own. This thinking could be attributable to the traditional teaching methods that emphasized the 'talk and chalk' teaching method. In the early years, the teacher dominated the lesson partly because of the adult-child relationship purported by Covey that the former talks while the latter listens and partly because there were no adequate resources such as books, a library, and laboratory equipment. The teaching of practical subject such as the sciences was dominated by teacher demonstrations of experiments. One would also argue that, the

secondary school teachers' teaching methods have been influenced to a large extent by how they were taught at the university where lecturers lecture.

Conclusion

This paper has revealed a reciprocal social relationship between the learner and the teacher in the classroom. Teachers regard students as mature enough to be able to take responsible decisions on rules that govern their behaviour. Although more could still be done, the teaching methods are gradually improving towards student-centredness. This collaborative interaction between teachers and students enhances a possibility of intellectual activity and it accommodates learning in a developmental sense. The teachers' action or acceptance of the students' participation in class decisions may have been born out of the wisdom that if they did not, students might not comply with the rules and regulations, thus aggravating behaviour problems in class. Bullying, however, remains an area of concern that can thwart teachers' efforts to create democratic classroom environments. This is an area, schools need to confront if the benefits of democratic and peaceful education purported in the paper are to be realized. The Botswana Education Act and the Botswana Constitution need clearer articulations on the educational liberties of learners, in the context of this paper, particularly on the protection rights of the learner against any form of ill-treatment or intimidation. If this can be made law schools can then base their subordinate legislation as advised by Joubert (2007). Without the backing of law, any school policy can be vulnerable to challenges. In the bigger scheme of things, it can be concluded that the provision of education in secondary schools in Botswana is democratic. To a large extent, this has been influenced by the country's (Botswana) impeccable democratic practices, at least relative to other African countries.

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