

Promoting Professional and Ethical Conduct Amongst Teachers in Zambia: Essence of Educational Laws

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Abstract

Teaching as a noble profession, requires that all teachers conduct themselves in a professional and ethical manner. Teachers have a huge responsibility to shape the current generation into responsible adults and leaders of tomorrow. Apart from equipping young ones with relevant skills and knowledge, teachers as role models, have a direct bearing on the values, attitudes, conduct and behaviour that young ones take up. Teachers thus are expected at all times to conduct themselves professionally and ethically at and off school to gain and maintain public confidence. Teachers who engage in professional misconduct cannot teach values of morality, honesty and integrity to learners. Literature shows that a lot of teachers in primary and secondary schools, especially public schools, have continued conducting themselves unprofessionally in their course of duty. They engage in sexual relations with learners, report for work drunk and general lack of dedication to duty. This is despite being trained as professionals in their fields of specialisation. Several strategies have thus been put in place to promote teacher professionalism but the issue of teacher misbehaviour appears to be unabated. This article, therefore, is set to illuminate the essence of the knowledge of educational laws in the enforcement of ethical conduct amongst teachers in Zambia as a way of promoting ethical and professional conduct amongst teachers. Through a comprehensive analysis of both local and international research evidence on teacher professionalism through a desk review, we examined the influence of the knowledge of legal aspects of education on teacher professionalism and ethical conduct. It is argued that if teachers are well acquainted with the various legal aspects of education, their conduct is likely to be more professional and thus avoid unnecessary liabilities. The article also draws lessons from international practices on how best professional conduct can be enhanced in the teaching fraternity from a legal perspective. The authors suggest, among other things, the need for teachers to be well acquainted with the provisions of the code of ethics and the introduction of a course on legal aspects of education in all teacher education programs. Lastly, we recommend the need to undertake a large scale study regarding the knowledge of educators on the legal provisions that impact the professional practice of teachers in Zambia.

Key words: *Teachers; Professional and Ethical Conduct; Educational Laws*

Background and Context: Literature, Theory and Problem

The indispensability of laws and regulations for the maintenance of peace and order in any given society is well documented (Coetzee and Van Niekerk, 2015). For members of any given society, organisation or community to interact without conflict, laws are necessary to spell out what is right and what is wrong so as to promote peace and harmony (Banda, & Islam, 2012). Laws can therefore be said to contribute to the creation of a safe and just society (Imber and Van Geel, 2009). Today, the need for laws to regulate human behaviour transcends all social milieu

with the education sector not an exception. Education institutions, being places where people with diverse backgrounds and aspirations interact to achieve different educational goals, also require that law and order is maintained. To sustain a serene environment, conducive for teaching and learning, demands that educational managers, administrators and teachers are well grounded in educational law and the legal implications that may arise from their commissions and omissions both within and outside the educational settings (Peretomode, 1992). To achieve that, various local and international sources of educational law have evolved over time. These sources of law that impact education can as well be used to promote professional and ethical conduct amongst teachers in learning institutions if they conversant with them. The main thrust of this paper therefore, is to critically look at various sources of education law that must be enforced to the latter to promote professional and ethical conduct of teachers in Zambia amidst the growing trend of teacher professional misconduct in the country. The paper highlights the need for a professional teaching force in the country than ever before. It is set to illuminate how knowledge of educational laws amongst teachers can be used as a tool to contribute towards the enforcement of professional and ethical conduct amongst teachers in Zambia.

Literature shows that teacher quality promotes learner achievement (Nabukenya, 2010). In fact, Mulenga and Mwanza (2019: 32) and Mulenga and Luangala (2015: 39) clearly elaborated that ‘teachers are the most critical resource in the provision of any formal education anywhere in the world’. Teacher quality entails upholding both academic and professional integrity in educational service delivery to the public. However, there has been an increase in the number of reports in the communities and media of teachers engaging in professional misconduct around the country (Banja, 2013). Such misconducts include teachers reporting for work drunk, engaging in sexual relationships with learners and examination malpractices. Some have ended up being dismissed due to their unethical conduct (Mumba, 2018; Musonda, 2017). Some teachers however, engage in professional misconduct despite being well trained and inducted into how they ought to conduct themselves professionally in the execution of their duties. If the proliferation of professional misconduct amongst teachers is left unchecked, the provision of quality education to produce well qualified and responsible future adults from the young of today may remain a mere pipe dream in Zambia. Many stakeholders have thus called for professionalisation of the teaching fraternity in the country.

Definition of Terms

The terms such as teacher, ethics and professionalism have been defined to make clear our conceptual understanding of the topic at hand. A teacher, to begin with is defined as a person who is qualified, registered and teaches or instructs, a head of a school, a principal or a lecturer of a college of education, a technical education

instructor, a head of department of education or an education unit at any other education institution other than a university (Teaching Profession Act, 2013). A teacher thus is a person who is trained and qualified to help learners acquire knowledge, skills and attitudes. Ethics as a concept can be defined as principles, beliefs, assumptions and values that characterize a moral life (Banda, & Islam, 2012). They are moral principles that control human behaviour. Ethics is a branch of philosophy that, at its core, seeks to understand and to determine how human actions can be judged as right or wrong. We may make ethical judgments, for example, based upon our own experience or based upon the nature of or principles of reason.

In addition, Teacher Professionalism is taken to mean the principles, values, standards or rules of behavior that guide the decisions, procedures and systems of a school in which teachers work and in a way that contributes to the welfare of its key stakeholders and respects the rights of all constituents affected by its operations (Bar, 2006). To achieve this, teachers must be governed by a code of professional conduct. A teaching force without a code of professional ethics cannot be considered to be professional in any way. Professional and ethical conduct is therefore a prerequisite of any professional dealing with people. Professional conduct entails following procedure, ethics and guidelines. It also means being just and fair in the execution of duty. Ethical conduct involves one knowing what is right and what is wrong. Various stakeholders have thus been calling for a professional teaching force in Zambia. It is argued that like the fields of law, medicine, military and others, the teaching force must also strive to be a field of professionals. To provide quality education service delivery, the teaching fraternity must be professional. Handling and training the young ones who will take up future responsibilities requires that teachers conduct themselves in a more professional and ethical way than ever before. Teachers are expected to behave professionally at all times.

Theory of (Consequentialism) Utilitarianism

With respect to the theoretical framework, the study was guided by the theory of Utilitarianism. The utilitarian theory, as a form of consequentialism, defines the right action as the ones that maximise utility (Velasquez; Andre and Meyer, 2012). The action that produces the largest amount of good relative to any other action that could be performed. According to this theory, an action that maximizes utility is one that maximises the total benefits while reducing the negative consequences for the largest group of people. Something is thus good if it does more good than harm for a lot of people (Mackinnon, 2012). In this regard, the moral action is the one that increases the total utility in the world. This is called the greatest happiness principle. Ethical theories that fall under the classification of consequentialism posit that the rightness or wrongness of any action must be viewed in terms of the consequences that the action produces. In other words, the consequences are

generally viewed according to the extent that they serve some intrinsic good. In other words, utilitarianism is the existence of pleasure at the absence of pain. And this is what is referred to as Utility. Teachers, in line with the theory of utilitarianism, must at all times conduct themselves in a manner that benefit their students.

The Problem

In times past, the preoccupation of government through the Ministry of Education was to train well qualified teachers so as to promote quality education provision in the country. Various policy interventions such as In-service teacher training, Continuing Professional Development programs (Banja, 2013), teacher education curriculum reviews, improvements in teaching practice and the use of learner centered approaches in teaching have only tried to better the quality of teaching and learning in the country. The interventions have, however, to a greater extent not helped teachers to be more ethical and professional in their conduct both within and outside their classrooms. The purpose of this paper, therefore, is to illuminate the essence of the knowledge of educational laws in the enforcement of professional and ethical conduct amongst teachers in Zambia. This was necessitated by the fact that despite several strategies being put in place to promote teacher professionalism such as imposing disciplinary actions against erring teachers, incidences of teacher misconduct have been rife in Zambia (Banja, 2013). To achieve this purpose, three objectives guided the study. These were:

- (i) to document the situation analysis and the various sources of educational law in Zambia;
- (ii) to demonstrate how knowledge of educational law can enhance professional conduct amongst Teachers in Zambia; and
- (iii) to establish lessons which Zambia can draw from international best practices and promoting ethical conduct amongst teachers using educational law.

Methodology and Design

This study adopted a qualitative approach in which secondary sources of data were examined. It was based on the comprehensive review of secondary sources of local and international data on teacher professionalism and ethical conduct. The authors thoroughly reviewed various education policy documents, statutory and non-statutory pieces of legislation on education, daily tabloids and other empirical and academic research findings to establish their influence on the professional and ethical conduct of teachers in learning institutions. Through thorough document analysis, different literature sources examined to draw out themes relating to teacher professionalism and how various legal aspects of education can influence teacher professionalism in the provisions of education in Zambia.

Findings: Situation Analysis: Prevalence of Teacher Professional Misconduct in Zambia

The prevalence of teacher professional misconduct reports in Zambia, continue to make sad reading. For instance, the Teaching Service Commission (TSC) recently reported that twenty-three teachers were dismissed from the teaching service country-wide for sexually abusing children (Lusaka Times, 2017). The unparalleled prevalence of teacher-pupil sexual relationships (Kawanga, 2018), sexual harassment cases, teacher absenteeism from work, drunkenness, improper dressing (Banja, 2013: 16-20) and active involvement of some teachers in partisan politics all point to the unprofessional conduct of the teaching fraternity in Zambia. Almost every academic year some teachers are caught engaging themselves in various forms of examination malpractice, which to a greater extent have affected the quality of education in Zambia (Zambia Daily Mail, 2019). Many teachers have continued engaging themselves in professional misconduct as defined under section 46 of the Teaching Professions Act (Teaching Profession Act, 2013). Consequently, the increase in the number of reports in which teachers have engaged in professional misconduct has led many to question the caliber of teachers in our schools worse still the quality of education provided. Banda, D. and Morgan, J.W. (2013: 38) writing on the use of folklore as an instrument of education among the Chewa people of Eastern part of Zambia report that in some cases teachers who misconduct themselves with their girl children rationalise their wrong doings by calling their victims as ‘*chalk bonus*.’

Learning institutions in which teachers operate are often described as complex and multifaceted environment in which are found different people with diverse backgrounds and interests. Such people include the teachers themselves, learners, parents and other stakeholders interested in what goes on within the learning institutions. Today learners, their parents and other stakeholders are very much enlightened about their rights, freedoms and responsibilities. This therefore, entails that teachers must be well acquainted with the legal implications of the actions and inactions when it comes to teaching and performing other professional duties, they are to do so in line with provisions of the law guiding their professional conduct. However, it appears most teachers are not aware of their rights, and those of others. Similarly, many are ignorant of the rules and regulations governing their employment and the school system in which they work. Consequently, most of them are not aware of the legal implications of their actions (or inactions and limitations). Undoubtedly, such ignorance may be costly, if not disastrous, to the individual, the entire education system and others within the system (Coetzee & Niekerk, 2015).

Due to the many examples of professional misconduct of teachers, many people doubt whether teaching is a profession which can be equated to the field of law and medicine in Zambia (Simuyaba and Chibwe, 2016). This is owing to the fact that some tenets of professionalism are still missing within the profession.

According to Kok *et al.*(1996), a profession can be defined as one if it encompasses aspects such as independent practice; code of ethics; licensing; single major profession association; exclusive practice rights; body of specialized knowledge in professional practice; collaboration among members; candidate selection; rigorous protracted study or training period; high status; high compensation and lifelong commitment. Some of these aspects have been found to be lacking in the teaching profession in Zambia (Simuyaba and Chibwe, 2016). For instance, compared to other professions, teachers do not enjoy a high status and more so their compensation is not as high as other professions such as lawyers and medical practitioners.

For a long period now, various stakeholders have been calling for a professional teaching force in Zambia. It is argued that like the fields of law, medicine, military and others, the teaching force must also strive to be a field of professionals. That to provide quality education service delivery, the teaching fraternity must be professional. Handling and training the young ones who will take up future responsibilities requires that teachers conduct themselves in a more professional and ethical way than ever before. Not until 2014 when a teaching regulatory body was established through an Act of Parliament, teaching in Zambia has not been considered to be a profession like law and medicine (Teaching Professions Act, 2013; Simuyaba & Chibwe, 2015). More so, the conduct of teachers generally is said to be far from what constitutes a profession. It is in view of the above perspectives that this paper is aimed at illuminating how knowledge of the legal aspects of education can enhance teacher professionalism in Zambia.

Educational Laws in Zambia and their Influence on Teacher Professional Conduct

All teachers and educational managers therefore, have a responsibility to be well-acquainted with the various sources of educational law to avoid liabilities and coming into conflict with the law in their interactions with various stakeholders involved in our education system. Teachers must be aware that knowledge about the legal provisions of education is not a preserve of professional lawyers alone, but a basic requisite to execute their duties in a more ethical and professional way (David; Thomas & David, 2010). Such legal provisions which define the legal character of education in Zambia include the 2016 amended constitution; the code of ethics; the education policies, education acts; common law; traditional law; international laws; school rules and regulations and ministry circulars and directives as shown in Figure 1 below.

Sources of Education Law

Education law refers to the components of the constitution, other statute laws, the common law and case law that create an educational system and regulate the multilateral interaction of individuals, groups, independent bodies and official

authorities with that system (Maree, 1995). Education law deals with laws relating to education. These are laws that govern the provision of education in every country and provide both rewards and punishment to ensure conformity, social order and harmony. In this article education law is the part of law in a country that provides a legal framework that regulates the education system in a given country (Ebert and Culyer, 2012). The following are some of the sources of educational law which if well understood and adhered to could enhance teacher professionalism in Zambia.

Constitution of the Republic of Zambia

The Constitution is the Supreme Law of the Land. This law contains the rights of the citizenry as well as duties and responsibilities. The Constitution affirms the equality of every person before the law. It also states the rights of due process in an event of a law-suit. Through the Bill of Rights in the constitution, every child has the right to access education. Knowledge of this constitutional provision can help educators not to engage in any activities that may hinder or affect a child to enjoy their right to participate in educational activities.

The Teaching Professions Act No. 5 of 2013

This act espouses the promotion of teacher professionalism in Zambia. In doing so it provides for the establishment of the Teaching Council of Zambia, a body mandated to spearhead the professionalisation of the teaching fraternity in the country. Section 45 of the Teaching Profession Act, provides for the development of the code of professional conduct for teachers by the Teaching Service Commission in consultation with the Teaching Council of Zambia. The Act also clearly espouses the disciplinary processes for teachers engaging in professional misconduct whether serving in the public or private education sector in Zambia.

The Code of Professional Ethics for Teachers in Zambia

The code of conduct for teachers in Zambia is a statutory instrument which provides for the do's and don'ts for teachers. It provides for the functions of a teacher as well as how he or she relates with the learners, parents and fellow teachers. More so, the code of ethics clearly outlines the values and principles which must be embraced by the teachers to promote professionalism. These include issues of integrity and honesty; impartiality and objectivity; excellence and professionalism; loyalty and respect; accountability, confidentiality; selflessness; dedication and commitment to duty by all teachers in the country (Code of Ethics, 2018). The code of ethics for teachers is an important legal document which must be adhered to at all times to avoid professional misconduct as provided for under Section 46 of the Teaching Profession Act of 2013.

The Education Act of 2011

The education Act of 2011 the current statutory legislation influencing education provision at primary, secondary and teacher education at the college level. Today, the education Act of 2011 governs the financing and management of education in Zambia. The Education Act of 2011 talks about every child having the right to free basic education. It emphasises the equitable provision of education in three areas such as early childhood, basic education and high school education. The Act also supports policies such as the re-entry policy and the abolishment of corporal punishment in schools. These and many others are some of the legal provisions which educators must be well acquainted with in carrying out their professional duties as shown in Figure 1.

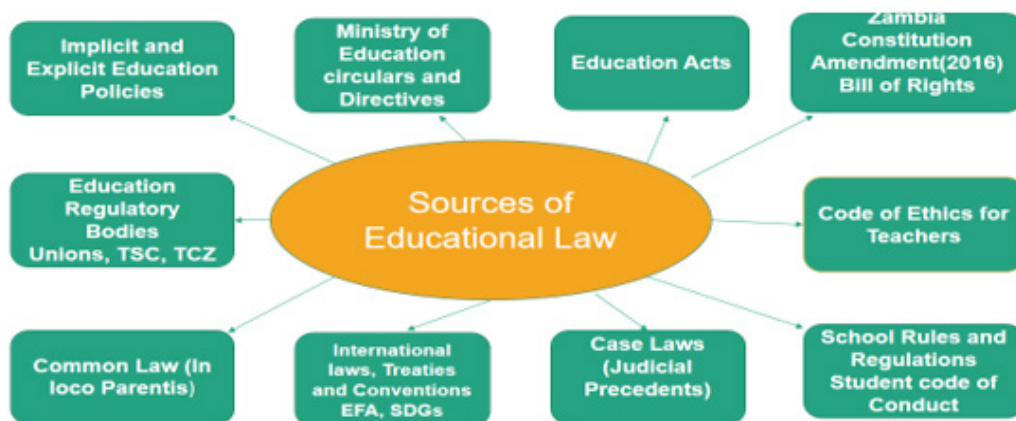


Figure 1: Sources of Educational Laws in Zambia

Source: Author, 2019

Legal provisions targeting Teacher Professionalism in Zambia

In view of the above sources of educational law, every teacher must know that the children they teach have the right to access education as provided for in the *Constitution* and the *Education Act* of 2011. For instance, Article 14 of Part V of the Education Act of 2011 provides that every person has a right to Early Childhood Care, Development and Education, Basic Education including Adult Literacy Education and High School Education. Article 15 provides for Free Basic Education while Article 17 makes basic education compulsory and place the burden on the parent to ensure that a child who attains school-going age attends school. In addition, Clause 3 (a) of Article 17 grants the school authorities power and authority to follow up on parents or guardians of a child who is not enrolled at an educational institution.

In addition, in order to successfully achieve the objectives of a school, all teachers in educational institutions are required by law to strictly adhere to the various behavioural patterns stipulated in the code of ethics to execute their duties

effectively. The Teaching Service Commission of Zambia in consultation with the Teaching Council of Zambia is mandated to prescribe and publish the code of ethics for the educationists as discussed in the preceding section.

The rationale behind putting up a code of ethics is to establish the point of reference to which all matters of professional misconduct should be referred to when dealing with disciplinary cases in the teaching profession.

According to Section 46 of the Teaching Profession Act of 2013, a teacher commits profession misconduct if they contravene the provisions of the Act; engage in conduct that is dishonest, fraudulent or deceitful; commit an offence under this Act any other law and is sentenced to imprisonment for a period exceeding six months without the option of the fine; engage in any conduct that is prejudicial to the teaching profession or is likely to bring it into disrepute or encompasses another teacher to breach or disregard the principles of the code of ethics (Masaiti, 2018).

From the foregoing, we can see that in the teaching profession, the disciplinary action of the erring teachers can only be executed to the latter in line with the provisions of the Teaching Profession Act of 2013 just like in other countries like Kenya. It is also important to note that the TSC attaches great importance to the discipline of the teaching force. The teachers' code of ethics and other regulations clearly spells out the terms and conditions of service for all teachers. Every teacher is thus required to comply with the provisions of the code of ethics in line with the Teaching Profession Act (2013) failure to which disciplinary measures can be taken against them.

Discussion: Code of Professional Ethics for Teachers and its Essence

Teachers have a huge responsibility to take care of the learners entrusted in to their care. In most cases, these learners are immature and lack the capacity to think and make moral judgments for themselves. As such, teachers are looked up to for moral direction. It is the duty of teachers, therefore to not only instruct and teach learners but also to provide moral training. In a study done by Mulenga and Mukaba (2018: 63) on the re-entry policy in Zambia, it was actually found out that 'girls needed a lot of support from their teachers more especially the guidance and counseling teachers (Banda, et al; 2014). They needed emotional and academic support from their teachers'. That is what leads to academic achievement by learners. More is therefore demanded from teachers and they are not supposed to misconduct themselves at any time. Teachers who misconduct themselves cannot teach values such as morality, honesty and integrity to pupils. The professional code of conduct for staff in the education sector was specifically developed in order to stop this and other illegalities. The code contains a set of guidelines to which educators must adhere (Code of Ethics, 2018).

Code of ethics serves different purposes for different professions or institutions. Firstly, code of ethics create an environment in which ethical behaviour and standards are upheld as valuable. They, therefore, bring about a sense of morality and decency in any work environment. Without ethics, there would be immorality and anarchy in professional bodies or organisations. Codes of ethics stipulate desirable behaviours and sanctions and hence, increase the commitment and dedication to duty. The code of ethics further helps professions to gain and maintain public confidence. By emphasising the highest standards of behaviour and moral uprightness. The code of ethics keeps a profession in good standing with the public (Code of Ethics, 2018).

The professional Code of Conduct for Staff in the education sector was specifically developed in order to stop them from misconduct and other illegaties.

A code of ethics in education raises the awareness of the values and principles that should be embraced by all educators. It contains rules of conduct and ethics to be observed in order to maintain the integrity of the teaching profession. It is an important piece of educational law which can be used to promote professionalism in the teaching fraternity. In order to keep the teaching service as a profession, educators need to maintain a high standard of moral behaviour and character. Teachers for instance, are not supposed to drink beer carelessly, report for work while drunk, abscond from class, leak examination papers or sexually harass pupils. It is because of such teacher misdeeds that the teaching profession has been brought under public scrutiny and disrepute (Shakafuswa, 2010; Tembo, 2015).

Learner Discipline and Teacher Professionalism

Teachers are also empowered by law to discipline learners in schools. However, the scope of their disciplinary power to do so is not unlimited. As such, in their course of duty, teachers can only discipline learners in line with the provisions of the law. Doing so will entail professional conduct on their part. This is especially that excessive disciplinary measures such as corporal punishment are prohibited in Zambian schools. Subjecting learners to corporal punishment is one way through which teachers have been found acting unprofessionally. Although corporal punishment has been abolished, a number of teachers still use corporal punishment unknowingly to chastise learners. Educators therefore must be aware of the need not to use corporal punishment as they punish learners who come in conflict with the school law.

For instance, Article 28 of the Education Act 2011 provides that:

“A teacher, employee or other person at an education institution shall not impose or administer corporal punishment or degrading or inhuman treatment on a learner or cause corporal punishment or degrading or inhuman treatment to be imposed or administered on a learner.”

An officer who contravenes subsection (1) of Article 28 commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or imprisonment for a period not exceeding one year or both. The administration of corporal punishment in many instances has led to the loss of lives and permanent injury or disfigurement of learners.

In many countries including Zambia, the unreasonableness, brutal and excessive corporal punishment in many instances has resulted in legal suits by parents or guardians against concerned teachers and the schools. It is against this background that the Zambian government abolished corporal punishment in schools. Even in countries where corporal punishment is legal, its administration is followed by strict guidelines. For instance, in Tanzania, Anangisye and Barrett (2013) found out that while corporal punishment was legal in the schools, it was to be done upon the recommendation and authorisation by the school head. But many cases have been reported when teachers decided to unofficially administer corporal punishment as a measure of ensuring learner discipline in schools.

Discipline is synonymous with effective learning, for this reason, there are other forms of discipline that educators must and can employ to maintain discipline without violating the rights of learners. The law recognises that discipline is essential for maintaining order and harmony in school and for providing a climate in which students can learn, free from disruption and chaos. Therefore, the law makes provisions for schools to draft and implement codes of conduct for students to administer different forms of punishment when learners transgress the rules. A school code of conduct in this regard must aim at establishing a disciplined and purposive school environment. The aim of the code should be to maintain and improve the quality of learning in the school. An important task of a teacher thus should be to create and maintain an orderly learning environment. In addition to general school rules, teachers are entitled to draw up classroom rules provided they do not conflict with general school rules.

These and many other sources of education law influence how discipline should be managed in educational institutions. It does, however, mean that teachers need to be aware of learners' and parents' rights to information, privacy and confidentiality when dealing with personal and often sensitive issues and information. Teachers have a legal obligation to ensure that all information that is recorded about a learner's behaviour, performance and progress at school is reliable, accurate and relevant. Information that is false, misleading, biased and unsubstantiated can lead to legal action against a given teacher and school. It is also noteworthy that the conduct of teachers greatly influence student behaviour. If teachers conduct themselves unethically, learners are also likely to emulate them. As such teachers must at all times conduct themselves professionally to avoid being a bad influence on the learners.

The Need for Professional and Ethical Conduct in the Teaching Force in Zambia

Professional and ethical conduct is a pre-requisite of any professional dealing with people. Professional conduct entails following procedure and guidelines. It also means being just and fair in the execution of duty. Ethical conduct involves one knowing what is right and what is wrong. In the education sector today, education laws and ethical codes of conduct are there to influence the daily practice of teachers. Thereby reshaping the way the education system is managed. There is emphasis of the value of both individual and group rights. Stating how teachers can deal with students and the limitations of the parties involved, that is teachers, students as well as parents and other stakeholders. It is therefore vital that the education sector takes cognisance of the changing societies and adapt accordingly for the benefit of all teachers and learners.

Today, incidents happening in school requires a right-based approach to teaching and learning. Zambia has not been spared of the technological advances and the impact of individual knowledge systems. This can actually be seen in the way the Ministry of General Education revised the curriculum in 2013 and introduced subjects such as computer studies and moved to the competency based curriculum as Mulenga and Kabombwe (2019: 119) observed that ‘the development and implementation of the revised school curriculum in Zambia began in 2013 and January 2014 respectively, with Early Childhood Education (Pre-School), Grades *one, five, eight* and *ten*. In the same vein, Mulenga-Hagane *et al.* (2015) advise on the need for teachers to adapt to changing societies that have become more legal based. As people become aware of their rights and duties, they will constantly evoke the usage of the law to fight for their rights. There is no significant literature in Zambia and school litigation is often unheard of. However, in the past cases such as John Banda vs. the people, which formed the background to the abolition of corporal punishment in schools, and Kachasu vs. Attorney General that shows us that such cases can arise in the education sector. The question is whether the preventive approach can be taken or we can wait until such cases arise to resolve them. Wagner (2007) and Mulenga-Hagane *et al.* (2015) argue that many cases that could have been resolved in non-litigious ways if parties to the conflict, especially, the education administrators had taken a proactive role. Professionalism can therefore prevent litigations.

Before rights are violated and litigations arise, it is vital that administrators as well as teachers have a basic understanding of the law or the legal process. They should also understand the judicial process and their implications on the education sector (Mulenga-Hagane, 2015.) Legal literacy is therefore cardinal in educational administration as they will encourage ethical behaviour. Findlay (2007) in her study in the United States among administrators found that many administrators mainly used the experience to prevent litigations or to sort out legal issues. This,

equally, is still the case today in many schools in Zambia. Their behaviour is not based on accurate legal knowledge which must never be the case.

Darlow (2011) discusses the role of parents in disciplining learners. He discusses alternative ways and the need to have parental involvement in any form of discipline to be instituted by teachers. Discipline must fit the character and nature of the child. The question is whether teachers are aware of these. Can this be transmitted to other settings or does it mean that cultural differences determine the form of discipline to be used? Do teachers in Zambia know the boundaries and nature of discipline to be given to learners? Are they aware that they are liable if anything happened to the learners given in their care? Zambia conducted a review of all legislation relating to children with the aim of aligning them to the United Nations convention on the right of the children. For this reason, the government prohibited corporal punishment in schools (Global Initiative, 2013).

Professional conduct entails doing what is right and also what is fair. It can be following regulations on a person such as grooming or following laid down procedures. For example, teachers need to be well-groomed, punctual and present for lessons. Kakupa *et al.* (2015) cited teacher absenteeism as one of the factors affecting teacher effectiveness as it derails student learning. However, is it possible to analyse the nature of this absenteeism? Are teachers absent because they have to travel long distances to get their salaries, are they sick? Or is it as a result of being demotivated? How can one deal with these issues? Are they as a result of a lack of a professionalism or they are from circumstances beyond the control of teachers? Can we promote professional and ethical conduct without creating awareness? To what extent are teachers inducted into their profession?

Mwelwa *et al.* (2015) discussed the need to have teachers inducted into their profession. It is not only enough to know the subject matter, teachers need to know and be exposed to issues regarding education law in order for them to understand issues that they may encounter in their interactions with learners and stakeholders. On aspects relating to legal issues, teachers need to be cautioned that in the past they may have escaped litigation as some people may not have been aware of the laws but now times are changing as rights and responsibilities become widespread through internet use and other avenues. The possession of knowledge in educational law therefore should not be a preserve of those in the field of law only but even for those in the business of education (Yolowe, 1993).

International Perspectives and Implications on Teacher Professionalism

The article presents perspectives of teacher professionalism from countries such as Kenya and South Africa. These countries had developed their codes of professional ethics for teachers before Zambia did so. Professionalism entails the internalised beliefs regarding professional obligations, attributes, interactions, attitudes, values and role behaviour. The three primary indicators of professionalism are responsibility, respect and risk-taking (Talbert and McLaughlin, 1996). Teachers

must at all times adhere to these three indicators of professionalism. They must also adhere to the principles of professionalism such as respect, honest, integrity, trust, equality, service, fairness and tolerance to mention but a few. The code of ethics thus are core values that must be followed at all times. Teachers should also familiarise themselves with the various laws that impact their work. Unlike in Zambia, where until the year 2018 teachers used to operate under the general order of the code of ethics for public service workers, countries such as Kenya, South Africa, Nigeria and Tanzania to mention a few, had already developed the code of professional ethics which specifically addressed how teachers should conduct themselves as they work within and outside the school environment.

For example, in Kenya, the Teaching Service Commission (2015) has had a Code of Ethics for teachers which is aimed at promoting ethical and professional conduct amongst themselves. The code of conduct and ethics for teachers has been in place for over a long period (Teachers Service Commission, 2003). This code prohibits teachers against certain behavior such as misappropriation of public funds, participation in public partisan politics, sexual relationships with learners. For instance, Section 22 (a) of the code of ethics says that a teacher shall not *“engage in any sexual activity whatsoever with a learner regardless of whether the learner consents.”* Those who had engaged in any such form of professional misconduct had been disciplined in line with the professions of the law including being dismissed (British Broadcasting Corporation, 2015).

In Kenya, the need to effectively apply the code of ethics is still an ongoing process in many schools. The code of ethical conduct is often used as a basis through which staff can make decisions which are premised on trust, integrity, honesty and confidence. Better behaviour and conduct can be enhanced by understanding the code of conduct. Unlike other professions, teachers are publicly responsible in whatever they do. If teaching is to be taken as a professional practice, there is need to enhance both professional knowledge as well as the moral knowledge which promote the ethical standing of the teaching profession. Those who become teachers therefore must always act in the best interest of learners (Nabukenya, 2010). In Kenya educational laws have proved effective in promoting professionalism and ethical conduct among the teachers and educators in the country.

In South Africa educational laws have been used to enhance ethical conduct amongst teachers in educational institutions. For instance, in South Africa, the South African School Act, Act 84 of 1996, is the most important educational national law that governs school education. It is a legal framework that sets uniform standards for the education of learners at schools and for the organisation, government and funding of schools in South Africa (Bray, 2006). This Act is meant to promote one unified National Department of Education. It is aimed at redressing the imbalances and injustices of the past were only a certain group of people were accessing education on the basis of race. Mahlangu (2003) in support of this change, indicated that the segregated system of the past needed to be changed in order to

promote unity in the education system. There are also other pieces of legislation which are aimed at promoting values and principles that relate to education policy. These include the principles of fairness, equity, transparency, non-discrimination, fairness, quality, participation, cooperation access, accountability and freedom of choice to mention a few. These are important values which South Africa aspires the teachers to embrace. All teachers are thus required to be well acquainted with the provisions of this Act to enhance their professionalism.

Note that the School Act has always been interpreted with the Constitution of South Africa. Section 7 of the South African constitution for instance provides for the protection of human rights as entrenched in the country's Bill of Rights (Bray, 1996). The other sources of educational law which those who aspire to become teachers need to be well acquainted with include the National Education Policy Act of 1996; Further Education and Training Act (1998); Education and Training (2001); Higher Education Act of 1997; National Plan for Higher Education (2001) Employment for Educators Act of 1998; the Adult and basic Education and training Act (2000) and the South Africa Qualification Authority SAQA (2005), and Curriculum (2005). In addition to these provisions, the South African Council for Educators Act No. 31 of 2000 provide for the establishment of the South African Council for Educators, which among other things is responsible for setting, maintaining and protecting the ethical and professional standards for the education sector. Elina (2011) argued for the need to promote teacher professional and ethical conduct through the repositioning of professional ethics in the pre-service teacher education curriculum in South Africa. Those who become teachers must be helped to stick to a professional code of conduct as a specific set of ideals, principles and standards, individual professional conduct which are related to professional duties and responsibilities as approved and accepted by the members of the professional group (Rusznyak, 2018). It is also true that teachers who had knowledge of educational law were more professional in their execution of educational duties in South Africa compared to those who were ignorant (Bray, 2004).

Teachers occupy the position of authority in society. The position they hold has many legal implications and can lead to possible liabilities if not properly followed (Pillay, 2014). This is due to the fact that teachers work with young immature individuals, who because of their lack of experience and judgment, cannot always foresee the consequences of their actions. This leaves the teacher with a responsibility to provide guidance to the learners. This is so in that educators who have knowledge of education laws will understand their rights and obligations, as well as those of the other parties involved. In addition, teachers who have the knowledge of the law will always insure that they create a safe and conducive learning environment for the learners compared to those blind to the law.

Implications, Conclusions, Recommendation

Implications

One of the implications of this discourse on teacher professionalism is that the Teaching Service Commission together with the Teaching Council of Zambia should thoroughly sensitise teachers and educational administrators on the provision of the code of ethics for the teacher which was put in place in the year 2018. The Code of Ethics should guide as a point of reference for the conduct of all teachers in the teaching fraternity. In addition, the Ministry of Education should ensure that those who are given responsibilities to run schools are trained in key legal provisions which affect the day to day running of educational institutions. Administrators must be well acquainted with their rights and obligations as well as the rights and obligations of the learners and other stakeholders involved in the provision of education in the country. This will help them to provide support to their teacher in matters relating to teacher-pupil relationships, use of public funds and the handling of national examinations to mention but a few.

In addition, knowledge of the principle of *in loco parentis*, which is delegated authority according to common law, can help teachers to appreciate the weightier responsibility they have to mold learners into responsible citizens. They must always ensure that students are in a conducive learning environment in which they feel safe and secure to learn. Teachers whether male or female should at no time see potential lovers in their learners as this is not only unethical but immoral. In line with the theory of utilitarianism, teachers should at all-times aspire to do what is good for the benefits of all members of school communities and most important of all the learners. This is especially that they work in an environment with a complex set of circular expectations, ethical considerations, professional standards and legal duties (Kitchen and Dean, 2014). Educators should always be guided by the duty of care for the students they are given to teach and provide a high standard of care. They should also never forget the legal statutes, regulations and the educational acts which define their rights as well as responsibilities in the teaching profession.

As if that were not enough, it is obvious that successful teaching depends on the manner in which legal prescriptions such as educational policy, rules and regulations should be applied. The interpretation and implementation of educational procedures, rules and regulations can only be done by those who know the law (Pillay, 2014). Understanding the processes and procedures in education, ensuring the legality of decisions made, can only be done by those who understand educational laws. Knowledge of the provisions of the constitution can help all teachers and administrators to appreciate the fact that education is a right and should be provided to all children without any form of discrimination.

Conclusion

It can be concluded from the discussion that professional and ethical conduct amongst teachers in Zambia is indispensable if the objectives of our national educational system are to be achieved. Teachers must be helped to understand that the job of a teacher wears a legal face which demands that they understand and appreciate their legal duties and rights and conduct themselves ethically both within and outside the school, avoid negligence and promote a safe learning environment for the learners. All teachers should possess ethical consciousness and high professional competence as the basis of professional integrity. This to a larger extent can be achieved if everyone who aspire to be an educator is knowledgeable with the various legal provisions governing teacher professionalism in the country.

Recommendations

In view of the above discussion, the authors recommend the following among other things:

- i. There is a need for all educational managers to be well acquainted with all legal provisions of education that impact their operations within and outside educational institutions;
- ii. The government, teachers and all other stakeholders concerned with promoting professionalism amongst our teachers in Zambia should support the efforts of the Teaching Council of Zambia in its efforts to realize a professional teaching force in the country;
- iii. There is a need to introduce a compulsory course in educational law for pre-service and in-service teacher education programmes in Zambia; and
- iv. Further, there is a need for a large scale study regarding the knowledge of educators on the legal provisions that impact professional practice of teachers in Zambia.

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