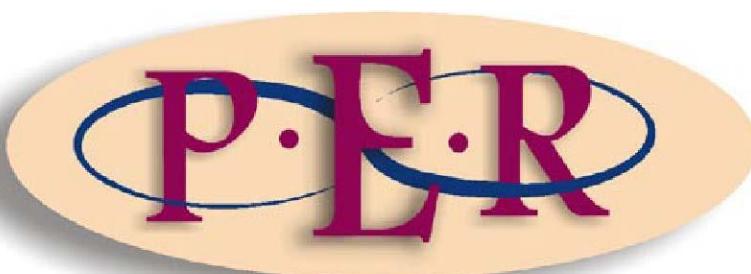


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DELIBERATIVE DEMOCRACY KNOCKING AT THE DOOR**

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## **SCHOOL GOVERNING BODY ELECTION DEFICIENCIES: DELIBERATIVE DEMOCRACY KNOCKING AT THE DOOR**

**MH Smit\***

### **1 Introduction**

The South African education system provides for the local governance of public schools. This entails that democratic elections of School Governing Bodies ("SGBs") take place triennially. South African policymakers followed the international trend towards school-based management and the devolution of governance authority to local stakeholders during the early 1990's to democratise the education system, increase parental participation and enhance community involvement.<sup>1</sup> Since the commencement of the *South African Schools Act (Schools Act)* in 1997 seven SGB elections have taken place at all public schools across the country.<sup>2</sup> School governing bodies are comprised of members elected from among the parents, learners, educators and non-educator staff of the school community.<sup>3</sup> Effective and functional school governing bodies play an important role *inter alia* in improving the quality of education; ensuring good governance; advancing democratic transformation; ensuring that schools serve the interests of a school community and meet the expectations of learners and parents; funding school maintenance and improvements; spreading the cost of education across users; and combatting racism or other forms of unfair discrimination and intolerance.<sup>4</sup> Despite the strictures imposed on them by law, SGBs enjoy general and popular acceptance across class and racial boundaries.<sup>5</sup>

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<sup>1</sup> Van Rooyen and Rossouw "School Governance and Management" 3.

<sup>2</sup> *South African Schools Act* 84 of 1996 (hereafter the *Schools Act*).

<sup>3</sup> Section 28 *Schools Act*.

<sup>4</sup> DBE 2014 <http://www.education.gov.za/LinkClick.aspx?fileticket=8CT%2BH9KtVM%3D&tqid=581&mid=1637>.

<sup>5</sup> Smit *Model for the Improvement of Democratic School Governance* 307.

The ministerial investigation<sup>6</sup> into disadvantaged but resilient schools that function properly, ie that provide effective quality education despite almost overwhelming odds, found that these schools have certain democratic features in common such as a culture of concern; good governance and community relationships; adequate parental involvement; and safety and discipline. Although democratic school practices are not the only factors that ensure effective schools,<sup>7</sup> democratic features certainly do improve school environments by enhancing the ethos of tolerance and respect, by increasing the level of support of parents and by influencing the teaching-learning culture in a positive manner.

The regular SGB elections that occur across the country make it as significant as the national, provincial and local government elections. As forums, SGBs thus have the makings of a great and unique South African democratic tradition as they reflect local deliberations, participative decision-making and important interactions between citizens and the state.

## 2 Problem statement

The National Guidelines for SGB Elections provide a framework for the uniform interpretation of the *Schools Act* and aim to ensure that elections occur at the same time; are free and fair; illustrate sound democratic practice; and allow for community participation.<sup>8</sup> However, over the past two decades some difficulties and recurring problems have been experienced during the SGB elections.<sup>9</sup>

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<sup>6</sup> DoE 2007 [<sup>7</sup> DoE 2008 \[<sup>8</sup> DBE 2014 \\[<sup>9</sup> DBE 2014 \\\[2142\\\]\\\(http://www.education.gov.za/LinkClick.aspx?fileticket=8CT%2BHY9KtVM%3D&tabid=581&mid=1637 6.</a></p></div><div data-bbox=\\\)\\]\\(http://www.education.gov.za/LinkClick.aspx?fileticket=8CT%2BHY9KtVM%3D&tabid=581&mid=1637 6.</a></p></div><div data-bbox=\\)\]\(http://www.education.gov.za/LinkClick.aspx?fileticket=rJwNOU9f82I=&tabid=452&para 2.</a></p></div><div data-bbox=\)](http://www.education.gov.za/LinkClick.aspx?fileticket=yWhdeL9fgLQ%3d&tabid=358&mid=1301 5.</a></p></div><div data-bbox=)

## **2.1 Deficient SGB election processes and dysfunctional governing bodies**

Reports from the National Department of Basic Education and provincial departments of education indicate that problems have occurred from time to time during previous SGB elections, such as: the inability to reach a 15% quorum of voters, the ineligibility of persons posing as the guardians of learners, inadequate parental participation, non-compliance with the National Election Guidelines, and the incorrect application of election procedures by school electoral officers.<sup>10</sup> Furthermore, more than 50% of the School Governing Bodies of public schools in South Africa are in essence dysfunctional.<sup>11</sup> Although there is widespread and grassroots support for the idea of local school governance by an elected SGB, the realities point to the dysfunctionality of many of the SGB's at public schools.

These recurring difficulties and problems suggest that the electoral processes might be deficient. Accordingly, it is postulated that undemocratic actions or unfair procedures could be causal factors that result in the election of unsuitable SGB members or prevent suitable candidates from serving on school governing bodies.

## **2.2 The non-uniformity of provincial SGB election regulations**

In terms of section 61(i) of the *Schools Act* the national Minister of Education (the Minister) may make regulations on any matter which may be necessary or expedient to promote the objects of the *Schools Act*. In practice, however, the Minister does not regulate school governing body elections, but merely publishes National Guidelines for School Governing Body elections.<sup>12</sup> In terms of section 28 of the *South African Schools Act* the provincial Member of the Executive Council (MEC) must determine the governing body election procedures within the framework created by the *Schools Act*. As guidelines are not regarded as sub-ordinate legislation they merely serve as directive or discretionary parameters for provincial MEC's to consider. The result is that the nine provincial education departments have their own

<sup>10</sup> DBE 2012 *the 2012 School Governing Body Elections Report 7*, NWDET 2012 *SGB Elections Report: March-April 2012* 2-4.

<sup>11</sup> John 2012 <http://mg.co.za/article/most-school-governing-bodies-dysfunctional-say-associations>.

<sup>12</sup> DBE 2014 <http://www.education.gov.za/LinkClick.aspx?fileticket=8CT%2BH9KtVM%3D&tabid=581&mid=1637> 6.

variations of MEC-approved regulations for SGB elections, even though these elections take place nationally. The result has been the non-uniformity of the nine provincial SGB election regulations.

The non-uniformity and inadequacy of most of the provincial regulations that were promulgated for the 2015 SGB elections are apparent from the following anomalies:

- The education departments of two provinces (ie Eastern Cape and Limpopo) did not publish regulations prior to the 2015 SGB elections at all and the Gauteng Education Department merely published an unintelligible amendment to previous regulations.<sup>13</sup>
- The notice periods informing eligible voters of the dates of the nomination and election meetings varied inconsistently between the provinces. Limpopo (LIM) and Northern Cape (NC) required 21 days; North-West (NW), Gauteng (GP), Mpumalanga (MP), KwaZulu-Natal (KZN), Free State (FS) and Eastern Cape (EC) required 14 days, whereas the Western Cape Province (WC) required only 10 days' notice for the meetings.<sup>14</sup>
- A 15% quorum of the eligible voters for the first SGB election meeting is required in all nine provinces. If the quorum requirement is not met during the first election meeting, the election has to be rescheduled. However, the notice periods for the follow-up election meetings vary inconsistently insofar as the provinces require the following: NC and EC (7 days' notice), WC (5 days' notice), remaining provinces (14 days' notice).<sup>15</sup>

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<sup>13</sup> GN 4051 in PG 363 of 5 December 2014 (Gauteng).

<sup>14</sup> Reg 18.3 GN 21 in PG 1860 of 3 December 2014 (Northern Cape) (hereafter NC); Reg 15(2) GN 66 in PG 2046 of 9 March 2012 (Limpopo) (hereafter LIM); Reg 11 GN 79 in PG 7407 of 25 February 2015 (North-West) (hereafter NW); Reg 20(2) GN 4051 in PG 363 of 5 December 2014 (Gauteng) (hereafter GP); Reg 14(2) GN 672 in PG 2398 of 12 December 2014 (Mpumalanga) (hereafter MP); Reg 11(3) GN 12 in PG 1326 of 9 March 2015 (KwaZulu-Natal) (hereafter KZN); Reg 10 GN 143 in PG 99 of 3 February 2015 (Free State) (hereafter FS); Reg 8(1) GN 16 in PG 2721 of 15 March 2012 (Eastern Cape) (hereafter EC); Reg 10(1) GN 40 in PG 7352 of 6 February 2015 (Western Cape) (hereafter WC).

<sup>15</sup> Reg 19(2) NC; Reg 11(7) EC; Reg 11(2)(c) WC; Reg 12(2) NW; Reg 23(10) GP; Reg 15(2) MP; Reg 13(2) KZN; Reg 12(2) FS; Reg 15(6) LIM.

- The nomination period during which parent candidates have to be nominated for election varies among the provinces. For instance, GP requires 20 days' notice, KZN and NW require 14 days' notice, WC requires 10 days' notice, and the remaining provinces require a maximum of seven days' and a minimum of 24 hours' notice.<sup>16</sup>
- The Gauteng SGB election regulations allow for proxy votes, whereas FS, WC, NW and MP provinces explicitly disallow proxy votes and the regulations of the remaining provinces contain no provisions with regard to proxy votes.<sup>17</sup>
- None of the nine provincial regulations contain similar provisions with regard to electoral dispute resolution procedures. The school electoral officer usually has the authority to decide on candidate nomination, voter eligibility, spoilt ballots and procedural issues. However, if the dispute is based on a contentious decision or administrative action by the school electoral officer, then parties may appeal to the district electoral officer or the MEC of the province. The Limpopo Province does not contain any provision regulating possible disputes.<sup>18</sup>
- Schools have to apply for permission to deviate from a single election meeting, and departmental officials have to grant prior permission within a certain period. In this regard Northern Cape, North-West and Western Cape require a 30 days' application period, KwaZulu-Natal 21 days, and the remaining provinces have no such provision in their respective SGB election regulations.<sup>19</sup>
- The publication of the SGB election regulations of KwaZulu-Natal depicts a particular dilemma. The election started on 6 March 2015, but the regulations were published only on 9 March 2015. As a result the schools had insufficient

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<sup>16</sup> Reg 20(2) GP; Reg 10(2) NW; Reg 14(5)(a) KZN; Reg 11(4) WC; Reg 15(1) LP; Reg 11.3(b) NC; Reg 16(2) MP; Reg 14 (3) FS; Reg 10 EC.

<sup>17</sup> Reg 17(2) GP; Reg 12(3) FS; Reg 7(5) WC; Reg 5(5) NW; Reg 17(15) MP.

<sup>18</sup> Reg 21 NW provides that the school electoral officer must resolve nomination disputes, aggrieved parties may appeal to the district electoral officer and thereafter the MEC within 30 days of a decision.

<sup>19</sup> Reg 25 NC; Reg 17 NW; Reg 15 WC; Reg 19 KZN.

time to submit applications 21 days prior to the election to deviate from the one-day election period and the notice period of 14 days for the election meeting meant that the elections could take place only in April 2015.<sup>20</sup>

- The SGB election regulations of three provinces, i.e. Western Cape, Eastern Cape and Limpopo, make no provision for candidates to address or inform the voters about their qualities. The Gauteng regulations explicitly state that no campaigning is allowed by nominated candidates. The remaining provinces have regulatory provisions that allow candidates to briefly introduce themselves, state their experience and qualifications, and explain their vision for the school.<sup>21</sup>
- Only two provinces, KwaZulu-Natal and Free State, have regulations that specifically cater for governing bodies of Special Schools for learners with special education needs (LSEN). Section 24(3) of the *Schools Act* contains the unique provision that the MEC must give interested parties an opportunity with at least 30 days' notice to make written submissions about the categories of SGB members for special schools. This strongly implies that separate SGB election regulations for LSEN schools would be most appropriate.<sup>22</sup>

These non-uniformities suggest that the procedural fairness of provincial SGB election regulations needs to be reviewed.

### ***2.3 Unlawful (*ultra vires*) or undemocratic provisions in provincial SGB election regulations***

In addition to the non-uniformity between provinces, certain *ultra vires* provisions can cause legal uncertainty or result in unlawful action. Regulations, being subordinate legislation, may not be in conflict with the original national or provincial legislation and must be in accordance with the empowering statute. Subordinate legislation such as SGB regulations may be set aside by a court of law if its

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<sup>20</sup> GN 12 in PG 1326 of 9 March 2015 (KwaZulu-Natal).

<sup>21</sup> Reg 22A(2) GP; Reg 21.2 NC; Reg 13(3) NW; Reg 17(2) MP; Reg 14(1)(b) KZN; Reg 13(3) FS.

<sup>22</sup> GN 12 in PG 1326 of 9 March 2015 (KwaZulu-Natal); GN 155 in PG 112 of 5 March 2015 (Free State).

provisions are unlawful or *ultra vires*. Certain unlawful provisions can be found in some provincial SGB election regulations, for instance:

- In terms of section 23(11) of the *Schools Act* a vacancy on the school governing body must be filled by means of a by-election, which must be held within 90 days after such a vacancy has arisen. Contrary to the *Schools Act* the SGB election regulations of the Western Cape erroneously provide that a by-election may take place within 60 days. This provision is *ultra vires* and thus unlawful as it conflicts with section 23(11) of the *Schools Act*.<sup>23</sup>
- Section 29 of the *Schools Act* provides that a governing body must elect office-bearers, with the only requirement being that a parent member must serve as the chairperson. However, the regulation 27(8) of the SGB election regulations of Mpumalanga provides that no member of a school governing body may hold more than one office. This regulation is contrary to the empowering statute.<sup>24</sup>
- In terms of section of section 28 (f) the SGB election regulations must provide a formula for the calculation of the number of members of the governing body to be elected in each of the categories, but such a formula must provide reasonable representation for each category and must be capable of application to the different sizes and circumstances of public schools. Section 23(2)(9) of the *Schools Act* provides that the number of parent members must comprise one more than the combined total of other members of a governing body who have voting rights. However, Schedule A of the North-West SGB election regulations erroneously determines that only five parents may be elected to serve on the SGBs of Special Schools, which is less than the combined number of the other categories of SGB members (ie Principal: 1; Learners: 2; Educators:2; Non-Educators:2, Total:7). This conflicts with section 23(2)(9) and is therefore unlawful.<sup>25</sup>

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<sup>23</sup> Reg 2(12) WC.

<sup>24</sup> GN 672 in PG 2398 of 12 December 2014 (Mpumalanga).

<sup>25</sup> Schedule A GN 79 in PG 7407 of 25 February 2015 (North-West).

- Regulation 15(7) of the Limpopo SGB election regulations provides that:

The School Electoral Officer must ensure that the Governing Body Elections must be in line with learner populations (demographics) and should adhere to democratic principles such as inclusivity and representivity.

This provision patently violates the democratic principle that voters have the autonomy to nominate and elect their own candidates irrespective of the "demographics" of the learner population. This provision that entitles the electoral officer to somehow influence, manipulate or prescribe the demographic composition is clearly undemocratic as it amounts to biased interference with a veiled racial quota prescription.

These irregularities suggest that the appropriateness of provincial SGB election regulations should be reviewed.

### **3 The aim of the research**

Based on the aforementioned problem statement and legal analysis of provincial regulations, it is clear that the underlying democratic practices and legality of school governing body elections require investigation in order to ensure the optimisation of election procedures that in turn should improve the probability of electing the most suitable SGB candidates. Remarkably, to date, no scientific research on the democratic and lawful administration of SGB elections has been published and neither have the SGB election processes nor the National Guidelines been critically assessed. This signifies a noteworthy lacuna of available knowledge.

In view hereof, the aim of this article is, firstly, to briefly review the literature on the theory of sound democratic practices for schools; secondly, to discuss the results of a qualitative survey that was undertaken to determine perceptions with regard to SGB elections in the North-West province; and finally, to recommend improvements to the process, regulations and administration of SGB elections at public schools in South Africa.

## 4 The literature review: democratic theory and education

The following paragraphs will clarify the concept "democracy" and examine the theoretical basis for democracy in schools and the education system.

### 4.1 Conceptualising democracy

Conceptualising democracy is challenging, because like most political terms, democracy does not fit neatly into a single definition but has a variety of meanings for theorists and democrats.<sup>26</sup> Myburgh reminds us that there is an on-going ideological battle over the meaning of the term.<sup>27</sup> It is clearly not a straightforward exercise to distil the essence of democracy from the plethora of political theories, because democracy by its very nature encompasses the freedom to differ on views, to contest principles and to align oneself according to various persuasions. Nevertheless, the term "democracy" refers not only to the exercise of political rights (eg voting, regular elections, party political association and state power), but includes the extended notion that democracy is a condition of society, ie a way of life as Dewey defined it, that places value on the resolution of problems of communal life through collective participation and deliberation that is characterised by a shared concern for the common good.<sup>28</sup> In this extended sense, the concept "democracy" includes three essential features, ie the establishment of a societal mindset, custom and tradition that enables participatory decision-making; the practice of orderly, non-violent processes to resolve disputes; and the protection of basic (fundamental) human rights. In fact, in terms of section 2 of the *Constitution* of South Africa, fundamental human rights are a constitutive element of democracy, which implies that there will not be substantive democracy if fundamental rights are not safeguarded.<sup>29</sup>

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<sup>26</sup> Dieltiens *Democracy in Education* 6; Luckham, Goetz and Kaldor "Democratic Institutions" 15.

<sup>27</sup> Myburgh 2004 <http://hsf.org.za/resource-centre/focus/issue-34-second-quarter-2004/ideological-battle-over-meaning-of-democracy> 12.

<sup>28</sup> Dewey *Democracy and Education*.

<sup>29</sup> Woolman and Fleisch *Constitution in the Classroom* 174.

#### **4.2 Democracy in schools: the interplay between education and politics**

To many the phrase "democratic school" is an oxymoron. This might be because traditional school and classroom practices epitomise authoritarian power relations and undemocratic cultures. However, with the rise and ultimate ascendancy of liberal democracy during the twentieth century came a growing realisation and new awareness that democracy and education are intertwined and that schools should strive to become democratic institutions on an increasing scale.<sup>30</sup> After all, any political system shapes education and conversely education unquestionably determines the type of political system that a society will have.<sup>31</sup> As learners are not born with an understanding of the principles of democracy, public schools should function as the nurseries of democracy to prepare learners for their future responsibilities as citizens of a democratic society.<sup>32</sup> Unfortunately, undemocratic features in society are usually reflected in the education system, and concomitantly undemocratic practices in the education system and schools eventually become imbedded in the culture and ethos of a nation and society. By the same logic, it is also true that democratic practices in schools leave indelible imprints on the youth that will eventually find expression in the life of a nation.<sup>33</sup> Education is probably the most important instrument for cultivating a human rights culture and establishing a consolidated and substantive democracy.

#### **4.3 The democratic principles featuring in the South African Schools Act**

In terms of its preamble the *Schools Act* aims to advance democratic transformation of the South African society and is accordingly based on a number of democratic principles.<sup>34</sup> In the interest of parsimony, the most salient democratic principles contained in the Schools Act are merely listed and not discussed at length as this is not the focus of this article. These principles, which have been discussed elsewhere, are briefly: the principle of democratic public participation;<sup>35</sup> the principle of

<sup>30</sup> Chapman, Froumin and Aspin *Creating and Managing the Democratic School* 163.

<sup>31</sup> Carr and Hartnett *Education and the Struggle for Democracy* 20-26.

<sup>32</sup> Dayton 1995 *RJPS* 155-156.

<sup>33</sup> Dieltiens *Democracy in Education* 18-22.

<sup>34</sup> Preamble of the *Schools Act*.

<sup>35</sup> Sections 23, 24 and 38(2) *Schools Act*.

accountability and transparency in governance;<sup>36</sup> administration based on democratic values;<sup>37</sup> and the principle of equity and redress.<sup>38</sup>

The provisions of the Schools Act contain representative and participatory forms of democracy and encompass democratic principles such as the advancement of transformation, public participation, accountability, transparency and responsiveness.<sup>39</sup> In addition, section 16 of the *Schools Act* affirms the important democratic principle of the separation of powers, that allocates and defines separate administrative, managerial and governance competencies to functionaries such as the Minister of Education and provincial officials, school principals and school governing bodies. The principle of the separation of powers is not confined to the political or constitutional realm, but is also a feature of good corporate and institutional governance in accordance with the King III code and international practice.<sup>40</sup>

#### **4.4 The democratic provisions in the Schools Act**

The *Schools Act* contains a number of provisions, based on democratic theory, that enhance sound democratic practices in schools. For instance, the previously fragmented and racially based education system was unified into one national non-racial system, and some state authority over certain educational matters was devolved to school governing bodies in terms of section 28 of the *Schools Act*. Section 28 of the *Schools Act* provides that:

The Member of the Executive Council must, by notice in the Provincial Gazette, determine-

- (a) the term of office of members and office-bearers of a governing body;
- (b) the designation of an officer to conduct the process for the nomination and election of members of the governing body;
- (c) the procedure for the disqualification or removal of a member of the governing body or the dissolution of a governing body, for sufficient reason in each case;

<sup>36</sup> Sections 20, 36, 37, 38 *Schools Act*.

<sup>37</sup> Section 20(8) *Schools Act*.

<sup>38</sup> Preamble, s 20(8), s 34(1) *Schools Act*.

<sup>39</sup> See paras 4.4 and 4.5 below.

<sup>40</sup> Tricker *Corporate Governance Principles* 43; IoD *King III* 7.

- (d) the procedure for the filling of a vacancy on the governing body;
- (e) guidelines for the achievement of the highest practicable level of representivity of members of the governing body;
- (f) a formula or formulae for the calculation of the number of members of the governing body to be elected in each of the categories referred to in section 23(2), but such formula or formulae must provide reasonable representation for each category and must be capable of application to the different sizes and circumstances of public schools; and
- (g) any other matters necessary for the election, appointment or assumption of office of members of the governing body.

Section 28 of the *Schools Act* therefore provides for a form of representative democracy in terms whereof parents, learners, educators and non-educator staff members may elect representatives from their peers to serve on school governing bodies. The competencies of SGB's *inter alia* include the right to determine policies on admission, religion and language; to recommend the appointment of educators and non-educator staff employed by the state; to administer school finances; to determine the extra-curricular programme of a school and to maintain and improve school property.<sup>41</sup>

Section 11 of the *Schools Act* provides that a representative council of learners must be elected at every public high school enrolling learners of grade eight or higher. Furthermore, the protection of human rights in accordance with the Bill of Rights is an indelible feature of South Africa's constitutional democracy and is echoed in a number of provisions such as section 6 (the protection of language rights), section 7 (the protection of religious freedom), and section 10A(c) (the prohibition of initiation practices) in the *Schools Act*.<sup>42</sup>

It is therefore clear that the *Schools Act* is based on a democratic framework with the objective of enabling representative school governance.

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<sup>41</sup> Sections 6, 9, 16, 20, 21 and 36 *Schools Act*.

<sup>42</sup> Ch 2 (Bill of Rights) *Constitution of the Republic of South Africa*, 1996.

#### **4.4 *Participatory and deliberative democracy in schools***

The theory and philosophy upon which participatory democracy is based has been thoroughly described, analysed, evaluated, critiqued and debated by political scientists, philosophers and authors from various fields of study and will accordingly not be rehashed in this article.<sup>43</sup> However, it is necessary to define the concept and understand the basic features of participatory democracy, as this differs fundamentally from representative democracy. In essence participatory democracy is based on the notion that individuals or stakeholders must be given the opportunity to take part in any decisions that might affect them.<sup>44</sup> In the education sector participatory democracy is particularly important for organised interest groups and stakeholders, such as teachers unions, parent groupings, business chambers and learners. The participatory dimension of democracy is signified by the power relations between influential decision-makers and interest groups within the school setting.<sup>45</sup> The interest groups are usually not sufficiently represented on a school governing body, because a school governing body is an organ of the school and members of the SGB are obliged to make decisions in the best interest of the school.<sup>46</sup> Such decisions do not necessarily always accord with the concerns of interest groups.

Karlsson found that despite having the majority, most school parents were reticent, and in only approximately half of the sampled schools were parent representatives found to be fully active in school governing body decisions and actions.<sup>47</sup> Principals continued to play a dominant role in meetings and decision-making, a situation which is attributed to the principal's position of power within the school, his or her level of education in contrast to that of other members, the principal's having first access to information issuing from the education authorities, and because it is the

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<sup>43</sup> Pateman *Participation and Democratic Theory*; Cunningham *Theories of Democracy*; Kotze 2004 *Politeia* 22-36; Grant-Lewis and Naidoo 2004 *CICE* 100-111; Chapman, Froumin and Aspin *Creating and Managing the Democratic School*; Adams and Waghid 2005 *SAJE* 25-33; Benhabib *Democracy and Difference* 68; Fishkin and Laslett *Debating Deliberative Democracy* 9; Habermas "Popular Sovereignty" 157-168; Habermas *Theory of Communicative Action*.

<sup>44</sup> Currie and De Waal *Bill of Rights Handbook* 87.

<sup>45</sup> Karlsson *Comparative Education* 327-336.

<sup>46</sup> Karlsson *Comparative Education* 333.

<sup>47</sup> Karlsson *Comparative Education* 332.

principal who executes the decisions taken. Karlsson avers that the implementation of a representative structure, such as a school governing body, as a decision-making forum was insufficient to democratise schooling and that enhanced participation in governance functions through democratic processes requires greater attention. Subsequently, Colditz and others have affirmed that many school governing bodies of South African schools are essentially dysfunctional.<sup>48</sup> This is attributed to a weak understanding by parent representatives of their role, a capacity deficit in the skills needed to perform governance functions, and contextual poverty, transport and communication difficulties.<sup>49</sup>

Public participation tools that are normally used, such as information meetings, nomination and election meetings, public hearings, public comment processes on policies, and judicial court hearings have been criticised as weak forms of participation because the barriers of time, power, access and institutional processes constrain true participation.<sup>50</sup> This has led to the development of a revitalised model of participatory democracy, namely "Deliberative democracy". Theoretically defined, deliberative democracy refers to the notion that legitimate decision-making emanates from proper and meaningful public deliberation by stakeholders. In other words, as a normative account of policy decision-making, deliberative democracy evokes ideals of rational discussion, participatory processes and civic self-governance.<sup>51</sup> The principles of deliberative democracy are implied by the constitutional values and democratic principles of openness, accountability, transparency and responsiveness. Four principles of deliberative democracy are derived from Habermas's notion of discourse as an ideal deliberative procedure.<sup>52</sup> These principles are:

- Generality – all affected parties must be included in the deliberative process;
- Autonomy – participants must be granted the autonomous right to take sides for or against a decision or argument;

<sup>48</sup> DBE 2012 <http://www.education.gov.za/DocumentsLibrary/Publications/6>.

<sup>49</sup> *Ibid.*

<sup>50</sup> Wiklund 2005 *IAPA* 287.

<sup>51</sup> Cunningham *Theories of Democracy* 163.

<sup>52</sup> Wiklund 2005 *IAPA* 285.

- Power neutrality – only communicative power (ie reasoned discourse) should be allowed to sway participants and neither administrative power (eg a school principal's positional influence), nor economic power (eg affluent SGB members may wield influence), nor cultural power (eg the influence of teachers' unions or political parties) should determine the force of an argument;
- Ideal role-taking - participants should decide impartially and with reciprocity. They should listen and talk sincerely, not act strategically or with hidden agendas, and engage in sincere attempts to view matters of common concern from the perspectives of others.

Habermas's four principles of discourse ethics, as part of the ideal deliberative process, find particular applicability and relevance in decision-making consultations such as nomination meetings and election meetings during SGB elections. Obviously if the voters (parents) are excluded from the discussion process (Principle 1: Generality), or are denied the freedom to decide for or against (Principle 2: Autonomy), or are influenced by unfair power relations (Principle 3: Power neutrality) or make decisions based on hidden agendas (Principle 4: Ideal role-taking) then the outcome of SGB elections will be undemocratic because the four principles of discourse ethics would have been breached. Applying deliberative democratic principles to school governing body elections, it stands to reason that the cultivation of the constitutional values of civic duty, responsibility, adherence to the law, accountability and responsiveness to open and transparent deliberations are of particular importance for the optimal functioning of the election process. A school with a substantive and well-developed democratic ethos has a culture of enabling participants to listen and talk sincerely in order that they may find collective solutions to problems. Stakeholders should aim to promote the common good of the school community by exhibiting unselfish attitudes and the tolerance of diverse interests and opinions. The ideal civic-minded role of all participants would be to avoid being motivated by hidden agendas and self-interested decision-making.

Deliberative democracy is a contemporary emerging theory that may be an improvement on participative democracy through its implementation of deliberative

principles based on Habermasian discourse ethics. Therefore, it is clear from the theoretical overview that the advancement of democratic principles and features during school governing body elections is not only a matter of adhering to mere theoretical niceties but has to do with essential practical responsibilities and indispensable legal obligations.

## **5 Qualitative research: a phenomenological study of perceptions about school governing body elections**

With the problem statement and literature review in mind, the second aim of this research was to undertake a qualitative survey in order to determine the experiences and perceptions of participants during school governing body elections.<sup>53</sup> The empirical research of this study was designed as a phenomenological study based on the post-positivist paradigm. A phenomenological study is an investigation that attempts to understand people's perceptions, perspectives, and understandings of a particular situation.<sup>54</sup> The purpose of conducting a phenomenological study was to obtain in-depth information and search for explanations of the underlying reasons for the phenomena and problems that were experienced during SGB elections.

### **5.1 The purposive selection of participants and the qualitative survey**

In order to conduct a qualitative survey of the perceptions, perspectives, and understandings of people who had been involved in school governing body elections, experts or knowledgeable persons that would possibly provide in-depth, considered and perhaps profound information (data) were identified and selected. The participants were accordingly purposely selected, based on the following criteria: Experience as an Education Management and Governance Department (EMGD) official responsible for the training of electoral officers; experience as an electoral officer; experience as a voter or parent that participated in SGB elections; a person from a Quintile 1 or 2 school (ie a poorer socio-economic area or community); a person from a Quintile 4 or 5 school (ie a middle class or more affluent community)

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<sup>53</sup> Babbie and Mouton *Practice of Social Research* 53.

<sup>54</sup> Merriam *Qualitative Research Methods* 112; Leedy and Ormrod *Practical Research* 138.

and a person from a Special School (LSEN). These selection criteria were decided on in order to collect data from people from a broad spectrum of socio-economic conditions and backgrounds. Accordingly, three senior EMGD officials (from two areas in the North-West province), four school principals (who had previously acted as electoral officers) as well as four parents (who had been involved in SGB elections) were purposely selected to participate in the survey. These eleven participants were invited to participate voluntarily (with the right to withdraw if they so wished) and were advised that their identities would be kept confidential. The names of the participants may therefore not be published and they will be referred to merely as "Participant A", "Participant B" *etcetera* in accordance with this research methodology.

## **5.2 The data collection and analysis**

The phenomenon of problems with regard to SGB elections was investigated by conducting in-depth, semi-structured, open-ended interviews with these participants. The research was conducted after the SGB elections of March 2012 during the months of September and October 2012 and after the SGB elections of March 2015 during the month of April 2015 respectively. Based on the indicators identified in the problem statement and the literature review, the researcher compiled an interview guide with a list of open-ended questions and issues to be explored.

The participants were asked to discuss their views and explain their understanding, experiences and perceptions of the topics under investigation. As is in the nature of a semi-structured interview, the researcher used all the questions flexibly with no predetermined wording or order.<sup>55</sup> As the data collection progressed the researcher discussed only the remaining issues – those that had not reached data saturation (ie where the responses consisted of the repetition of perceptions, notions and opinions that had already been aired during previous interviews). After the interviews had been recorded on digital recorders, the discussions were transcribed verbatim. In order to ensure the veracity of the transcribed versions of the interviews, the draft transcripts were sent to each participant for comment and verification. After the

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<sup>55</sup> Merriam *Qualitative Research Methods* 72.

suggestions of the various participants had been received, the transcriptions of the interviews were amended and finalised by incorporating the comments or correcting the errors. Central to the phenomenological approach is the suspension of judgment and preconceived ideas (sometimes called "*epoché*") in order to understand the phenomenon from the perspective of the participant.<sup>56</sup>

### **5.3 The trustworthiness (validity) and reliability (dependability) of the research methods**

The validity of any research refers to the degree to which the outcomes are accurate and grounded in data.<sup>57</sup> Valid outcomes result from the selection and application of procedures that produce trustworthy answers to research questions, and a qualitative study is deemed credible (valid) if it addresses the richness, scope, depth and honesty of the captured data.<sup>58</sup> Reliability in qualitative research refers to the consistency of the measuring instrument and accordingly internal reliability and inter-observer consistency are the prominent factors of reliability.<sup>59</sup> The following methods were used to enhance the internal reliability and trustworthiness of this research: Interviews were conducted in a language that the participants use daily, and the data was mechanically recorded; and the transcription of the verbatim accounts of the participants and the transcripts themselves were reviewed by each participant and inaccuracies or errors were amended. The interview transcripts were analysed, codified and evaluated.

### **5.4 The analysis of the data and the interpretation of the findings**

The data was analysed by applying the techniques of open coding, axial coding and selective coding.<sup>60</sup> Open coding is a process of reducing the data to a small set of themes or codes that appear to describe the phenomenon under investigation.<sup>61</sup> The initial themes that were identified and coded were: pre-election administration and planning; the level of compliance with provincial SGB election regulations and

<sup>56</sup> Leedy and Ormrod *Practical Research* 139.

<sup>57</sup> Sowell *Educational Research* 5.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Id.*

<sup>60</sup> Leedy and Ormrod *Practical Research* 141.

<sup>61</sup> *Ibid.*

National guidelines, and the availability or adequacy of templates and documents; the process of voter registration and the eligibility of voters; parental participation and the quorum requirement; problems during the nomination process; problems during the election meeting; partiality or improper conduct by the electoral officers; disputes, the nullification of election results, and other issues that relate to the school governing body elections. Axial coding requires that interconnections are made between categories and subcategories by constantly comparing within the transcript and between the codes to inductively identify new findings.<sup>62</sup> Selective coding involves the combination of categories in order to form a story line that describes the interrelationships of the phenomena.<sup>63</sup> After applying the methods of open coding, axial coding and selective coding, the following seven categories were distilled from the participants' responses:

- Misconceptions about democracy and the politicisation of the SGB elections;
- Occasional partiality and unfair conduct by electoral officers;
- The nomination process and inadequacy of timeous information about candidates;
- Parent participation, voter attendance and the quorum requirement;
- The timing of the SGB elections and the time allotted to complete the election process;
- Misconceptions about the role of School Governing Bodies;
- Upgrading or improving election regulations.

These seven topics that were synthesised from the coding analysis will be discussed in the following sections.

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

## 6 The results and analysis of qualitative data on SGB elections

### 6.1 ***Misconceptions about democracy and the politicisation of the SGB elections***

All the participants had a basic idea of certain features of democracy such as political rights, the right to vote, representation by SGB members and participation during elections. However, when prompted to explain democracy, a senior EMGD official gave the following response in Afrikaans:

*Ons lei hulle op deur leermateriaal te oorhandig op 'n stadium dat die demokratiese beginsels aan die ouers verduidelik word, terwyl hulle reeds baie kennis daarvan het. Die hele ding van 'n nasionale verkiesing, 'n provinsiale verkiesing en ... hulle op die beheerliggaam. So, daardie deel van die kies en verkies is baie bekend by hulle en hulle is baie gretig om daardie regte van hulle uit te oefen.* (Translation: We train them by giving them learning material while explaining these democratic principles to the parents, while they already have a lot of knowledge about this. The whole thing about a national election, a provincial election and... them on the governing body. They are very well aware of the election process and they are keen to exercise their rights).<sup>64</sup>

Careful analysis of this response illustrates that this EMGD official of the North-West Department of Basic Education, who was responsible for the pre-election training of electoral officers, concentrated on aspects of the administration of the election process and issues of political democracy (ie the eligibility of voters and candidates, voting procedure, the election meeting, the administration of ballot papers, etc.). However, the fact that no mention was made of the participatory principles or the deliberative ideals of modern democracy suggests ignorance on the part of the senior official. The failure to allude to participatory democracy indicates an inadequacy of the training material, because the essential principles of open discussion and ethical deliberation were not referred to or mentioned at all.

As expected, very few of the participants showed enlightened understanding of participatory democracy. In general, most of the participants were unable to answer any questions and thus displayed ignorance of the principles of ethical discourse and deliberative democracy. When questioned about participatory democracy vis-à-vis

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<sup>64</sup> Participant A (EMGD official, Afrikaans) Interview 1 Lines 136-143.

political democracy, Participant B (an EMGD official) made a telling admission when he said:

Yes, I would say there is that problem of distinguishing between the two. Although, I don't know the distinct features of the two, but essentially, education is largely politically driven. The other matters are always translated into the broader political agenda of the government.<sup>65</sup>

A senior EMGD official (Participant A) explained the adverse effects of the political activism that occurred during SGB elections at some township schools as follows:

*Ek dink dat die feit dat daar soveel politiek in die skole is, veroorsaak baie oneffektiwiteit en lê die skole lam. By party nominasie vergaderings het politiekery van vakbonde die proses oneffektief gemaak.* (Translation: I think the fact that there is so much politics in the schools, it causes much inefficiency and paralyses the schools. At some nomination meetings the political activities of unions made the process ineffective).<sup>66</sup>

The following explanation by another EMGD official (Participant C) about the manner in which a nomination and election meeting was held at a township school during the 2009 SGB elections is indicative of the politicised climate when the SGB election meetings coincide with national elections:

At the township schools there is sometimes over-politicising of the SGB appointments and elections. They know very little of the duty sheet of a chairperson; the treasurer; the secretary; but it became a political playing field and a "viva"-ing and "I am the man"; the one that could shout the loudest would gain the most votes. And then you find that the man is physically not available to attend a SGB meeting during the day, because he is a mineworker and is 3 kilometres under the ground.<sup>67</sup>

From these descriptions it can be inferred that parents and even the electoral officer erroneously regarded the SGB election as a political campaign or party political activity.

However, when the participants from Quintile 1 and 2 schools (predominantly schools in townships or rural areas) were questioned whether a political climate existed during the 2012 and 2015 SGB elections, the responses indicated that there had been less or no political activism during these elections, but that the SGB

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<sup>65</sup> Participant B (EMGD official) Interview 2 Lines 22-25.

<sup>66</sup> Participant A (EMGD official, Afrikaans) Interview 1 Lines 210-218.

<sup>67</sup> Participant C (EMGD official) Interview 3 Lines 155-161.

election of 2009 was very politicised.<sup>68</sup> An electoral officer (the principal of a Quintile 4 Afrikaans high school) affirmed that they had not experienced any (or as much) political activism during the previous three SGB elections. However, Participant D (the principal of an Afrikaans high school) intimated that some political activism by parents and learners had occurred during the apartheid era prior to 1994 when the constitutional negotiations were underway, but that party political activism was now something of the past in the white communities.<sup>69</sup>

An electoral officer (Participant E, a school principal) admitted that "Most South Africans have a shallow understanding of democracy".<sup>70</sup> She said that "not much education about democracy in schools has taken place" and suggested that "A concerted effort should be made to ensure that nothing is taken for granted". The words of a parent (a school governing body chairperson from a rural school) delineated the difficulty experienced by stakeholders when she said that:

Some of us know the word democracy but they do not understand it clear (sic). It means every wrong thing you want it to mean. If you think it is right for you, you take it for yourself (sic).<sup>71</sup>

Interestingly, an electoral officer (the principal of an LSEN school) candidly admitted in Afrikaans that *Ons weet nie altyd wat vereis word om behoorlik demokraties tydens die verkiesing op te tree nie* (Translation: "We don't always know what is required to act in a proper democratic manner during the election").<sup>72</sup> A parent was of the opinion that only partial democracy had been achieved and that "the road to democratic SGB elections would require more collective engagement and continued consultation or training".<sup>73</sup>

The result of the misunderstanding of participatory (or deliberative) democracy is that SGB elections tend towards "political democracy" and that features such as accountability, responsiveness, rational and ethical discourse, and ideal role-taking

<sup>68</sup> Participant I Interview 9 (Parent, English, High School) Interview 9 Line 182; Participant J Interview 10 (Parent, English, Primary School) Interview 10 Line 153.

<sup>69</sup> Participant D (Electoral officer, School principal, Afrikaans High School) Interview 4 Line 144.

<sup>70</sup> Participant E (Electoral officer, School principal, English High School rural) Interview 5 Line 118.

<sup>71</sup> Participant J Interview 10 (Parent, English, Primary School) Interview 10 Lines 25-28.

<sup>72</sup> Participant F Interview 1 (Electoral officer, School principal, Afrikaans LSEN school) Interview 6 Line 123.

<sup>73</sup> Participant J Interview 10 (Parent, English, Primary School) Interview 10 Line 221.

were ignored. The ignorance or misunderstanding of participatory democratic principles and uncertainty about the concept "democracy" as it relates to SGB elections seem clearly evident from responses of the participants in this study. This will be discussed in the concluding paragraphs of this article.

## ***6.2 Occasional partiality and unfair conduct by School Electoral Officers***

All the participants affirmed that since 1999 the provincial department of basic education had by and large complied appropriately with the administration and arrangements prior to SGB elections. All the electoral officers were appointed from the ranks of experienced school principals and training prior to the elections was provided by the EMGD officials of the provincial department of basic education. No major problems were experienced during pre-election training and administration.

However, some parent participants and disgruntled candidates (parents who had not been successfully elected) were of the opinion that some electoral officers had not been completely impartial and that they had conducted the nomination and election process unfairly or had subtly manipulated the nomination and election meetings to suit their own agendas. A parent from a Quintile 5 school explained this phenomenon as follows:

*Maar ek dink die laaste beheerliggaam verkiesing waarby ek betrokke was, was totale chaos. Die verkiesingsbeampte, wat veronderstel was om onafhanklik te wees, het sekere mense beter laat lyk as ander mense. ... Daar was beïnvloeding van die kant van die verkiesingsbeampte, definitief, te veel. Baie subtiel, dalk, en dit word glad nie so bedoel nie. Die verkiesingsbeampte bedoel dalk net goed, maar op die einde van die dag, as jy daarna terug sit en kyk, dan besef jy dat party kandidate baie beter voorgestel is deur die verkiesingsbeampte as ander.*" (Translation: But I think that the last SGB election where I was involved was total chaos. The electoral officer, who was supposed to be independent, made some people look better than others ... There was influencing on the side of the electoral officer, definitely, too much. Very subtly perhaps, and it was not meant like that at all. Perhaps the electoral officer just meant well, but at the end of the day, if you look back , then you realise that some candidates were presented much better by the electoral officer than others.)<sup>74</sup>

Even though electoral officers were customarily appointed from the ranks of experienced school principals, it occurred on certain occasions that such officers did

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<sup>74</sup> Participant H Interview 8 (Parent, Afrikaans, High and Primary School) Interview 8 Lines 99-101, 139-144.

not follow the election regulations correctly and instilled their own interpretation of what a "fair process" entails. An electoral officer (the principal of an Afrikaans primary school) explained why he decided to present the candidates' details and CV's as described on the nomination form himself, as follows:

*Dit het vroeër tydens die eerste beheerliggaamverkiesings gebeur dat sommige kandidate baie welsprekend was en hulself goed voorgedoen het, maar dat 'n ander stiller kandidaat, wat tegnies baie vaardig was en byvoorbeeld 'n groot bydrae tot die skool se instandhoudingswerk kon gemaak het, nie so goed gepraat het nie. En dan het ouers na die tyd beswaar gemaak en vir my gesê dat ek die nominasie vergadering nie reg hanteer het nie, want so-en-so was nie verkies nie. Ek het toe besluit dat ek eerder self in die toekoms die kandidate se besonderhede sou voorhou om seker te maak dat dit meer regverdig is. (Translation: It had occurred during the first SGB elections that some candidates were very well spoken, they presented themselves very well, but that another taciturn candidate, who was technically very handy and could have made a big contribution to the maintenance work needed at the school, did not present himself very well. And then the parents came and complained with me when so-and-so was not elected and they said that I had mismanaged the nomination meeting. I then decided to henceforth present the candidates' particulars myself so as to ensure that it was fair.)<sup>75</sup>*

This aforementioned quote clearly illustrates the point that electoral officers sometimes erroneously disregard the SGB election regulations that clearly require that candidates must be given an opportunity to inform the voters of their background, skills, qualifications and vision for the school. The North-West Department of Basic Education SGB Election regulation provides in section 13(3) that:

The school electoral officer must explain to the election meeting the procedures to be followed, and must stipulate that every nominee shall have the opportunity to briefly state at least: (a) his or her name; (b) the names and grades of his or her children in the school; (c) his or her occupation and experience or skills; and (d) his or her vision for the school.<sup>76</sup>

Other provinces contain similar provisions. For instance, the Gauteng SGB election regulations provide that:

22A(2) All nominated candidates should be given an equal amount of time to introduce themselves and indicate what they will do for the school and what values they hold. The time for this should be approximately 3 minutes. Schools must

<sup>75</sup> Participant G Interview 7 (Parent, Afrikaans, High School) Interview 7 Lines 189-198.

<sup>76</sup> Reg 13(3) NW.

accommodate the use of any official languages by candidates and allow for interpreting where necessary.<sup>77</sup>

Whatever justification an electoral officer might conceive, it amounts to unlawful and undemocratic practice to disallow or refuse an SGB candidate the opportunity to address the voters. Electoral officers should be meticulously impartial, fair and objective in managing the election process and should avoid any conduct that might open the door to possible bias. Electoral officers should also be made aware of the importance of open deliberation, questioning and discussion of a candidate's vision and competence during the nomination meeting and the role such discussion plays in establishing a substantive democracy. Voters should be given the opportunity to participate and engage in rational discourse with the candidates. This would go a long way towards ensuring that the best possible candidates are elected.

### ***6.3 The nomination process and the inadequacy of information about candidates***

The most pressing complaint raised by parent participants was that they had insufficient information about the candidates standing to be elected to a school's governing body. This was the case with all the schools whether the parent participants were from Quintile 1, 2, 4 or 5 schools; all of them had this complaint. In other words, no matter what the socio-economic circumstances of the school communities were, all the parent participants reported that they had to vote for candidates that were unknown to them, or that they had received insufficient information about the candidates prior to the election.

It seems that the organisers of SGB elections erroneously assume that most parents somehow know the candidates and that timeous prior dissemination of such information is not necessary. On the other hand EMGD officials that monitor the election meetings (Participants A, B and C) all admitted to the fact that they realised that, in general, parents do not know who to vote for as their first exposure to the candidates is usually at the nomination meeting. The National Guidelines for SGB elections provide that the school principal must ensure that a hard copy of the

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<sup>77</sup> Reg 22A(2) GP.

Notice of the Nomination Meeting for Parents must be handed to learners with the verbal instruction to hand it to his or her parent at least 14 days before the meeting, or the notification must be posted at least 21 days prior to the Nomination Meeting. But this does not address the issue. The information about candidates should be disseminated to parents or eligible voters beforehand.

An exasperated parent (Participant I) from an Afrikaans quintile 4 school explained the predicament in which parents find themselves, as follows:

*Ek is nie tevreden hoe die BL verkiesings hanteer word nie. In die eerste plek het ek al by beheerliggaamsverkiesings gesit waar die ouers dan rondvra vir wie hulle op die lys moet stem. Dan sê iemand van agter af "Stem vir hierdie en hierdie persoon...". Ek dan stem hulle sommer vir iemand omdat hulle nie 'n clue het waaroor dit gaan nie. So mense is nie ingelig nie. So daarmee sê ek dat die bekendstelling van die persoon en die inligting wat deurgegee word, baie beter gedoen moet word. Dit moet baie meer omvangryk en in detail gedoen word. Daar moet behoorlike CV's voorgelees word sodat mense presies weet wat is hierdie ou se kwaliteite, vir watter portefeuilles hy op die beheerliggaam aansoek doen of waarvoor hy kwalifiseer.* (Translation: I am not satisfied with the manner in which SGB elections are handled. In the first place, I have sat at SGB elections where the people ask around to hear for whom they should vote. Then someone says from behind ... "Vote for this or that person ...". And then they just vote for someone because they don't have a clue what it is all about. So I am saying that the description of the person and the information that is given must be done in a better way. Proper CV's must be read aloud so that people know what the man's qualities are and for which portfolios on the SGB he is applying and what his qualifications are.)<sup>78</sup>

The aforementioned quote aptly illustrates the shortcomings in the present SGB regulations in terms whereof the voters receive notice of a candidate only an hour before the election meeting. Participant H (a parent) suggested that the nominated candidates' CV's and details should be disseminated by email or other means beforehand.<sup>79</sup>

<sup>78</sup> Participant I Interview 9 (Parent, English, High School) Interview 9 Lines 58-66.

<sup>79</sup> Participant H Interview 8 (Parent, Afrikaans, High and Primary School) Interview 8 Lines 81-83.

#### ***6.4 The inadequacy of parent participation, voter attendance and the quorum requirement***

The election regulations require that a quorum of 15% of the total number of parents must be present at the first SGB election meeting. If a quorum is not reached, then the election must be postponed to a date within 30 days thereof. No quorum requirement is set for the second SGB election meeting. All the EMGD officials that were interviewed admitted that there are always some schools in their districts that do not reach the required quorum at the first election meeting. As the voter attendance at second election meetings is usually lower than 15%, the credibility of the notion that parents are participating adequately suffers. Well-functioning schools regard it as a poor reflection on their management and governance ability if a quorum is not reached at the first election meeting. One participant (a school principal) explained his approach to ensuring adequate attendance as follows:

*Ons doen alles moontlik om die ouers te motiveer om die verkiesing by te woon. Ek vind dat die beste praktyk is om vroegtydig en herhaaldelik te adverteer, om sms-kennisgewings te stuur op die verkiesingsdag en om die kinders wise ouers die verkiesing bygewoon het met 'n koeldrankie of "cupcake" koekie te beloon. Die koeldrankie en koekies se koste is nie so duur nie, as 'n mens die administratiewe onkoste en werksure, wat verlore gaan as 'n tweede verkiesing gereël moet word, inreken. Ek dink dat om die leerders die dag daarna te beloon met iets om te eet of drink is 'n dankie-sê omdat hulle hul ouers gekry het om die verkiesing by te woon. Die leerders doen dan die werk vir ons omdat hulle hul ouers smeek om by te woon* (Translation: We do everything possible to motivate the parents to attend the election. I found that the best practice is to advertise early and repeatedly, to send out sms-reminders on the election day and to reward the learners whose parents attended the election meeting with a colddrink or a cupcake the next day. The colddrinks or snacks are not so expensive considering the administrative cost and the man hours wasted if a second meeting has to be organised. I find that rewarding the learners the day after the SGB election with something to eat or drink is a means of thanking them for motivating their parents to attend. Then the learners do the work for us by begging their parents to attend).<sup>80</sup>

Some schools organise the SGB election by arranging a festive braai with the parents as well as a lucky-draw competition or something of the sort to coincide with the election event, in order to ensure adequate attendance. It was notable that very few participants could offer a solution for the predicament of poor participation. It

<sup>80</sup> Participant G Interview 7 (Parent, Afrikaans, High School) Interview 7 Lines 87-96.

seems, from the gist of the comments, that the participants implicitly suggest that the solution to the problem would be for the parents to somehow become more motivated and change their attitudes about participation.

The aggregated qualitative responses confirmed that parental participation is essential, but some participants indicated that the level of parental participation is inadequate. A school principal expressed the following opinion:

Participation by the parents and community is vital. Democracy has not been fully attained because most parents are not capacitated about their role and parenting. School governing body members are not fully workshopped to execute their functions effectively.<sup>81</sup>

The schools where the members of the school governing body that were in office at the time of the SGB election took responsibility and went to the trouble to properly organise the election process usually achieved the greatest success rate with regard to parent participation and attendance during the election, according to Participant B.<sup>82</sup> The SGB should play a major role in encouraging and motivating parents to vote and participate.

### ***6.5 The timing of SGB elections and the time allotted to completing the election process***

The timing of the SGB elections has an impact on the level of compliance and the fairness of outcomes. In 2009 the SGB elections coincided with the national, provincial and local general elections and it was decided to hold them before the national general elections. As a result many schools in predominantly Black township areas experienced a high degree of political activism prior to the SGB elections, particularly during the nomination and election meetings. On the other hand, the 2012 and 2015 SGB elections were not as severely politicised as the 2009 SGB election because they did not coincide with the national, provincial or local government elections. It seems there was less incentive for community leaders or

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<sup>81</sup> Participant E (Electoral officer, School principal, English High School rural) Interview 5 Lines 44-48.

<sup>82</sup> Participant B (EMGD official) Interview 2 Lines 36-37.

aspiring politicians to vie for positions of leadership in order to advance their personal agendas during these elections.

The provincial regulations determined that schools had to hold SGB elections within a certain specified period (eg during the month of March 2015) and that schools that could not comply with this timeframe had to apply in writing for an extension of the election period. Schools that experienced difficulties with the limited timeframe were generally the schools whose learners were accommodated in hostels or whose parents were not able to travel to the school on short notice. The difficulty that arises is that many of the parents of learners in hostels are unwilling to travel the distances from their places of residence or work, which results in very poor participation rates for these schools. The schools with hostels who wish to attract the parents to attend are obliged to schedule the SGB election for the last day of the school term or during a special prize-giving or sporting event. This problem is particularly acute with public schools for learners with special needs (LSEN-schools), because many of the parents are indigent or come from the lower socio-economic group, which makes travelling costs and attendance prohibitively expensive for them. Schools for Learners with Special Needs also do not usually have mid-term prize-giving or sporting events that would attract attendance by parents. In view of these practical difficulties it seems that the best time to determine a period in which an SGB election should take place is during the last two months of the first or second half of the school year (ie May to June or November to December). The participants were in agreement that such an arrangement would improve the levels of voter attendance and participation in SGB elections.

### ***6.6 Misconceptions about the role of School Governing Bodies***

Another reason for the poor quality of SGB members that came to the fore is that candidates and voters are uninformed with regard to the role and functions of school governing bodies. Participant E, an electoral officer (a school principal in a rural area) explained that:

... many of the candidates think that they will receive remuneration or some sort of payment when serving on an SGB. This seems especially appealing for unemployed

workers. Other candidates have political aspirations and think that by standing for election on an SGB will pave the way for a political career in the ANC.<sup>83</sup>

Participant A also noted that candidates sometimes agree to be nominated without their having the slightest idea of the duties and functions expected of a member of an SGB. He said:

*Ja, maar hy was die gewildste op die dag en hy het die hardste "Viva" geskree en almal het vir hom gestem. Maar daar was nooit 'n uiteensetting van die pligtestaat en wat van beheerliggaam lede verwag word nie. En dan sê jy vir die mense, maar hoe op deeske aarde kon julle so 'n man verkie sê? (Translation: Yes, he was the most popular on the day and he shouted "Viva" the loudest and everybody voted for him. But there was never an explanation of the list of tasks that are expected of members of an SGB. And then you say to the people, how on earth could you have voted for such a man?).<sup>84</sup>*

It is clear from the aforementioned that the voters and the candidates should be informed, prior to an election, or receive some training on the duties and functions of school governing bodies, and informed that service is rendered voluntarily without remuneration. This should prevent incompetent or unqualified persons from making themselves available as candidates for a school governing body.

### ***6.7 Upgrading or improving the election regulations***

The participating electoral officers and departmental officials agreed that the SGB election regulations need to be upgraded and improved. A number of technical uncertainties were listed such as: uncertainty about voter eligibility and frequent disputes by siblings or non-custodial parents; the unsuitability of the restricted time allotted for the nomination and election process; non-uniformity in relation to the national guidelines; and certain unlawful provisions that contradict the *Schools Act*. The participants were in agreement that it would be preferable for the National Department of Basic Education to be tasked to draft a uniform set of SGB election regulations.

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<sup>83</sup> Participant E (Electoral officer, School principal, English High School rural) Interview 5 Lines 231-233.

<sup>84</sup> Participant A (EMGD official, Afrikaans) Interview 1 Lines 155-165.

## 7 Discussion and recommendations

The aim of education in a democracy should be to gain knowledge useful for real life, to build moral character and develop the learner as a whole person: ie intellectually, physically, personally, socially and professionally.<sup>85</sup> Democracy as a concept should not be misconceived as a continuous struggle for political power, but should rather be understood to be a condition or characteristic of society that places the highest value on the resolution of problems of communal life, firstly through collective deliberation (by means of various peaceful, non-violent, civilised modes of discussion and communication) and secondly through a shared concern for the common good.<sup>86</sup> For this reason schools should under no circumstances be politicised, as the purpose of education is not to practise party politics or to promote sectarian political interests at schools. The basic premise of any democratic institution, such as a school or a state or a society, is that there is more enlightenment and wisdom among many than in a single person.<sup>87</sup> This implies that it is essential to secure as much participation as possible in order to ensure the proper functioning of societal institutions such as schools. Maximal participation by parents of the school community is absolutely indispensable if any school wishes to flourish and function optimally. In lieu of the services and support that parents usually provide for schools, they should be allowed to participate by determining the school policies, directing the spending of financial contributions, and performing governance functions.

In view of the shortcomings and deficiencies that have been reported in this research, the following recommendations and suggestions are made to improve the SGB election process:

- I. One set of uniform SGB election regulations should be published nationally to apply to all provinces. This would ensure the fairness of the process, reduce uncertainty and avoid the pointless duplication of regulations by the nine provinces.

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<sup>85</sup> Dewey *Democracy and Education* 115.

<sup>86</sup> *Ibid.*

<sup>87</sup> Smit *Fundamentals of Human Rights* 15.

II. Proper and considered timing of SGB elections is essential to ensure greater parental participation. Ideally an SGB election should occur at the end of the second or fourth school quarter, but should be held only after national, provincial or local elections if these election periods coincide with SGB elections. The reason for this arrangement is to avoid the unnecessary politicisation of SGB elections.

III. It is clear from the phenomenological study that the inadequate provision of information to the voters about the candidates is a major shortcoming. This can be attributed to a misconceived notion of participation by electoral officers and the drafters of the election regulations. Furthermore, the shortcomings in the regulations and the nomination process have resulted in the failure to provide adequate information about the candidates, which is a symptom of an underlying ignorance and misunderstanding of the principles of participatory and deliberative democracy. Therefore, it is strongly recommended that the nomination procedure should be amended firstly to specifically include an information session (after the nomination meeting is concluded) under the heading "Candidates meeting" or "Deliberative session" or "Questioning the candidates", to allow for questions and the exchange of information about the candidates' qualifications, experience, views, vision and objectives.

IV. It is recommended that limited and conditional campaigning by the approved candidates should be allowed. This is in keeping with the democratic principles of transparency, openness and accountability. Ideally, nominated candidates should be allowed to campaign and inform voters of their qualifications and vision as soon as the electoral officer has approved their nominations. The regulations should stipulate the time period and manner in which the candidates may campaign (eg the display of a poster, the distribution of pamphlets, the making of an introductory statement by the candidate, questions and answers, etc.). The deliberative session should provide the parents (or eligible voters) with the opportunity to question the candidates about their envisioned contributions or their track records. Such a

session should be separated from the nomination meeting and the election meeting (or voting process) in order to ensure the proper dissemination of information and deliberation about the candidates.

- V. It is suggested that electoral officers should be rotated to prevent them from serving at the same school in consecutive elections. Rotating electoral officers to different schools should prevent them from becoming too closely involved or personally acquainted with some of the candidates or the school community. The purpose of rotating electoral officers would be to ensure fair and objective management of SGB elections and to avoid any biased involvement or unfair influencing of the process that may have marred some of the SGB elections.
- VI. One of the possible reasons why the past two SGB elections, those held in 2012 and 2015, did not suffer from intense political activism might be as a result of the amendment of section 33A of the *Schools Act*, which prohibits political activities during school time. Section 33A(1) provides that:

No party-political activities may be conducted at a school during school time determined by the governing body of the school in terms of section 20(1)(f).

It is therefore recommended that the new or revised SGB election regulations should stipulate that the election process is deemed to occur during school time in order that the prohibition against party political activism or campaigning for political parties in terms of section 33A may become applicable.

- VII. It is suggested that the proposed nationally uniform election regulations should include fair and uniform election regulations for Learner Representative Councils as well as for educator staff that aim to serve on a school governing body.
- VIII. There is no easy solution to address the challenge of maximising parental participation. School governing bodies and school principals, in particular, should be trained and encouraged to employ various methods to promote

adequate participation. One of the factors that may improve the involvement and participation of parents is frequent and timeous communication by the school governing body to inform parents of the projects, activities, vision and plans of the school governing body. Such communication would be in accordance with the notion of participative and deliberative democracy and would go a long way towards encouraging involvement, and cultivating a sense of communality or partnership of the parents in the activities of the school governing body and the school.

- IX. It is recommended that the quorum requirement of 15% of eligible voters (parents) during the first SGB nomination and election meeting should remain intact. Although some participants suggested that this should be scrapped, scrapping it would amount to a retro-active measure, as parental participation would in effect be discouraged and the *de facto* application of deliberative democracy would be watered down. Instead, it is indubitably in the interest of developing and attaining substantive democracy in South Africa that parents, stakeholders in education and learners should be encouraged and educated to fulfil their legal obligations to attend SGB elections and Annual General Meetings of schools.
- X. Finally, the National Department of Basic education and the various provincial departments of education should refrain from usurping any of the functions of school governing bodies. Any needless or unfounded usurpation of existing school governing body functions inevitably sends the wrong message, as it undermines the basic partnership schema of the *Schools Act*. If a department of education seizes school governing body functions, whether by means of statutory amendments, regulations or administrative action, the result will inevitably lead to less parental involvement, decreased financial contributions by parents, and a decreased willingness of parents to serve on school governing bodies.

## **8 Conclusion**

The main contention of this article is that the SGB election processes at many public schools in South Africa are deficient. The non-uniformity of SGB election regulations among the nine provinces, unlawful regulatory provisions, the unfair and undemocratic administration of the election process and misconceptions about the principles underlying participatory and deliberative democracy are causal factors that result in sub-optimal election outcomes. It has been shown that the main concern of parents and participants about the SGB election process is the fact that insufficient information about the candidates is disseminated beforehand, thus preventing voters from making informed decisions. The predictable result of such undemocratic features in the election process is that unsuitable or incompetent candidates are invariably elected. This has a detrimental effect on the proper governance of public schools. It is therefore recommended that a new set of nationally uniform SGB election regulations should be promulgated before the next SGB election in order to address these shortcomings.

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## **LIST OF ABBREVIATIONS**

CICE	Current Issues in Comparative Education
DBE	Department of Basic Education
DoE	Department of Education
EC	Eastern Cape Province
EMGD	Education Management and Governance Department
FS	Free State Province
GN	Government Notice

GP	Gauteng Province
IAPA	Impact Assessment and Project Appraisal
Iod	Institute of Directors in Southern Africa
KZN	KwaZulu-Natal Province
LP	Limpopo Province
LSEN	Learners with Special Education Needs
MEC	Member of the Executive Council
MP	Mpumalanga Province
NC	Northern Cape Province
NW	North-West Province
NWDET	North-West Department of Education and Training
RJPS	Review Journal of the Philosophy of Social Sciences
SAJE	South African Journal of Education
SGB	School Governing Body
WC	Western Cape Province

## **SCHOOL GOVERNING BODY ELECTION DEFICIENCIES – DELIBERATIVE DEMOCRACY KNOCKING AT THE DOOR**

**MH Smit\***

### **SUMMARY**

As forums, School Governing Bodies have the makings of a great and unique South African democratic tradition as they reflect local deliberations, participative decision-making by stakeholders in education. The main contention of this article is that the SGB election processes at many public schools in South Africa are deficient. Legal analysis reveals the extent of non-uniformity of SGB election regulations among the nine provinces, as well as unlawful regulatory provisions, the unfair and undemocratic administration of the election process and misconceptions about democracy are causal factors that result deficiencies in SGB elections. The qualitative evidence affirms that parents are concerned about the insufficient information about candidates before and during elections, thus preventing voters from making informed decisions. Undemocratic features in the election process results in the election of unsuitable or incompetent candidates which has a detrimental effect on the governance of public schools. It is therefore recommended that a new set of nationally uniform SGB election regulations, which allows for transparent deliberation between candidates and voters should be promulgated before the next SGB election in order to address these shortcomings.

**KEYWORDS:** School Governing Body, elections, regulations, Education Law, deliberative democracy, participatory democracy, responsiveness, phenomenological study.

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